



MAINTENANCE: RIGHTS OF WOMEN UNDER PERSONAL LAWS IN INDIA – A COMPARATIVE DOCTRINAL ANALYSIS

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CHAPTER 1 INTRODUCTION

1.1 Concept and Meaning of Maintenance

The notion of term "maintenance" is somewhat vast. The Hindu Adoption & Maintenance Act, 1956, Section 3(b), provides for in every instance, provisions for food, clothing, residence, education, in medical attendance in treatment; in the case of an unmarried daughter, also reasonable costs of events related to her union," provides the clearest in most accurate description of maintenance statutes in India.

Accordingly, regulations governing maintenance, a male has an obligation to support his spouse, parents, as well as offspring. broadly, maintenance refers to providing the assistance in nourishment. None of the religious groups describes the word maintenance under their personal law.

1.2 Objective and Purpose of Maintenance law

In a legislative context, the extent of the Maintenance Laws is meant to serve a societal function. Such clauses can be found in several legislation such as:

- Bhartiya Nagarik Suraksha Sanhita Section 144 or Criminal procedure code under section 125
- The 1955 Hindu Marriage Act
- Act Of 1956 Hindu Adoption in Maintenance Act
- Act Of 2005 The Protection of Women from Domestic Violence Act In
- Act Of 2007 The Law on Maintenance of Parents in Senior Citizen Act

As per the Indian Constitution, the article 39 lays down that the state must specifically focus its rules in regulation on ensuring that every individual whether, men or women or any gender equivalent, possess an entitlement to a sufficient standard of living, young children are provided with the opportunity, resources to grow up in better healthier environment, under circumstances that promote respect in autonomy, in that at their young age are they shielded from abuse in substance in unethical separation.

1.3 Conditions affecting the Right to claim maintenance

The right is affected by several factors:

- The spouses' union needs to be exemplified.
- The wife needs to be incapable of supporting her own being.
- Her spouse needs to earn enough money.
- The husband's abandonment or refusal to provide for his spouse needs to be showed.
- As long as the woman is not marrying again, divorced wife can still ask her spouse for cost of maintenance.

1.4 Evolution of Maintenance: from Moral Obligation to Statutory Duty

In terms of law, maintenance is an enforceable duty to prevent an economically disadvantaged partner, youngster, or parent from becoming impoverished; it is not just a question of compassion or social humanity. The idea of sustenance stems from the understanding that some relationships, especially those that are married in related to one another, entail mutual responsibilities, among the most important of which is the obligation to assist one another financially. According to state law, maintenance is the person's statutory privilege in the other party's equivalent statutory obligation, both of which are subject to court enforcement.

The union of marriage, which creates an official bond between parties, is the primary catalyst for the responsibility to care for one another. Several religious in non-sectarian laws have reflected the conventional assumption that the spouse is the primary caregiver. But instead of focusing on strict standards for men in women, modern constitutional reasoning has broadened the definition of maintenance by highlighting financial ability, dependability, in equity. Therefore, maintenance statutes are intended to rectify monetary disparities that result from union, division of assets, dissolution of marriage, or desertion. According to the legislation, both general laws in religious laws acknowledge the need to provide the assistance. For example, the 18th section of the Hindu Adoptions in Maintenance Act specifically stipulates a man's obligation to cater for his spouse, while Section 24 in 25 of the Hindu Marriage Act, regulate both temporary in continuous aid.

In the same way, other personal law like Muslim law also acknowledges the man's duty to provide for his spouse throughout the duration of their subsistence of their union in till the time of iddat. Laws requiring couples to pay for support are likewise found in Christian in Parsi laws. The argument that maintenance is a communal responsibility issue instead of merely a religious law issue is further supported by Code of Criminal Procedure, 1973, section 125, which offers a single, secular religious neutral solution in addition to their own religious laws.

The principle that no one deserves to be able to avoid accountability for people who rely on them provides the foundation of the constitutional need for sustenance. Maintenance rules are intended to avoid poverty in abandonment, especially for women in children, according to legal judgments. The Supreme Court noted in *Captain Ramesh Chander Kaushal v Vena Kaushal* that maintenance rules are a form of public fairness in are covered by Article 15(3) in 39 of the Constitution. This legal strategy emphasises that the law to provide for maintenance is a social matter as well as an individual entitlement.

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The parliamentary protection provided under Article 21 to live life with full liberty in dignity is likewise reflected in maintenance as a statutory enforceable duty. Access to essentials, including clothing, food, shelter, in medical care, is a must for living a dignified life. Wife's right to live under Article 21 is jeopardised whenever a wife has denied her right to monetary assistance following separation or divorce. The legislation aims to enforce this fundamental imperative by placing an ethical duty on the husband. Therefore, maintenance serves provides a link connecting constitutional ideals with interpersonal interactions.

The legality of maintenance as a statutory requirement is a further important factor. Constitutional requirements are supported by the judiciary, in contrast to humanitarian responsibilities. Judges have the authority to decide the amount of support according to a number of criteria, including the parties' ability to fulfil the applicant's legitimate requirements, earnings, in way of life. Forced actions, such as asset attachments or, in extreme circumstances, confinement, may result from noncompliance of maintenance orders. Such validity demonstrates how seriously the legal system takes its compliance or obligation.

Being regarded as an enforceable duty is additionally reinforced by the changing judicial understanding of maintenance. The judiciary is highlighting more in more than where a spouse can make their own money, they can't avoid paying maintenance through alleging deliberate poverty or being unemployed. In *Shailja v. Khobbanna*,¹ the Supreme Court stated that until she is truly making enough money, her ability to make money cannot immediately exempt his wife from availing his right to maintenance. These decisions serve as a reminder that maintenance cannot be circumvented, in the commitment has to be construed to promote real fairness.

Women's rights in fairness principles have also been included in the list of maintenance requirements in the past few years. Although maintenance once seemed to be a woman's right toward her spouse, the judiciary has recognised circumstances in which wives can be forced to support their spouses as long as the legal requirements are met. This change acknowledges social in economic circumstances that unfairly impact women, as well as reflecting the legal push regarding gender-inclusive norms.

Overall, the statutory requirement of maintenance is a significant connection of socioeconomic security, conjugal law, in the principles of constitutional morality. It ensures that inequality does not arise as a result of financial weakness by converting the ethical obligation derived from kinship ties into a lawfully binding obligation. The maintenance is an essential part of the statutory system controlling personal interactions because Indian law emphasises its adherence to integrity, fairness, in justice for everyone by acknowledging it as an entitlement in duty as opposed to generosity.

1.5 Distinction between Maintenance and Alimony

Maintenance

Maintenance is the monetary assistance that one partner gives to another throughout the duration of the union in, in some situations, resulting from either judicial separation or after divorce.

Application: When one partner has no means to provide for oneself, they are potentially entitled to maintenance, which could involve periodically payment, healthcare bills, children's tuition, etc.

Relevant under the following categories: The Hindu Marriage Act (HMA), the Criminal Procedure Code (CrPC), the Muslim Women (Protection of Rights on Divorce) Act, in other private statutes, which enforce maintenance obligations on engaged in isolated couples.

For instance, no matter the fact that the dissolution of marriage is approved, a wife, if she is living apart because of abuse or abandonment may be entitled to maintenance in accordance with section 125 of CrPC or section 25 of Hindu marriage act provided if the requirements of the sections are fulfilled.

Alimony

Second is alimony, which is defined as a type of money assistance granted by the court post-divorce to the economically depending on partner in order to preserve way of living same as before marriage following the breakdown of the union.

To prevent the partner from suffering economically as a result of the separation, alimony is commonly awarded when the separation is finalised in results in divorce, with an emphasis on assistance for spouses, which does not mean child support.

Relevant within: Although the terms differ between legislation, alimony is granted under the Hindu Marriage Act, 1955, under section 25, Muslim statute, in various other private laws. Alimony in proceedings for divorce may be paid in periodic instalments or as a single payment.

For instance, if a wife if she is is economically reliant on her spouse is unable to provide her with the same living standards following a separation, then she is entitled to alimony cover her expenses.

Duration: Maintenance claims may be made while the couple is married, or while they are separated, or eventually upon the split (such as under the provisions of 125 CrPC).

Alimony is the maintenance that is often made post-divorce, which is decided by the courts following the breakdown of union.

The goal of maintenance is to guarantee that, whether a couple is married or not, their fundamental needs—such as sustenance, housing, or healthcare—are satisfied.

¹ <https://indiankanoon.org/doc/176136151/>

Usually given as a single instalment or periodic instalments following a separation or divorce, alimony is meant to offer perpetual monetary assistance, particularly in cases when the partner can't afford to sustain oneself.

Statutory Clauses: Section 24 of Hindu Adoption in maintenance act in Section 125 of CrPC, or comparable laws within private legislation, commonly control sustenance throughout a union or divorce.

The provisions of section 25 of the HMA in other pertinent legislation often control alimony, as well as a judge takes into account things like the partners' assets in their standard of lifestyle before divorce.

Illustration

If a partner cannot afford to care for own self after separation (as opposed to an annulment), she could be entitled to maintenance. The purpose of this maintenance is to meet her urgent requirements.

She can additionally ask for alimony following the separation under HMA section 25, that takes into account her capability to sustain oneself in her spouse's economic status.

under Indian legislation, alimony is monetary assistance paid following an annulment to guarantee an economically depending on partner could sustain a comparable quality of life, whereas maintenance is assistance granted while the marriage, or during separation, or occasionally after dissolution of marriage. Although the time, goal, in statutory conditions vary, all are intended to provide monetary help.

1.6 Social-Economic Objective for Maintenance Laws

Under personal laws, maintenance is important because it protects those that are economically disadvantaged as a result of the dissolution of familial bonds in carries out both humanitarian and socioeconomic functions. The fundamental idea of maintenance statutes is preventive rather than restrictive, making sure that grandparents, kids, even an obligated partner are not driven to poverty. Maintenance provides a vital legislative instrument to preserve equal rights in equitable society in communities that exhibit sexism as well as financial inequities.

Based on a societal standpoint, maintenance aims to protect people's integrity by providing a minimal level of livelihood to people who are unable to sustain themselves. Monetary dependences are frequently produced by conjugal in familial systems, especially for a wife that might disregard prospects for schooling or work and in order to take care of the home. The reliant partner is more vulnerable to marginalization in societal discrimination whenever those connections cease because of detachment, separation, divorce, or desertion. Through requiring monetary assistance, sustenance policies address the propensity in keep those who are impacted out of becoming impoverished.

The avoidance of misery in abandonment serves as major objective of maintenance's core societal goals. The goal of maintenance laws was to safeguard the vulnerable segments of the community, as the Court has proven on numerous occasions.

The Court noted in *Bhuwan Mohan Singh v. Meena* 2014 ²that the maintenance provisions constitute a beneficial tool meant to protect from being placed in a condition of powerlessness of the weaker section of society including women in children. The legislation shifts accountability from the government to the person who is ethically in lawfully required to offer assistance by placing an obligation upon the working partner or relative.

In order to preserve continuity in society, maintenance is also essential. Societal issues, including being homeless, abuse, in reliance on shady or dangerous ways to earn subsistence are frequently brought on by a lack of fiscal stability. In addition to promoting social stability, support lessens the strain on social service agencies by guaranteeing monetary assistance via legislative means. In this way, maintenance serves as a link connecting more general societal assistance objectives with individual familial responsibilities.

In terms of the economy, maintenance aims to address economic disparities that result from inadequate distribution of assets among family bonds. One partner frequently dominates their partner's finances in possessions whereas another partner continues to be financially reliant.

The goal of maintenance legislation aims to allocate assets in a way that maintains equitable distribution in fairness in life. As opposed to limiting a spouse to merely surviving, judges have generally concluded

² <https://indiankanoon.org/doc/34330243/>

the fact that a spouse has the right to maintenance which allows woman to sustain herself in a way that is substantially equal with the way of living she experienced during the time she was married.

The idea of monetary growth is closely connected to the economical goal of maintenance. The goal of maintenance is to help the reliant partner eventually become financially independent again, rather than simply to support them. Whereas perpetual or lasting sustenance offers ongoing assistance, especially when the applicant has no ability to find work because of their old age, sickness, or inadequate competencies, temporary support guarantees compensation right away. Therefore, in times of financial change, maintenance serves like a stabilising factor.

Additionally, in interpersonal connections, maintenance upholds a notion of distributed responsibilities. Even though a partner makes non-economic contributions, legislation acknowledges that collaborative work frequently results in financial advantages enjoyed throughout partnership. Parenting, psychological assistance, or household duties are being more often recognised as important as monetary benefits. Thus, maintenance makes up the unseen in unappreciated labour that keeps families afloat yet is sometimes overlooked in conventional financial evaluations.

Additionally, maintenance is crucial to the advancement of equality for women. Considering the ongoing disparities between the sexes in job opportunities, salaries, in possession of assets, wives are predominantly impacted by the financial implications of divorce. Because maintenance regulations recognise systemic injustices in offer legal avenues to lessen their effects, they serve as corrective measures. The financial constraints that are widespread within the community are reflected in the welfare requirements' ongoing focus on maintaining women, even though they are swiftly promoting gender equality.

Maintenance affects not just personal well-being but also the economy as a whole. Maintenance encourages societal in monetary engagement by guaranteeing dependents can necessary monetary assets. Instead of staying in impoverished periods, people who obtain sustenance are more prepared to put funds in medical care, schooling, in financial growth, which boosts the growth of the economy.

Being a safeguarding, beneficial, or restorative instrument under the realm of law, maintenance serves both societal in financial purposes. It tackles financial gaps brought on by connections to family, protects people's self-worth, avoids poverty, that fosters a stable society. The legislation reaffirms its pledge to safeguarding disadvantaged people in making sure that the fallout from marriage or family dissolution does not cause long-lasting financial in economic difficulties by acknowledging maintenance is an entitlement based on equitable treatment in socioeconomic equality. treatment.

CHAPTER 2

HISTORICAL DEVELOPMENT ON MAINTENANCE LAWS

2.1 Development of Maintenance under Ancient Hindu Law

Preservation under Old Hindu Law (Smritis in Traditions)

The Traditional Hindu law also supported the notion of maintenance on the grounds of spiritual, along with societal pillars of the community. In contrast to contemporary judicial systems, sustenance in the past was considered a religious responsibility i.e. Dhrama derived from ancestral connections rather than just a legislative need upheld by courts. Mainly regulated through shrutis, smritis, customs, in dominant cultural beliefs, the duty to support reliant was regarded as a necessary component of moral behaviour along with justice system.

The historically Hindu personal law focuses more on karma, which are actions, than being right. The emphasis is upon the ethical obligation of a person in question, who is of the head of the family, notably the Karta, to provide his family members who are reliant on him. Females, kids, seniors, including other depending members of the family residing under the HUF i.e., Hindu undivided family were all subject to

Karta maintenance duties. Being the major component of socioeconomic organization, the shared familial system remained, therefore strongly associated with the idea of sustenance.

Hindu obligation of maintenance is mentioned extensively in the shastras, especially in the texts of Manu smritis, Yagnakaya or Narada Smriti. The Smriti emphasised that a man must provide for his spouse, kids, in elderly parents, regardless of whether it means going through tough times personally. The spouse's maintenance served as an inevitable byproduct of the union, which has regarded for its holy in unbreakable bond. Due to the lifetime obligations of union, a partner was typically eligible to financial support regardless of her act.

Additionally, Smritis acknowledged that maintenance is a responsibility that persists regardless of cases of divorce. Early Hindu law had measures for the financial support of a wife who was left alone overlooked or lived apart as a result of her spouse's wrongdoing, but it was mostly unaware of dissolution as a notion. For example, in cases when the spouse was mean, afflicted with specific illnesses, or married a different partner with no cause, the spouse had the right to grow apart and can ask for maintenance. This indicates an early understanding of preventive maintenance, especially those who experience unfairness in their marriages, most notably women.

Other important class of beneficiaries within the traditional Hindu law was minors. Until children reached adolescence, and in the case of girls until they got married, the parents are required to maintain their sons and daughters, who had the right to claim support. The male member generally the Karta or the father was largely responsible for providing for sons and daughters, but under Hindu joint family arrangement, everyone's livelihood was frequently guaranteed by their combined assets. In the exact same way, neglecting grandparents or parents by children was regarded as both a grave ethical as well as societal crime, so seniors had the right to financial support through their children. Spiritual convictions who saw serving families as an act of worship served to solidify this commitment.

In traditional Hindu law, sustenance wasn't restricted to individuals of the familial circle. Some Smritis even acknowledged the duty to provide to additional family members, including disabled members of the family, widowed daughter-in-law, and daughters who were not married. Particularly, the Narada was Smriti expounded on maintenance responsibilities and regarded them as legally binding communal responsibilities. Failing to fulfil these obligations led to societal censure or, in certain situations, penalties enforced by municipalities or legislatures.

Maintenance requirements were significantly shaped by traditional norms. The Smritirs were frequently enhanced and modified by localised conventions that reflected societal as well as geographical conditions. Based on social class, the financial status of the family, and how society was at that point, those standards dictated the amount, setting, or length of maintenance. Typically, sustenance was offered in way of food, clothing, and housing instead of financial resources. It's a reflection on the era's subsistence-based economics with a lack of established banking institutions.

Special consideration should be given widows' status within old Hindu law. Though women were typically not eligible for inheritance, widowed typically had a right to receive support through the couple's joint fortune. Their lack of a separate source of income and the household's ongoing ethical obligations towards them served as justifications for their maintenance claim. But because the past civilization was male dominated, the level of maintenance was frequently low and governed by rigid societal standards.

Traditional Hindu law lacks a consistent regulatory system that ensured maintenance, notwithstanding its ethical underpinnings. Due to the lack of official tribunals and statutes, implementation was mostly dependent on communal power, spiritual consequences, and societal influence. When community resources were insufficient, this mechanism frequently neglected to safeguard those in danger, even if it functioned well in close-knit groups.

2.2 Development of maintenance law during medieval time

Religious beliefs, customs, and all patriarchal societal institution all had a big impact on the evolution of maintenance rules in medieval India. The medieval age saw a more severe and systematic approach to personal rules, especially under the influence of Islamic and Hindu legal traditions, in contrast to the comparatively flexible practices of ancient times. During this times, maintenance was mostly viewed as

moral and religious duty rather than a legally protected right, and the standing and function of women in the household largely dictated its extent.

The idea of maintenance under medieval Hindu Law firmly anchored in Dharma Shastra principles, which required the husband to support his wife. However, social norms that prioritized female subordination and dependency made this commitment conditional and frequently restricted. Chastity, obedience and devotion to marital obligations were all important factors in determining a wife's rights were limited and frequently dependent on the goodwill of the joint family, widows in particular endured severe suffering. Maintenance was given more as a family duty than as an individual's legal right under the patriarchal joint family system. In contrast, a more precise stricture for maintenance was introduced by Muslim law, which gained prominence during the Middle Ages with the formation of Islamic power. The idea of nafaqah required the husband to give his wife food, clothing and place to live. maintenance rights were typically restricted to the duration of the marriage and in the event of divorce, to the iddat period. Muslim law offered a relatively clearer framework for maintenance obligations in spite of these drawbacks.

There was no unified legal system in place at this time, and local traditions and religious tribunals played a major role in the administration of justice. The implementation of maintenance rights was insufficient and frequently arbitrary due to the lack of defined legislation.

Women's access to legal recourse was restricted and formal legal protection were not as important to their economic security as social norms and familial structures. In general, maintenance obligation was acknowledged during the medieval era, while patriarchal values and religious beliefs continued to have a significant influence. Both the Hindu and Muslim law provided some aspects of legal enforcement. This historical context demonstrates how maintenance gradually changed from a moral obligation to a legally enforced right over time.

2.3 Development of Maintenance during Colonial Time

How under British domination maintenance laws changed its course of action The emergence of this concept underwent a substantial shift during the colonial era. They established a stricter, legally binding structure governing maintenance, in contrast to the classical and medieval systems, which were primarily controlled by spiritual scriptures, conventions, including ethical standards. During that era, maintenance gradually changed from an ethical responsibility founded on karma to a legitimate & legally binding entitlement that is managed by tribunals. The goal of the British administrative structure was to rationalise and systematise native rules alongside enforcing consistency, fairness, along with equality.

The practice of applying religious statutes to multiple faith groups became another initial improvement under the colonial era. Through the help of religious leaders or maulvis, common courts first based their decisions on different religious followings which were defined in traditional Smritis and Islamic philosophies. The dependent class - wives, children and parents' sustenance entitlements remain regulated under private regulations, yet for the very first time, common tribunals, instead of communal organizations decided the matter. Maintenance now has a greater realistic constitutional substance owing to its court acknowledgement.

The expansion and clarification of sustenance claims within personal laws were greatly aided by Britishers. Throughout that phase, court rulings acknowledged the wife of a Hindu husband is entitled to maintenance as a legitimate aspect of the wedlock. The judiciary recognized the fact that although Hindu law failed to offer a separation, the spouse might be entitled to maintenance even though they resided independently because of her spouse's wrongdoing, violence, or lack of attention. thereby, maintenance became a safeguard in opposition to unfair conjugal treatment, especially for wife.

The enforcement of maintenance duties was greatly enhanced by the adoption of codified central legislation. The passage of code of criminal procedure code 1898 under section 488, which was subsequently renamed under section 125 of the said Code 1973. constituted as a significant advancement. For spouses, kids, in addition to seniors who could not support their own well-being, the section offered a quick, easy, and affordable solution. Crucially, section 488 broke with the limited dependence on personal laws and applies regardless of faith.

The section of the code was regularly construed by British common courts as the act of social equity meant for combating poverty with abandoning. This clause strengthened the notion that substance is a societal issue rather than just an individual's by enabling prompt solution by court prosecution, in contrast to legal procedures within personal statutes. The range of monetary responsibilities has been widened outside marriage connection with the acknowledgement of family being claimants according to the code.

British ideas likewise gradually influenced the sustenance rules during British control. Ideas like equality, logic, plus justice started to influence court rulings. When deciding on maintenance, judges are progressively taking into account the petitioner's legitimate requirements, the spouse's lifestyle, and the father's or the husband's earnings. It established an improved contextually aware method for sustaining ruling that signalled a break beyond strict linguistic views.

The growing acceptance of female rights throughout the time constituted further significant advancement. 19th CE changes in society organisations brought attention to the financial susceptibility of married females, alongside with some assistance from British authorities.

Legal perception eventually shifted to provide wives with extra security via sustenance laws, notwithstanding colonial legislators' reluctance to interfere with local legislation. More people began recognising what was needed to upkeep and a crucial defence towards abandonment and destitution.

But there were some restrictions regarding what maintenance legislation could be developed while Britain held power. Instead of questioning traditional theories, the British method of interpreting private legislation was frequently rigid as well as discriminatory. Although maintenance duties had been recognised, they had been frequently small in scope and largely reliant upon the judges. Furthermore, socioeconomic & societal constraints prevented females from accessing the justice and legal system, which decreased the realistic efficacy of maintenance measures.

Notwithstanding those drawbacks, the colonial era established the administrative framework of contemporary maintenance regulations in India. A significant departure from conventional arrangements was signalled by the creation of commercial, along with penal tribunals, the regulation of administrative treatments, and the acknowledgement for sustenance to be a binding statutory duty. Maintenance may now be sought via legal procedures supported by official authorities rather than being exclusively reliant on ethical duty and communal discipline.

CHAPTER 3

MAINTENANCE UNDER HINDU LAW

A key component of Indian law that regulates private affairs for Hindus, covering their marriage, divorce, adoption, maintenance, guardianship, succession, and inheritance is under Hindu personal laws. With roots in historic texts, practices, and norms, it was some of the earliest documented theories of Hindu law. However, it underwent major modification via legislative regulation following the declaration of independence of India. Although the Indian Constitution guarantees fairness and consistency, numerous religious groups are permitted to maintain their own customs under their own personal laws.

Hindu Personal Law, which is regulated by a number of contemporary laws together referred to as the Hindu Code, principally Pertains to Hindu, Buddhist, Jains, and Sikhs. ⁱThese regulations guarantee the preservation of civil rights and advance equality for women by striking an equilibrium among contemporary concepts of law and practices.

3.1 Development of Hindu law

The Hindu law developed from ancient sources and evolved into modern contemporary system. It has its sources back from shrutis, smritis and old customs and practices what shaped it to today's present code by legislative modifications and codification of Hindu personal law governing wide scope matters.³

In Ancient period there was no codified law, but Hindus governed by sage thoughts and their writings. The Vedas were the preachings of divines. Besides this various smritis impacted the life of Hindus such as Manu smriti, Yajñavalkya, and Nārada smriti that actually laid down the rules of the Hindu living. Later on, these shrutis and smritis, expanded and spread to adopt by scholars according to the development and evolution in society and it got codified into Commentaries and Digests. During this Ancient era Hindu personal affairs relating to marriage, inheritance, property was governed by customs and usages.

During medieval period there was invasion of Islamic rulers and there was not much change the Hindus kept governing under same old customs and usage. Caste system and regional differences emerged sharply. After the emergence of the British during the colonial times the Hindu and Muslims were specifically made to follow separate legislations, and they were governed under their own personal laws they followed the policy of non-interference in religious subjects. Throughout this period there several abolitions done by British in personal affairs of Hindus such as Child Marriage Restraint Act 1929, Hindu Widow Remarriage Act 1856, abolition of Sati Partha.

After the declaration of independent India, during 1950s the Hindu code bill was introduced by B.N. Rao committee under the leadership of the then Prime Minister Jawaharlal Nehru and law minister B.R. Ambedkar to bring a continuous and uniform laws governing all Hindus irrespective of age, gender, caste. Some of the landmark developments were Hindu Marriage Act 1955, Hindu Succession Act 1956, Hindu Adoption and Maintenance Act 1956 And Hindu Minority and Guardianship Act 1956, which primarily govern the Hindu laws today.

3.2 Maintenance under Hindu Marriage Act, 1955

In Hindu law maintenance holds a significant place that offers individual financial safety who are unable to sustain themselves. Maintenance has more importance than just being mere privilege. It aims to protect the petitioner's quality of life and decency throughout as well as following the litigation phase. Reliant including wife or husband, kids, parents, and some family members, are considered by statute as deserving of maintenance and assistance.

Section 24 of Hindu Marriage Act

Section 24 address the maintenances needs of the claimant while the suit the going on, during the legal proceedings when the party is unable to keep up with the cost of the suit the court awards the claimant a temporary or interim maintenance called Pendente lite on the other spouse. It is in effect only when the suit is going on to address any urgent needs. Non-compliance of order under section 24 leads to attachment of property

In Anita Karmokar v. Birendra Chandra Karmokar 1961, Calcutta High Court⁴- The court its inherent powers under section 151 of civil procedure code to stay the martial proceedings until and unless the pending debts under section 24 were settled. The ruling established a judicial component to Section 24 interpretation by emphasising that an impoverished petitioner cannot be forced to take action if alimony is not paid.

Current judicial approach prioritises practical appraisal using proven assets-liability testimony, especially directed in Rajnesh-Neha (2020)⁵. This ruling institutionalised openness during Section 24 litigation by introducing a standardised pro-forma and setting deadlines to reduce hypothetical or misleading statements.

Section 25 of Hindu Marriage Act

Section 25 deals with permanent maintenance and alimony that is granted after the martial proceedings are ending and suit is decided the court awards permanent amount of maintenance to paid either monthly or

³ <https://www.lawzone.in/2025/03/hindu-personal-law-in-india.html>

⁴ <https://www.casemine.com/in/column/section-24-of-the-hindu-marriage-act-1955-%E2%80%93-a-jurisprudential-analysis/view>

⁵ <https://www.casemine.com/in/column/section-24-of-the-hindu-marriage-act-1955-%E2%80%93-a-jurisprudential-analysis/view>

periodically. As a way to ensure settlement, the judge might charge tangible assets. Judges can mandate lump-sum or recurring instalments for a time (such as lifetime interest), taking into account both spouses' revenue and assets, actions, and other conditions. Section 25 is a gender neutral provision which means husband and wife they both have equal right to claim maintenance under this section grounded on constitutional principles of article 15(3) and article 39.

The 1993 case of *Chand Dhawan v. Jawaharlal Dhawan*⁶ highlighted the distinction between temporary and permanent maintenance. The court ruled that perpetual maintenance is not permitted in the absence of a decision changing matrimonial position, and that the section 25 remedy is supplementary to the divorce order. The decision maintains its constitutional aim to reevaluate assistances after the order was issued while defending the temporary section 24. *Vinny Parmar v. Parmdir Parmar*⁷ and other following augmentation judgments confirm how section 25 functions in a separate, post- decretal domain related to permanent maintenance.

3.3 Maintenance under Hindu Adoptions and Maintenance Act, 1956

A vital component of Indian personal law that governs adoption and maintenance between Hindus is Hindu Adoption and Maintenance Act, 1956. The Act, which was passed within the framework of Hindu code bill, aims to provide consistency and clarification by codifying customs and various local beliefs.

This legislation is a crucial component of the Hindu Personal Law Code that regulates the dynamics of families. It specifies what individuals are eligible to apply for as well as who can get adopted, the terms and legalities of adoptions and also the maintenance duties to different members of the family, including parents, spouses, children and other dependents.

Section 18 maintenance to wife

A wife under Hindu law has a legal entitlement to claim maintenance from her husband throughout her lifespan, as outlined under Section 18 of the Hindu Adoption and Maintenance Act, 1956. Despite the union taking place prior to or following the statute's implementation, the exemption applies.

The clause recognises the right of a wife to reside apart from husband outside of wedlock under specific circumstances without compromising her maintenance claim. violence, abandonment, having more than one wife, maintaining a concubine, conversion by husband, and any other legitimate justification are included in these sorts of circumstances.

This obligation is dependent, though. A wife loses her entitlement of maintenance and independent housing when it is determined that her conduct is immoral or she changes to a different faith.

Section 18(1) - Right of wife to claim maintenance under⁸

CLAUSE 1 of section 18 lays down the basic idea which states that – the husband has a obligation to protect and provide sustenance to his lawfully wedded wife during her lifetime.

This clause creates a definite and clear obligation by using the word 'entitled' the legislature has shown its intention that the wife has a statutory right to claim maintenance from her husband and husband is duty bound. And if he fails to provide her maintenance or neglects her to take care of then she has the right to approach to court to claim her right of maintenance.

The nature of maintenance is also very significant. It encompasses all a wife requires to exist with decency, concerning her spouse's position and standard of living, rather than merely sustenance. Judges clarified that alimony includes healthcare costs, schooling if necessary, and other essentials that are appropriate for her to live a decent quality of living, in addition to food, clothes, and housing.

For instance, a wealthy partner who is used to an enjoyable existence will not let his spouse survive in hardship by providing her with meagre maintenance. The idea is this: to the greatest extent feasible, the woman ought to live up to her spouse's standards.

⁶ <https://www.casemine.com/in/column/section-24-of-the-hindu-marriage-act-1955-%E2%80%93-a-jurisprudential-analysis/view>

⁷ <https://www.casemine.com/in/column/section-24-of-the-hindu-marriage-act-1955-%E2%80%93-a-jurisprudential-analysis/view>

⁸ <https://www.lawzone.in/2024/12/section-18-of-hindu-adoptions-and-maintenance-act-1956.html>

Unless she gives up this entitlement due to particular expulsions listed in subsection (3), this entitlement is valid during her lifetime.

Section 18(2) – Wife right to reside separately and claim maintenance⁹

Second clause addresses circumstances in which a spouse refuses to reside with her partner due to his wrongdoing. According to Hindu law the wife is often required to reside with her partner and carry out her matrimonial responsibilities. But this shouldn't be imposed at the expense of her security or decency. This has been recognised under Section 18(2), which permits her to request assistance and independent housing in the event that the spouse engages in specific misconduct.

The motivating factors are as follows:

Cruelty - A married woman has the capacity to reside apart from her spouse despite compromising her monetary rights if her spouse behaves cruelly toward her. Physically harm, slander, psychological abuse, insults, and continuous abandonment are all considered forms of cruelty. Either mental or physical cruelty has been admitted by courts.

Desertion- A married woman may be entitled to monetary support despite residing apart if her spouse abandons the woman, giving her no valid explanation or without her permission. In simple terms, Desertion refers to being isolated over an extended length of time with the purpose of never getting back.

Bigamy- when Hindu Marriage Act 1955 was passed polygamy was expressly prohibited by law. The former spouse can reside apart yet continue to be entitled to financial support, even when her spouse has remarried before 1955 Act however after passing of the Act if the husband commits second marriage, such marriage would be void but the former wife can choose not to reside with her husband and can claim maintenance from him.

Concubinage- The married woman is entitled to independent housing as well as financial support, even if her spouse maintains a mistress in his own home or in the same house where he lives with his wife or in any separate residence with her.

Conversion – the married women no obligation to reside with her partner after he converts to a different faith and stops being a Hindu. Wife on such ground can claim maintenance while maintaining her right to reside apart from her husband.

Other than this if there are any other valid reasons to live apart. The court has the discretion to grant maintenance in such cases.

For instance- Maintenance Though Residing Apart When her spouse starts acting abusively and threateningly, the wife abandons him. She can still live apart. She is nonetheless eligible for maintenance as per Subsection 18(2)(b) because her divorce was warranted. In other instance a spouse who cohabits with a different spouse outside the marriage while remaining in marriage with his first spouse, then marrying a second woman. The initial spouse decides to stay apart. She is still eligible for maintenance per Section 18(2)(d).

Section 18(3) disqualification:¹⁰

The woman's entitlement to maintain her separate residence and financial support is subject to certain limitations under the third subsection of Section 18. According to this, a woman could not assert these rights if:

- If she does not practice chastity.
- She converts to a different faith; consequently, she is no longer a Hindu.

These limitations are justified through conventional personal Hindu familial customs. Yet, since they place the duty of purity solely on women as opposed to proportionally on men, they are commonly accused of being deliberately gender biased law. However, under current legislation, an immoral woman or if she converts, forfeits her right to independent residence or maintenance.

⁹ <https://www.lawzone.in/2024/12/section-18-of-hindu-adoptions-and-maintenance-act-1956.html>

¹⁰ <https://www.lawzone.in/2024/12/section-18-of-hindu-adoptions-and-maintenance-act-1956.html>

In the case of *S. Veeraswamy v. N. Vimla* 2017 ¹¹Madras High Court, the wife filed petition to claim maintenance from her husband under section 18 on which husband refused to grant so stating that she had withdrawn from the life of husband without giving him any valid cause and is living separately. The court ruled that under section 18 of Hindu Adoption and Maintenance Act 1956 a woman is entitled to claim maintenance even while residing separately if she has a valid justification as per section 18(2) or any other just cause in the above case the wife proved that she was subjected to cruelty by husband and therefore it was unsafe or unreasonable for her to live with him.

Section 19 Maintenance of Daughter-in-law

As per section 19(1) of HAMA, the widowed daughter-in-law is entitled to maintenance from father-in-law provided she fails to sustain herself from her own earning or assets, or if she doesn't possess any property of her own or is struggling to earn or assets, or if she doesn't possess any property of her own or is struggling to obtain sustenance coming from in laws from her father, mother, or husband's property. Yet if the father-in-law fails to provide for the widowed daughter-in-law from his assets, the obligation specified in subsection 1 of section 19 is no more legally binding, according to section 19(2) of HAMA. After getting married again, the widowed daughter-in-law's maintenance entitlements will also lapse.

This section deals with maintenance of a widowed daughter-in-law under Hindu Adoption and Maintenance Act which states that –

As per clause 1 of this section a married Hindu woman whether married before or after commencement of this Act can claim maintenance from father-in-law upon her husband's death.

Provided only to that extent where she can claim maintenance if she is unable to maintain herself out of her own income or property, where she has no assets of her own then from-

- a) From property of her husband or from her mother or father's estate.
- b) From her children if any or from her children's estate.

Under clause 2 of section 19 the duty to maintain daughter-in-law can only be enforceable from her father in laws estate and not beyond that if they had no estate or coparcenary property out of which she could be maintained then his liability ceases. The duty to maintain her also ceases if she is remarried.

The law under this section holds the idea that a daughter-in-law should be cared for by her father-in-law when husband is no longer there, it doesn't matter when this Act came into force or when she was married, the idea behind the law is that no married woman is left homeless after her husband's death. Although it also stipulates that a woman can no longer demand such financial assistance if she is earning her living or if she is capable to do.

Also, if she is able to receive a decent amount of monthly income from her husband's coparcenary property then she is not entitled to claim maintenance from her father-in-law. Likewise, if she marries again then the right against father-in-law ceases.

The following situation explains where she claims maintenance –

Under section 18 Maintenance of Hindu Adoption and Maintenance Act the married Hindu wife has the right to claim maintenance from her husband as long as she is living. Under this section the maintenance becomes an obligation during the marriage and even after, even a widow can claim maintenance from the estate of husbands.

There is no distinct assertion towards in laws: under the HAMA a widow can claim maintenance from her in laws only on the fact that they inherited from the husband's estates and not otherwise. If they haven't inherited any property upon the death of the husband, then they are no longer obligated to maintain daughter-in-law.

The moral duty of the father-in-law towards the widowed daughter-in-law to maintain her if she is unable to maintain on her own or have no earnings if they inherited from the husband's property. The moral duty is recognized by the court as legally binding to protect widowed daughter-in-law to protect her from misery and destitution.

¹¹ <https://www.casemine.com/judgement/in/65ddf23c532b9d6e0483140d>

In a special circumstances where she is not able to sustain herself due to insufficient funds even from husbands' estate, she can approach in laws for sustenance if they have substantial approach.

It is important to keep in mind that, in a discretionary case-by-case situation, specific facts and the application of the statutes may vary based on the area of jurisdiction and rulings from the courts.

Grounds considered by court on which maintenance is affected –

Social standard of living- the judges consider the standard of life parties live which includes the monetary assets, position in society, and lifestyle of both the one making the claim and the other party lives.

Earnings and Properties: The court considers the financial resources, earnings, and land of both the person making the claim and the other parties. This includes their fiscal stakes, ability to earn, and additional resources.

Status of parties- The applicant's usual way of living during their union is taken into account by the judge. It considers the applicant's lifestyle, amenities and facilities before the dispute or divorce.

Health factor - Age and health: While evaluating a applicant's capacity to make livings & sustain family the on a financial basis their age as well as health are both taken into consideration.

Economic requirements: The applicant's requirement for sustenance, food, clothing, schooling, healthcare, and other essentials is among the factors that the court considers when determining the applicant's monetary requirements.

Children welfare- The judicial system considers the applicant's pecuniary capacity to address their children's care, covering their overall development, schooling, and wellness.

Legitimate Expenditures: The judge considers the applicant's appropriate costs for court proceedings, including legal fees along with other related expenses.

Further Significant Considerations: The judge can additionally weigh other pertinent circumstances that might surface through the litigation and affect the continuation of the petition opinion.

The above variables could shift relying on the particulars of the specific case, so it is important to realise that the judge has the authority to decide the quantity of support considering all of these variables as well as the instance's guaranteeing order to guarantee justice and equitable treatment in the sustaining law and order.

The procedure for applying maintenance -

The petition is first presented at the district court where the jurisdiction exists with all the relevant information about the parties.

The petition then has to be examined by the court and followed by notice to be served to the parties and then parties have to appear at the court on the given date of the notice.

The parties have to first go through the reconciliation process if reconciliation fails then the parties have to approach to court on the merits of the case.

The defendant has to submit his written statement along with this both parties have to file statement of their income with affidavit to ascertain their status and standard of living.

While the suit is pending or during the ongoing procedure the party can apply for interim maintenance, the court can decide and grant it within 30 days from the date of application.

During the trial stage the parties are required to bring in all the evidence and witnesses they wish to submit to prove their stance. Once the evidence has been shown and submitted by the court, at the later stage the court won't allow to prove any evidence which can be proved at previous stage. If the party fails to appear on summon or wilful avoid the summon, then court will record ex-parte evidence against the party the case shall proceed unless he shows sufficient cause for his non-appearance.

The statements are recorded and arguments are made then the court then pass the judgment either dismissing the petition or allowing the facts to be submitted, deciding the amount of maintenance to be made either monthly or periodically. The court also consider the fact that whether any amount of maintenance is granted by any other court in the any other case by the party.

In case of Smt. Balbir Kaur v. Harinder Kaur (2003) 11 SCC 6,¹² on the death of husband in an accident the husband, wife (Balbir Kaur) received compensation from the motor accidents claim tribunal on which the deceased mother (Harinder Kaur) filed a claim from the received compensation, the supreme court held that maintenance is a women's legal right and it can't not be equated with compensation paid. Therefore, the mothers right to maintenance cannot be refused solely on the ground that compensation was granted to widow.

Smt. Raina v. Hari Mohan Budhulia 1999 Allahabad High Court¹³, in this case the petitioner Smt. Raina was widowed daughter in law who filed petition against her father-in-law who sought to claim maintenance for her and her two minor daughters as she had no means of livelihood on contrary father-in-law had sufficient means, but he refused to maintain them. The Allahabad High Court held if the father-in-law had sufficient means and daughter in law had no source of income then under section 19 of Hindu Adoption and Maintenance Act, 1956 the father-in-law is bound to provide maintenance if the conditions are satisfied. Hari Ram Hans V. Smt. Deepali and others 2003 (2) RCR (Civil) (P&H)¹⁴ in this case the court emphasized on the scope of term widow included under section 19 of Adoption and Maintenance Act, 1956 the court explained that the widow would not only include the daughter-in-law for maintenance but also her minor children if they are dependent and mother has no source of income to sustain then she can claim maintenance from her father-in-law under section 19 itself and he has to provide for the same.

Animuthu v. Gandhimal (1992) 1 MLJ 82 (Madras)¹⁵ in this case the husband died interstate without making a will upon the death of the husband the wife had the right of her share and also she claimed maintenance from father-in-law, later she remarried the father-in-law filed petition in the court stating upon her remarriage, he is no longer entitled to provide her maintenance along with that she had no right on the husband estate. The court held that the remarriage only takes away her maintenance right but not the right over the property she that she inherited upon the death of husband because ones the property is divided it becomes her sole property it has nothing to do with remarriage.

Section 20 maintenance of children and aged parent

The section stipulates that the maintenance of children and parents are also an obligation. The statue does not only protect the spouse from destitution and vagrancy but also minor children until they attain majority or until a girl child is married and similarly the legislature take care of the old and infirm parents who are not able to maintain themselves.

Section 20(2) of Hindu Adoption and Maintenance Act, 1956 the statue lays down obligation on both the parents to provide sustains to their children irrespective of the fact that whether they are adopted or biological. The parents should equally support each other in raising their children it shouldn't be only father or mothers solely responsibility but both together. The legislation has always taken great deal protecting rights of children, the objective has always been the children welfare should be of paramount consideration in making law.

Children who are minors are entitled by law to receive maintenance under section 20(2)(3). Until the girl child is married, she becomes eligible not only for her maintenance, but her parents are also obliged to provide expenses for her wedding. A daughter who is already married may request maintenance under section 125(4) of the Criminal Procedure Code (CrPC) provided that she is still a minor and cannot sustain herself or if her husband fails to take care of her. Additionally, the children's right to maintenance is included whenever a petition for maintenance is submitted per section 24 and 25 of the Hindu Marriage Act, 1955.

In situations pertaining to the Hindu Marriage Act, the court may impose temporary orders concerning the guardianship, assistance, and schooling of children within 18 years of age under Section 26(6).

¹² <https://indiankanoon.org/doc/1234365/>

¹³ <https://www.casemine.com/judgement/in/5608eb4ae4b0149711118328>

¹⁴ <https://www.legitquest.com/case/hari-ram-hans-v-smt-deepali-and-others/76B0CC>

¹⁵ <https://indiankanoon.org/doc/1019700/>

In the case of Ram Chandra Giri v. Ram Suraj Giri AIR1968 AII 214¹⁶, the judge affirmed that the possibility of working ability shouldn't be considered for children by rejecting the parent's argument that his fit juvenile son might support himself.

Section 21 to 28 Maintenance of Dependents

According to Hindu personal law, the deceased's relatives do not instantly forfeit their entitlement to monetary assistance. Specific relations are recognised by legislation as "dependents" who are entitled to maintenance from a deceased individual's belongings. This guarantees that if the primary earner passes away, disadvantaged relatives which includes his widowed wife, children under 18 years, and elderly parents, won't feel abandoned. The Succession Act specifies exactly who is eligible to receive assistance from the belongings of the deceased and in what manner.

Under the Hindu Succession Act, Sections 21 to 28 address the provisions pertaining to dependents under Hindu law. The definition of dependents, their entitlement to maintenance, the quantity of maintenance, and associated legal concerns are all covered in detail within these sections.

Section 21- Who Are Dependents

The list of dependents mentioned under section 21

The statute specifies exactly who is a dependent of a deceased Hindu. Among them are:

Direct Family:

- Parents: The departed's persons, both the father and mother.
- widow: the former person's spouse, provided that she never gets married again
- Son: If they're unable to obtain assistance from the wealth of their parent's inheritance, the juvenile son, involving grandchildren and great-grandsons, may be considered.
- Daughters: daughters who are not married yet, with equivalent circumstances to the sons, involving granddaughters and great-granddaughters.

other relatives

- Widowed daughter: However, just in the event they have become unable to receive sustenance through their in-laws, or their children, or through the estate of the husband's inheritance.
- Daughter-in-law: son's widow or the widow of the grandson, as long as they do not get married again and are unable to obtain assistance through their partner's offspring or property
- illegitimate children: an illegitimate daughter not married, or an illegitimate son under 18 years.

Section 22 Entitlement to Maintenance

The descendants who acquire the late person's possessions are clearly required by legislation to provide for the dependents. That's how it operates:

- Principal Responsibilities: People who receive the assets are accountable for providing for their dependents.
- Equal Accountability: The amount of every successor's obligation is determined by the fair market cost of their acquired share.
- Safety for Dependent successors: If a beneficiary is additionally a dependent, they're exempt from paying support if doing so decreases their individual sustaining portion.

According to section 22 of Hindu Adoption and Maintenance Act, 1956 the surviving successor of a deceased Hindu must decide to use the property they receive to provide for the late dependents. Depending on the cost of the portion of the proceeds they get from the assets, every beneficiary is responsible for a specific amount.

Nevertheless, the benefit of receiving sustenance as a dependent is forfeited if the dependent simultaneously meets the requirements to be a successor of class 1 and receives a share of the deceased's estate.

¹⁶ <https://www.casemine.com/judgement/in/5ac5e2c04a932619d902337c>

Furthermore, a dependent may request sustenance against those who were to acquire the assets, particularly other dependents, even if they do not acquire a portion of the inheritance from the deceased Hindu after the Act came into effect.

Under Hindu law, the liability of other dependents is limited to ensuring that the remaining amount is sufficient to cover the dependent's maintenance.

Section 23 – Amount of Maintenance

When determining the maintenance rate, the judge has the total authority, yet he must take into account a number of variable- For spouses, kids, and ageing mother and father:

Each of the partners' societal standing and reputation-

- The maintenance claimant's legitimate wants
- If appropriate, if the person making the claim has a valid reason for residing apart
- The applicant's personal assets, revenue, and payments
- The overall number of individuals eligible for sustaining

Regarding other dependents:

- The property's net worth following debt repayment
- Any clause in the testament of a deceased person
- The degree of the dependent's kinship with a deceased person
- The legitimate wants of the dependent
- A deceased person's prior connection with the dependent
- The dependent's personal assets and earnings
- The number of dependents

Requirements and certain Limitation on maintenance

Section 24 - Religious Requirements

Maintenance claims are limited to Hindus. A person forfeits this privilege when they change to a different faith.

Section 25- Flexibility

If conditions alter substantially in the future, maintenance payments may be adjusted. This holds regardless of the fact that the sum was decided upon through consensus, by order of a judge.

Section 26- Debt priority

To safeguard lenders, the deceased person's liabilities have to be settled prior to dependents being able to request support.

Section 27- property charges

Whether expressly established by the deceased's testament, order of the court, or a contract, maintenance obligations often do not immediately result in an expense on the assets.

section 28- Transfer Protection

The inherited estate is offered for sale or passed on, the new person who acquires it is required to uphold Maintenance responsibilities, provided they were aware of those or got the asset as a present. innocent purchasers who have to make fair payment and are unaware of their sustaining privileges, nevertheless, are shielded.

3.4 Maintenance of illegitimate children

A child born out of a relationship that is not legally recognised means the parents of the child are not a lawfully married couple when the child was born; such a child is called an illegitimate child. The cornerstone for safeguarding such children's rights is the Indian constitution. No one may be subjected to discriminatory behaviour depending on their birth, as guaranteed under Article 14, which states equality before law and equal protection of laws. Additionally, professionals in law employ Article 15(3), which

gives state agencies the authority to make specific rules for children, to defend the entitlements of children who are not legitimately born.

The Hindu Marriage Act of 1955 offers crucial protection for Hindus. Children born out of void or voidable marriages are deemed legitimate, according to section 16. Which entitles them to take possession of properties of their parents, a privilege that legal systems now provide to offspring from long-term living together. In *Tulsa v. Durghatiya* (2008) 4 SCC 520¹⁷ the court reiterated a landmark decision from 2008 which is that when couples live together for a long time, the 114th section of Indian Evidence Act 1872 assumes the child is born of a valid marriage and is therefore legitimate.

Although Muslim law has its own set of regulations, a nationwide law that is Section 125 of the Criminal Procedure Code, 1987, supersedes them in order to protect children. Irrespective of their own legal beliefs or religion, this clause guarantees that neither parent must fulfil their children's essential requirements.

Significant Right concerning illegitimate Children

Statutes addressing important issues guarantee that an illegitimate child may thrive with safety, as well as while being respected in society.

Maintenance of an illegitimate child

It is both morally and legally required for parents to provide for the welfare of their child. Children can request sustenance for their living expenses, housing, schooling, and health care under the provisions of section 125 of the Criminal Procedure Code (CrPC), which is a potent instrument. This is vigorously enforced by the legal system, guaranteeing that the parent cannot neglect their monetary duties. A person may file an application into the regional family court for alimony in urban areas like Delhi and Bengaluru. In order to guarantee that the child obtains timely assistance when a lawsuit is pending, the current Legislation amendments place a strong emphasis on prompt intermediate maintenance. Finding a local lawyer who specialises in handling matters of family law is essential if a parent refuses to assist or if the parent is impacted by domestic abuse at home to safeguard both the parent and the child by providing protection and maintenance order.

Succession rights of such an illegitimate child

An important aspect of an illegitimate child's entitlements in succession. As stated in significant judgments such as *Jinia Keotin v. Kumar Sitaram Manhji* (2003) 1 SCC 730¹⁸, the court held that such children have an absolute entitlement over their parents' self-acquired property. This stance is reinforced after the amendment by the Hindu Succession Act, 1956.

Such rights were later extended by a landmark decision in *Revanasiddappa v. Mallikarjun* (2023)¹⁹ case. An illegitimate child is entitled to his or her parents' portion of their family's property, as stated by the Supreme Court.

Children may acquire some of the assumed share in the ancestral family property that their father could have obtained during separation, even though children aren't considered coparceners in a Hindu Undivided Family (HUF). This decision, which was upheld recently, was also applied to current division cases to give inherited title to land to the great-grandchildren of such a marriage. These complicated conflicts are handled by regional tax authorities for property in the case of *Revanasiddappa vs Mallikarjun*, who acted in these areas.

Christians and others have comparable rights under the Indian Succession Act of 1925. An illegitimate child mostly receives through their mother in Muslim. Even though many of them cannot inherit from their father, contemporary courts frequently give them entitlements by applying the concepts of fairness and parental recognition.

¹⁷ <https://indiankanoon.org/doc/988131/>

¹⁸ <https://www.casemine.com/judgement/in/5609adb5e4b01497114120b5>

¹⁹ <https://indiankanoon.org/doc/30241407/>

CHAPTER 4

MAINTENANCE UNDER MUSLIM LAW

4.1 Introduction

"Nafqah" refers to the amount of money a male puts for the needs of his family essentials, such as housing, clothing, and food. For the purpose of helping persons who are financially unable to sustain themselves, the notion of sustenance was developed. This includes monetary assistance, ways to ensure subsistence, and schooling opportunities. In a relationship, the spouse ought to take care of the woman by providing her with whatever she needs.

The entire purpose of maintenance is to safeguard the interests of a woman and ensure that she has a decent life. Although after the relationship is dissolved, the spouse is still obligated to support the wife when she is unable to support herself. In addition to the spouse, it is given to parents, grandparents, children, grandchildren, and other blood relatives. The quantity of maintenance relies on the financial condition of the individual who must continue to pay maintenance.

Females are seen as equal to males in Muslim law. Despite the fact that the woman feels competent to support her own needs, it still becomes the spouse's duty to give sustenance, because it is thought that she is unable to support herself. According to the regulation, with the exclusion of the sole spouse and young kids. All other relationships are not eligible for maintenance. However, every Muslim is obligated to support their forefathers along with their successors. Maintenance is not available for any other partnerships. Nonetheless, it's the duty of every Muslim man to assist both their ancestors and their descendants.

4.2 The past factors that influenced the development of Maintenance under Muslim Law:²⁰

The sacred text of the Quran, which is mostly adhered to by Muslims, contains references to the revelation and scriptures of the almighty Creator Allah. The following are some of the interpretations of Muslim law that have brought up the idea of maintenance:

Sacred Quran: The sacred text referred to as the Quran is the main basis of Muslim jurisprudence. This work contains the lessons that Gabriel, an archangel who serves as a mediator between God and humans, imparted to the Messenger Muhammad. These lessons are intended for the good of humanity.

Ijma: According to Muslim law, an ijma is a ruling made while there were no regulations in place. Mujahidis, who once served as legal experts to render choices on any subject, are the people who made the judgments at that particular point in time.

Sunnat: Sunnat refers to the customs, methods, and behaviours of the Prophet Muhammad. Each of these different Muslim legal resources serves as the foundation for the idea of maintenance. Those who propagate and propagate the revelation of the Creator, and these principles, along with those from other sources, formed the framework for the development of the rule of maintenance.

4.3 Guidelines under Muslim law for providing Maintenance

The rules governing sustenance in Muslim jurisprudence vary widely based on the region, but usually, the regulations are as follows:

Maintaining a decent standard of lifestyle requires fundamental necessities like nourishment, housing, sanitation, and various other necessities that are necessary for human survival. With the goal of giving the dependent a dignified and comfortable existence, the individual in charge of granting these privileges must meet their needs.

Obligation to assist: According to Muslim law, the head of the household has an obligation to assist his spouse, kids, or other relatives of the family as needed, regardless of the circumstances. The desire for

²⁰ <https://blog.ipleaders.in/an-exhaustive-overview-of-types-of-maintenance/>

assistance comes through the prophecy custom, which emphasises the significance of supporting the necessities of the family's members who are reliant.

Reasonable & impartial Maintenance rules: When determining the amount of Maintenance, Muslims emphasise impartiality and justice between the parties. The amount of maintenance is determined by taking into account the dependent's needs and the economic standing of the individual who is responsible for paying it.

Joint responsibilities: the household decides on the maintenance budget. Monetary assistance is every male household member's main duty, which must be weighed against the different rights and responsibilities of those who rely upon him.

Period of maintenance: According to Muslim law, sustenance is provided throughout the time period as the reliant requires it. Whenever anything like marriage or death occurs, maintenance generally ends. The length of Maintenance may change depending on a number of factors, including the age of the children, the individual's economic status, who is responsible for paying, and other factors that might have an impact on payments for maintenance.

Adaptability: The Muslim law allows the maintenance award to be adjusted in response to shifting conditions; it is not rigid in nature. Any modification to the current maintenance judgment may be ordered in certain situations, like when the reliant individual requires a rise in maintenance or when the individual responsible for paying maintenance experiences a substantial shift in their economic condition.

4.4 Requirements for filing a maintenance application

For maintenance to be asserted, some requirements have to be met. The following are the varied circumstances.

Incapacity of a person to support themselves: individuals claiming sustenance must demonstrate that they're unable to support themselves in terms of finances. A person's incapacity to sustain themselves can be caused by a variety of factors, including elderly status, illness, obligations, or anything else that contributes to their lack of capacity.

Negligence caused by the actions of the individual who has the duty, -the individual with an enforceable entitlement to maintenance, but has ignored or refused to exercise it. The reliant person had to have experienced certain hardships as a result of the disregarded inability to fulfil the commitment.

The individual making a maintenance demand plus those who are receiving maintenance instruction, have to be connected in a particular manner. Perhaps an association could be between spouses, parental figures, and the kid, or any other closely connected family member.

Responsibility to take care of legislation must recognise an individual's duty to provide for the cost of living. Accordingly, it must be acknowledged as a legislative requirement if the statute expressly requires maintenance.

An individual may request maintenance if the aforementioned requirements are met. The complaint may be brought during the duration of the union, while a marital lawsuit is pending, or following the ruling of the judge or on severity.

Quantum of maintenance

There's no private statute that prescribes the subject matter of maintenance. The judge will decide how much amount to pay according to the specifics of the proceeding. When determining the value of maintenance, the judge primarily takes into account the couple's economic circumstances in addition to other pertinent variables like as the applicant's maturity, cost of lifestyle, medical care, length of union, and so forth.

Recipients of maintenance within Muslim law: The subsequent individuals are eligible to receive alimony within Muslim Law:

1 wife- husband is responsible for providing for their wives both before and after their union ends. Thus, regardless of his economic circumstances, it is his responsibility to pay support to his spouse.

2 Children- According to Muslim Law, a dad must provide for his children till they reach adulthood. Nevertheless, the duty to provide for a boy stops when he reaches adulthood. When it comes to a girl child, the father is obligated to provide for her till the day of her wedding. It is important to remember, nevertheless, it is to be noted that a parent is not required to provide for a child who is legitimate.

3 If the wife is wealthy but her husband is impoverished, then according to the laws of Hanafi, the woman is required to provide for the kid. Whenever the spouse can make the payment, the wife may collect the money. 4 If the wife is wealthy but her husband is impoverished, the laws of shafai do not require the woman to provide for the kid. His grandfather is required to provide for the kid in such circumstances.

5 Elderly parents- When an individual's parent or grandparent has no way to support themselves, it is the individual's responsibility to support the family. Subsequently, after the child, their parents hold the subsequent place in terms of their ability to be maintained. When it comes to maintenance payments, the wife gets priority over her husband. Although it is irrelevant whether the child is an adult or a minor, or whatever the sex of the child is. If they own enough assets, they're in charge of providing their parents and grandparents with maintenance.

6 Other relations- If the other relatives do not have sufficient means to sustain themselves then they can be entitled for maintenance under such circumstances and can claim.

4.5 Recipients of maintenance under Muslim jurisprudence

Some of the following individuals are entitled to Maintenance according to Muslim law:

wife

Husbands are responsible for providing for their spouses both during and even after separation of the spouses. Consequently, regardless of his economic circumstances, it remains his legal responsibility to pay assistance to his spouse.

Children

According to Muslim law, a father must provide for his offspring till they reach adulthood. Nevertheless, the duty to provide for a boy child stops when he reaches adulthood. When it comes to a girl child, her father is obligated to provide for her as long as the day she gets married. It is important to remember, nevertheless, that a father is not required to provide for an illegitimate children.

According to the laws of Hanafi, if the wife is wealthy and the husband is impoverished, the woman is responsible for providing for the child's education. Once the spouse has the means to make the payment, the wife can recoup the money.

As per shafai law states that if the wife is wealthy and the husband is impoverished, the woman is not required to provide for the child's needs. In this case, his grandparents should provide for the child maintenance.

Elderly parents

Whenever an individual's parents and grandparents cannot sustain themselves, it is the individual's responsibility to support them. Following the child, both parents have precedence in regard to maintenance. When it comes to maintenance payments, father is taken after mother, she is considered first. If the person is minor or not, boy or a girl, is irrelevant. If they possess adequate assets, they're responsible with providing sustenance towards parents or grandparents.

Further other family relatives

Other dependents might be eligible for sustenance in specific circumstances if they're incapable to support themselves due to inadequate revenue.

Situations in which the woman is married, and other family relatives aren't eligible to receive maintenance. In some circumstances, the need to provide maintenance to the dependents may expire.

The following are several situations where reliant cannot be eligible to receive maintenance:

Wife: Evidently are some situations whereby a spouse isn't eligible for maintenance, including a woman who is still past teenage years, when she leaves her spouse with not an adequate justification, or if woman disregards her spouse's adequate demands.

children- According to Muslim personal law, a child's maintenance responsibility lasts till the child reaches the legal age of majority, which is puberty, in the instance of a boy child. In contrast, the responsibility to provide for a girl child continues until the date of her wedding. The male child's entitlement to maintenance ends when they reach adulthood, and for a girl, it ends with her marriage.

Parents and grandparents – when the elderly parents are incapable of supporting themselves, then it is duty of children to provide for the elderly parents. They may not be eligible to get maintenance if they have a source of income that support their sustenance.

Further other relatives- If they're incompetent to support themselves, the need to provide maintenance relies upon the relationship between relatives and is discretionary as opposed to mandated by law. Thus, their entitlement to receive maintenance ends if things improve because they now possess a means of revenue.

4.6 Maintenance to wife under Muslim law

A wife has an unalienable entitlement to sustenance from her spouse according to their personal laws. The spouse is responsible for providing the necessities for her spouse, regardless of whether the woman possesses a separate means of earnings. Given that Muslim law views the woman as its foundation and the children as a segment, the wife's support demand has priority compared to that of their children.

- The wife's maintenance might be broken down into four categories: - Maintenance serves as a marital responsibility
- Maintenance depending on pre-nuptial arrangement.
- The spouse may be entitled to financial support per BNSS section 144, formerly section 125 CrPC.
- Maintenance pursuant to the 1986 Muslim Women (Protection of Rights on Divorce) Act.

Maintenance is an essential marital duty

As long as his wife stays true to her husband and his directives, the spouse is obligated to support her. Except in the particular circumstances, a female partner may still request maintenance regardless of whether she disregards her spouse's wishes:

- When his spouse maintains a mistress, a female he lives alongside but isn't married to.
- If the man has assaulted the wife.
- If an injury or disability prevented the union from being established,
- deformity, the partner's departure without the consent of her wife, or the husband's lack of maturity

4.7 Maintenance based on the Pre-nuptial agreement

A prenuptial document is a contract that both parties make prior to getting married on things like property, possession, payments, and more. In the scenario of a separation or similar situation, this contract could clarify the ownership of the asset rights and serve as additional proof of ownership.

Sustenance shall be provided in accordance with the contracts if the spouse stipulated while signing the agreement to marry that the couple would live apart and be eligible for maintenance within Muslim law.

It could be something, like the spouse not mistreating her, avoiding marriage to another woman, not having a mistress, and so forth in the event that the marital contract terms were actually broken, the spouse may be entitled to support. If specified according to the prenuptial contract, the woman is additionally entitled to a specific payment called as Kharcha-i-pandan.

The couple involved in Muhammad Ali Akbar v. Fatima Begum, 1929²¹, were married in July 1919. In addition to signing an inheritance contract on that particular day, the spouse also pledged to provide with his wife Rs 25 as a month as kharcha-i-pandan. The partners resided together until May 1921, at which point the woman moved to her parents' house due to disagreements and arguments with the mother of the husband. The couple later reconciled in 1921, December. But this compromise was short-lived; the wife departed once more in July 1922.

²¹<https://in.search.yahoo.com/search?fr=mcafee&type=E211IN714G0&p=Mohammad+Ali+Akbar+v.+Fatima+Begum%2C+1929>

Fatima Begum launched a lawsuit in opposition to her spouse to seek kharcha-i-pandan or Maintenance. Nevertheless, the trial judge denied the financial support demand on the grounds that the spouse was not obligated by Muslim law if his wife decided to move in apart from him with no valid reason.

The judge went on to say the husband's primary justification for leaving the house was her disagreement regarding the mother-in-law, which does not constitute a valid excuse.

The spouse sought an appeal in court. A lawsuit was made for recovering the sum of kharcha-i-pandan, which hadn't been received for a period of three years, although there had been no dispute about not permitting financial support. Lastly, the Muslim Women (Protection of Rights on Divorce) Act, 1986 mandates that the man provide the stipend, known as Kharachi-pandan, along with the maintenance. The primary goal of the Muslim Women (Protection of Rights on Divorce) Act, 1986 was to defend the entitlement of Muslim women, especially those of separated or divorced status. The Law gives these Women under Muslim jurisprudence a way to get sustenance payments. Additionally, the Act ensures that alimony payments are appropriate and equitable.

4.8 The Muslim Women (Protection of Rights on Divorce) Act, 1986

The backlash surrounding the famous case of Mohammed Ahmed Khan vs. Shah Bano Begum, 1985, led to the enactment of this Act on Muslim Women protection of rights on divorce the ruling regarding the present instance was perceived as an assault against Islamic jurisprudence. A thorough examination of the matter involving Shah Bano should enable us to see the necessity of passing this statutes.

Mohammed Ahemd Khan vs. Shah Bano Begum 1985²²

The Muslim Women (Protection of Rights on Divorce) Act was first passed in 1986.

The backlash surrounding the famous case of Mohammed Ahmed Khan vs. Shah Bano Begum, 1985, led to the enactment of this Act on Muslim Women protection of rights on divorce the ruling regarding the present instance was perceived as an assault against Islamic jurisprudence. A thorough examination of the matter involving Shah Bano should enable us to see the necessity of passing this statutes.

The case's facts

In this instance, Mohammad Ahmed Khan was the husband of shah Bano begum, and she used to collect cost that was payable in the event of divorce or in case he demises than cost of three thousand rupees. the union resulted in having three sons and two daughters. By declaring 'triple talaq' the husband abruptly split his partner in the year of 1978.

In Muslim law states that while the iddat duration that is - three months following the time is over after the iddat in that phase Muslim women is prohibited from getting married again—the husband gives the wife the agreed-upon value of Mehar.

After being evicted of her former residence, shah Bano filed a petition against her spouse brought a maintenance petition under section 144 of BNSS Formerly as section 125 CrPC. The judge had mandated a monthly sustenance payment of total twenty-five rupees. The wife filed an appeal in high court of Madhya Pradesh since she was unhappy about the judge's monthly award of twenty-five rupees which resulted in increase in the maintenance amount of total one hundred and seventy-nine rupee and twenty paisa per month.

The husband petitioned in Supreme court after feeling the wronged by high court of Madhya Pradesh judgement. It had been argued via Muhammad that pursuant with the rules governing Islamic law, the cost of sustenance ought to be paid until the expiration of the iddat period alone and nothing after that. Consequently, the provisions of section 144 of BNSS formerly known as section 125 CrPC shouldn't be relevant in this current instance. the two judge bench two-judge seat, on this instance, was of the view that the current decisions on this specific point weren't properly declared. Hence, for consideration upon the question, a constitutional bench of supreme court was convened.

²² <https://indiankanoon.org/doc/823221/>

Matter in dispute-

A court of law took into consideration the following challenges:

- Do the provisions of Section 144 B.N.S.S, formerly as Section 125 CrPC, deal with secular provisions on maintenance?
- Does the payment made under the secular provision under section 144 B.N.S.S, or formerly as section 125 CrPC, conflict with the payment made under section 144?
- Is it possible for a woman under Muslim law to receive maintenance after the Iddat period is over?

Judicial Decision –

The Supreme Court stated that section 144 B.N.S.S, formerly section 125 CrPC, is a secular law that applies to all people regardless of their religion- Muslim, Parsi, Hindu, or any other. and it was held that the present clause has nothing to do with any particular religion; it applies all over India, regardless of any location or any religion. It was all stated by the court that the husband's duty to provide for the cost of sustenance lies till the iddat period not beyond. there's no such situation under section 144 BNSS formerly, as Section 125 CrPC where the spouse's responsibilities end following a specific amount of time. The judge further pointed out that the man's obligation to pay sustenance stops when the iddat term expires if the separated woman is competent to support herself alone.

However, there is no restriction in Muslim law itself that the woman cannot apply for maintenance under the secular law therefore she can file a claim for maintenance under section 144 BNSS formerly as section 125 CrPC. Therefore, if the woman wants to claim maintenance and she has no law supporting her, in her own religious law that is, Muslim law then she can seek maintenance under secular provision. Nevertheless, there is no such situation under section 144 BNSS formerly, as Section 125 CrPC, where the husband is only bound to pay maintenance only for a certain time; under this provision, the maintenance can be stopped or altered if the circumstances change, for instance, if the wife is remarried or her own financial status is improved now.

As a result, the judge's fundamental ruling in the present instance stipulated that the spouse must continue providing for her separated Muslim woman throughout the time of iddat and even beyond that.

Repercussions of the case

There had been a commotion following the ruling of Shah Bano judgment. In addition to the outrageous press protection, there had been a substantial demonstration and rival protest from various faith communities. The ruling caused conflict not only between many faiths but also between the many subsets of Muslims. Several categories, including women, liberal Muslims, and Hindus, also backed the ruling. Nonetheless, certain organisations strongly disagreed with the ruling, including fundamentalists of Muslims.

Given that their religious rules required sustenance to be paid up until the Iddat time, while the verdict required sustenance to be paid after the Iddat period, Muslim's perceived the ruling to be an assault on the principles of their faith.

Given that their religious rules required sustenance to be paid up until the Iddat time, while the verdict required sustenance to be paid after the Iddat period, Muslims perceived the ruling to be an assault on the principles of their faith. The legislature approved the Muslim Women (Protection of Rights on Divorce) Act, 1986, largely a result of substantial public criticism with persistent protests against the verdict. In fact, it appeared to lower the safety measures that the Mohammad Ahmad Khan v. Shah Bano case had given to Muslim women. According to the Muslim Women (Protection of Rights on Divorce) Act, 1986, the spouse's duty to provide support ought to last until the duration of iddat only. Whenever the woman is unable to support her life following the separation, maintenance will be paid by any family members who might have acquired assets coming from her.

4.9 Maintenance rules contained in the Muslim Women (Protection of Rights on Divorce) Act, 1986

The assistance provided to the women under Muslim law and children is covered by many sections, including in various Sections of this Act, like sections 3, 4, and 5.

Section 3

Both Mehar and other assets that Muslim women would get upon separation are covered under this section. A Divorced Muslim Woman has the right to these benefits within this subsection:

- During the Iddat period, the ex-husband is required to provide her with a decent and adequate sum for sustenance.
- If a woman provides for kids conceived before or following the union, the ex-husband is required to provide an appropriate amount of sustenance towards the kid in question. For the initial two years following the delivery of the kid, Maintenance is required to be provided.
- According to Muslim legislation, a woman has to obtain the formerly mentioned Mehar during the commencement of the wedding or at any point thereafter.
- The assets that she received from family, close companions, the spouse, or any immediate family of his spouse or his close associates, either prior to or following the wedding.

The woman or anyone else duly authorized from her could bring an petition before the judge over a decree for maintenance amounts, Mehar, or possession of any additional assets, as the circumstance happens, if a just and equitable sum for maintenance and the sum of Mehar is still unpaid or if any additional assets to which the woman has rights according to this clause has yet to be provided. Whenever the divorced woman submits a petition and the judge is convinced whether-

Despite having an adequate income, the man has abandoned and refused to provide his ex-wife and her kids with decent and appropriate maintenance payments.

The separated woman did not obtain the additional assets to which she had a right or the sum of money that had to be provided as mehar.

Given these circumstances, the judge could pass a decree requiring the ex-husband to provide the separated lady with an appropriate and equitable sum of maintenance within thirty days following the application's submission period. The judge can grant an arrest warrant for collecting maintenance in compliance with the regulations contained in the BNSS formerly CrPC if the individual, upon whose decree was made, disobeys it, lacking a good explanation. The offender could possibly be imprisoned for a maximum of a year or till the outstanding balance is paid.

Section 4

The Maintenance payments procedure is covered in section 4. According to this section, a judge may issue a decree requiring family members to provide maintenance if they are convinced that a separated lady is still single or lacks the means to support herself following the iddat term. According to Muslim regulations, a family member may be someone who is qualified to inherit her possessions upon her passing.

In order to satisfy a separated female's demands and maintain her way of living as she lived before her marriage, the sum of maintenance that her family members have to pay needs to be equitable and acceptable. But it remains important to examine the family's economic circumstances. In accordance with their entitlement to receive the asset, their descendants will cover the maintenance.

The judge might direct an order to the stats wafk board, which has been created pursuant to the wakf act 1954, or any other currently enacted legislation, to provide maintenance according to decisions by judge in if the separated Muslim Woman has no means to support her life or possesses no supporting family members, or if the family members lack sufficient funds to undertake so.

Section 5

The cost of maintenance is covered under Section 5 under this Regulation. According to this clause, the judge has the authority to decide how much maintenance to pay. But when performing this, the judge will take into consideration factors including the ones listed below:

- Each party's standing as well as reputation in society.
- The applicant's desired appropriate maintenance sum.

- If the person making the claim lives apart, there has to be a valid cause for doing so.
- In addition to the applicant's own revenue, the price on his or her assets and the revenue that results from such have to be taken into account.
- Any additional aspects that influence how much maintenance is required.

Some of the major landmark cases that shaped Muslim jurisprudence

All India Muslim advocate forum v. Osman Khans 1990²³

Subject matter of the case as follows-

The High Court of Andhra Pradesh considered a Muslim female's maintenance claims as per Section 125 CrPC, presently as Section 144 B.N.S.S, and along with maintenance under Muslim Women (Protection of Rights on Divorce) Act, 1986. In order to address a number of the crucial issues presented shortly thereafter, the case of Mohamad Ahemad Khan v. Shah Bano Begum, which sparked intense debate, the matter came before the entire Judicial Court.

Issues

The High Court of Andhra Pradesh Court's Five Judges Panel examined the following three primary problems:

- Does a divorcing Muslim female still have an entitlement to financial support per CrPC Section 125 presently, as section 144, even though the Muslim Women (Protection of Rights on Divorce) Act, 1986 was passed?
- Does the maintenance specify under Muslim Women (Protection of Rights on Divorce) Act, 1986 in Section 3 subclause (1)(a) cover requirements for future as well as not just till the iddat period or only till iddat?
- When the Muslim Women (Protection of Rights on Divorce) Act, 1986 was passed, how relevant were the secular law provisions sections 125 to 128 under CrPC, and how will matters that are currently before a judge be resolved within those Provisions?

Pronouncement of the Court-

The High Court of Andhra Pradesh ruled that a Muslim husband's maintenance requirement is restricted to during the iddat period. The woman is supposed to be able to support herself for the remainder of the duration with the money given at that time. The judge subsequently declared that when a woman fails to support themselves regardless of whether her spouse has provided ma, she may seek maintenance from the surviving family relatives who acquire her possessions and, in the event that nobody else operates, through the waqf board.

Additionally, the Court decided that Muslim women who go through divorce are not subject to Sections 125 to 128 CrPC until they choose to be so in accordance with the provisions of Section 5 of Muslim Women (Protection of Rights on Divorce) Act, 1986.

Syed Fazal Pookoy Thangal v. Union of India 1993²⁴

Subject matter of the case

In this instance, the judge granted maintenance of fifteen thousand four hundred Rupees to Jameela, a separated Muslim woman from Kerala. The woman only ended up getting sex thousand back, though, while her spouse was detained because of the overdue maintenance cost.

In accordance with paragraph (2) of section 4 of Muslim Women (Protection of Rights on Divorce) Act, 1986, she requested maintenance through the Kerala Wakf Board because she had no way to support her life or the 3 kids she had. The Wakf Board was directed by the judge in charge to shell out the two hundred and fifty rupees instalments per month.

The chairperson of the wakf Board, Syed Fazal Pookaya Thangal, brought an application challenging the constitutionality of Section 4(2) of the Act, however the Wakf Board did not dispute the decision of the court's judgement. The Wakf Board argued the fact that Article 25 (the right to freedom of conscience and

²³ <https://indiankanoon.org/doc/222689/>

²⁴ https://indiankanoon.org/doc/1716696/?utm_source=chatgpt.com

free profession, practise and propagation of faith) as well as Article 26 of constitution of India that deals with freedom of conscience, profession practice and propagation constitutional framework are violated by the Board's duty to provide assistance to separated women by redistributing its resources.

Challenges

The High Court of Kerala took into account a number of considerations, including the following:

- Is it legal for the Wakf Board to reimburse alimony under Section 4(2) of Muslim Women (Protection of Rights on Divorce) Act, 1986.
- Does the Muslim Women (Protection of Rights on Divorce) Act, 1986's Section 4(2) maintenance payment violate Articles 25 and 26 of the Indian Constitution?

Judgment

The application was denied by the High Court of Kerala. It was decided that the Wakf Association Board is not covered by Article 26 of Indian Constitution because it is a legal entity and not a religious group. The High Court of Kerala furthermore declared that the Wakf Management Board's revenues, not the Wakf assets themselves, are used to pay the expenses required pursuant to Section 4(2). As a result, the judge denied the application and determined that Articles 25 and 26 of the Indian Constitution are not violated by section 4(2) Muslim Women (Protection of Rights on Divorce) Act, 1986.

Danail Latifi And Another V. Union of India 2001²⁵

Instance of the case

The current situation emerged following the decision rendered In Mohammad Ahamd Khan V. Shah Bano begum its subsequent ramifications. Subsequent to the Shah Bano ruling, the legislature enacted Muslim Women (Protection of Rights on Divorce) Act, 1986. The primary aim of the legislation's adoption was to safeguard the privileges of separated Muslim women. Danail Latifi, former representation for Shah Bano case contested the legal standing of the Muslim Women (Protection of Rights on Divorce) Act, 1986, asserting which the Act contravenes multiple articles of the Constitution of India, specifically Article 14 (equality before law), Article 15 (prohibition of discrimination based on faith, race, caste, sex, or place of birth), as well Article 21 (safeguarding the rights of life and personal liberty).

The applicant said the section 144 BNSS formerly as section 125 CrPC established to offer assistance to divorced women and, thus, is encompassed under Article 21, that ensures the fundamental right to life and individuals liberty. The withholding of remedy as provided in section 144 BNSS (section 125 CrPC) to females under Muslim law that would violation of Article 14, 15 and 21. The applicant additionally stated that the Muslim Women (Protection of Rights on Divorce) Act, 1986 compromised the religious basis of section 144 BNSS (section 125 CrPC) if it did not extend to females under Muslim law.

Challenges

Are the rules and regulations of Muslim Women (Protection of Rights on Divorce) Act, 1986 in conflict with provision of Indian Constitution under Article 14,15 and 21? what is the constitutional validity of Muslim Women (Protection of Rights on Divorce) Act, 1986?

Ruling under the case

The Supreme Court of India determined that a man is obligated to provide equitable and appropriate sustenance for the survival of the estranged spouse. The judge stated that the spouse must pay whatever is amounts necessary for the maintenance of the females exceeding the iddat duration during the time of iddat, in compliance with paragraph (1) of section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986.

The judge additionally said that a divorced female under Islam who did not marries again and has no way to sustain themselves during the interval of iddat could continue in compliance with Section 4 of Muslim Women (Protection of Rights on Divorce) Act, 1986. The rule stipulates the fact that a females family members should provide assistance commensurate to the succession form her estate following her demise.

²⁵ <https://indiankanoon.org/doc/410660/>

If the family members are unable to provide sustenance, a judge could ask the state-run Wakf Commission to fulfil this obligation.

Consequently, a judge ultimately determined that the terms of the legislation do not contravene the Articles 14, 15, and 21 of the Constitution, of India affirming the legislation's statutory validity.

Iqbal Bano versus State of Uttar Pradesh 2007²⁶

Subject matter of the case

In the following case, the Couple got married in 1959 and out of that union, a child was born in 1959 who eventually passed away in 1991. Following which the couple started to live apart later, my husband stopped providing her with monetary assistance for her maintenance didn't pay any visit to her. In 1992, wife filed a petition under section 125 of CRPC currently as section 144 of BNSS before the court for a monetary assistance of payment of five hundred per month. On which the husband been asserted that he had previously paid her, the stipulated Mehar sum and given her divorce by pronouncing triple Talak he for the stated that he is not obliged to pay maintenance as per his personal Islamic law, as well as Muslim Women (Protection of Rights on Divorce) Act, 1986 which states that a Muslim husband is bound to provide maintenance only till the Iddat period; does the wife claim for maintenance should be denied.

The court, however, denied the plea of husband and granted woman with the maintenance of forty five hundred rupees monthly. The spouse dissatisfied with the Court judgement submitted petition before the additional session judge contesting the revision of the order. The session judge granted the application for revision and determined that whether the application under section 125 CRPC currently section 144 BNSS is permissible or not for a woman under Islamic law, following the passing of Muslim Women (Protection of Rights on Divorce) Act, 1986 and whether the petition is submitted under section 3 of the aforementioned Act.

The session Court gave the judgement in favour of the husband, stating that the divorce has been concluded as per triple Talak and the wife has already been provided with the Mehar amount therefore, there is no obligation on your husband to provide her maintenance after the Iddat term.

The wife, dissatisfied with the ruling of the session, court submitted a petition to the High Court of Allahabad, which was rejected in, hence the issue ultimately escalated, and she made an appeal to the Supreme Court of India.

The honourable Supreme Court elaborated on several challenge, that can be laid down as-

-can a petition under section 125 CRPC currently as section 144 BNSS is maintainable under Islamic law can divorce Muslim women can claim under it?

-duty to provide with maintenance to a divorce, Muslim woman is limited just to the Iddat period under Muslim Women (Protection of Rights on Divorce) Act, 1986?

Ruling in the matter

Session Courts judgement was overturned by Supreme Court of India stating that woman under Muslim law in eligible to seek sustenance under section 125 CRPC, presently as section 144 B.N.S.S. The court further stated that under Muslim Women (Protection of Rights on Divorce) Act, 1986 apply exclusively to a woman who is divorced under Muslim law and not to a woman who is still married under Muslim personal law. Consequently, the judge determined that a married woman under Muslim law is entitled to seek sustenance under secular law under CRPC currently as BNSS Supreme Court for the rated the case of Daniel Latifi versus union of India, 2001 and held that section 3 of Muslim Women (Protection of Rights on Divorce) Act, 1986. The court determined that the spouse is obliged to fulfil the sustenance payment within the Iddat period the judges also stated that the cost paid during that period must be sufficient enough to sustain a Muslim woman throughout her life beyond this duration, regardless of whether she marries, or remains single.

Consequently, after evaluating the realities and challenges pertinent to the case, the Supreme Court and the High Court ruling and reminded the matter for re-evaluation

²⁶ <https://indiankanoon.org/doc/390198/>

Some of the recent judgments relating to the Maintenance

Mohammad Abdul Samad V. State of Telangana and Another 2024²⁷

Subject matter of the case-

In the following case the couple got married on 15th of November 2012. After some time, the discord between the husband and wife got escalated and their connection declined and they decided to part ways. The wife left the matrimonial residence on 9th of April 2016.

The wife ultimately commenced criminal proceeding against the husband for offences under section 498A and section 406 of IPC presently cupboard under section 85 and section 316(2) of BNS 2023. Consequently, his spouse declares triple talaq and proceeded to the office Ouath to obtain divorce degree. The degree was passed expert and divorce certificate was issued in September 2017.

The husband assorted that he endeavoured a sum of fifteen thousand rupees to the while the Iddat period was going on which she rejected to accept. Furthermore, she filed an application before the judge for maintenance under section 125 CrPC currently as section 144 B.N.S.S, the court hearing the plea accepted the contents of the wife and granted her monthly maintenance in May 2023.

The husband, dissatisfied with the verdict of the court, mate and appeal to the Telangana High Court to annual the maintenance ruling, resulting in the issuance of contested order dated 13 December 2023. The husband ultimately submitted an appeal to the Supreme Court contesting the order issued Telangana High Court.

Statement in favour of applicant-

In favour of the applicant, the experienced legal representative suggested that

- Muslim Women (Protection of Rights on Divorce) Act, 1986 supersedes section 125 CrPC currently as section 144 B.N.S.S. The law supersedes the Muslim Women (Protection of Rights on Divorce) Act, 1986 because of its distinct statute.
- It cannot be acceptable for a separated Muslim female to go before a judge pursuant to the general law under section 125 CrPC currently as section 144 B.N.S.S, instead, she ought to bring a petition within Muslim Women (Protection of Rights on Divorce) Act, 1986 in section 5.
- In order to support the claims, it was contended that the Muslim Women (Protection of Rights on Divorce) Act, 1986 is only applicable solution as it is beneficial and effective remedy for women under Muslim law in contrast to section 125 CrPC presently as section 144 B.N.S.S.
- The distinguished lawyer additionally contended that because Muslim Women (Protection of Rights on Divorce) Act, 1986, Sections 3 and section 4 begin alongside the non-obstante clause, they will take precedence over other laws in the same field.
- In support of the aforementioned arguments, the experienced attorney cited judicial decisions, including M/S Jain Ink Manufacturing Company v. Life Insurance of india and other 1980, whereby the judge determined the established specific law supersedes the general rule of law. Nonetheless, the doctrine of harmonious construction criterion must be used when reading a contradictory act enacted by the precise same legislative. The corresponding stance was reaffirmed in Chennupati Kranthi Kumar v. State of Andhra Pradesh and Others (2023).

Challenges

The primary question that occupied the courts' schedule was that can a woman under Muslim law can be barred from initiating a petition under Section 125 CrPC currently, as Section 144 BNSS following the passing of Muslim Women (Protection of Rights on Divorce) Act, 1986?

The case concluded as- Upon taking into account all relevant information as well challenges, the Supreme Court declined the spouse's petition and permitted his former spouse to request sustenance under section 125 CrPC, currently as section 144 B.N.S.S. Notwithstanding the reality that the union ended as per the private statutes, the Supreme Court decided that women in Muslim law are entitled to sustenance pursuant to the provisions of Section 125 of the CrPC because it is a not religious statute. The Supreme Court additionally pointed out that each of section 125 CrPC currently as section 144 BNSS and the law under

²⁷ <https://indiankanoon.org/doc/7964121/>

Muslim Women (Protection of Rights on Divorce) Act, 1986 could be applied if the woman under Muslim law was wedded or separated. The divorced Muslim women have the choice to pursue remedies under available laws. They can either pursue remedies under their own personal law or under secular law. This was because Muslim Women (Protection of Rights on Divorce) Act, 1986 is complementary to Section 125 CrPC currently as Section 144 BNSS rather than a departure from it.

The court concluded that-

The judge held that the relief of sustenance is an essential supply of assistance for disadvantaged, abandoned, and underprivileged segments of females, and Section 125 CrPC currently Section 144 of BNSS is ingrained in its language as an equitable provision.

Justice BV Nagarathna pointed out that the women under Islamic law who were divorced by an illegal way—for instance, divorce by triple talaq, which is deemed invalid—may also be entitled to maintenance under section 125 CrPC currently as section 144 B.N.S.S. The judge additionally stated that the entitlement to financial support is in furtherance to the solution offered by Muslim Women (Protection of Rights on Divorce) Act, 1986, which stipulates the fact that those who have experienced triple talaq are entitled to a subsistence allowance from their husbands. Thus, it can be said that the judge explained in *Mohannad Abdul Samad v. State of Telangana* and another in 2024 that the regulations of Muslim Women (Protection of Rights on Divorce) Act, 1986 offer solutions alongside to but without exception of section 125 CrPC currently as section 144 B.N.S.S.

CHAPTER 5

MAINTAINACE UNDER SECULAR LAW 125CRPC PRESENTLY AS SECTION 144 OF B.N.S.S

5.1 Introduction

A quick, accessible, and efficient recourse for individuals who overlook or fail to uphold their obligation to support their dependent family member who rely upon them is provided by section 144 of the B.N.S.S, formerly known as section 125 CrPC. To attain and preserve social harmony this portion performs a moral duty. Additionally, it is covered by Article 15(3), which is subsequently backed by the provisions of Article 39. It is an essential component that addresses females' basic interests and serves as a socially relevant legislative tool to protect the dignity of disadvantaged groups in the community. In a sense, these are meant to stop deprivation and abandonment associated with criminal activity.

5.2 Scope of Secular Maintenance Law

According to the legislation, maintenance is characterised as the sum of assets given to a reliant individual—like a spouse, kid, or elderly parent—so that these individuals can sustain their own lives. The Maintenance and Welfare of Parents and Senior Citizens Act 2007 define it as "consist of provision of nourishment, clothes, housing and health care and medication" within Section 2(b).

The personal laws of the spouses' respective religions typically handle these maintenance issues. Nonetheless, this provision extends for all belief systems, along with the private law within it has no legal standing. Nevertheless, it is important to determine if the union is lawful and can't be completely ignored. The provisions of Section 125 and the maintenance rules of any individual legislation do not contradict. Nevertheless, if a certain maintenance was previously granted pursuant to private statutes, the judge could take that into consideration while determining the amount to be given. Besides, it is genuinely not religious in origin and different from the individuals' own customs.

The clause allows for intermediate ma, enabling the magistrate to compel the spouse to support his partner while the case has been adjudicated. Yet the judge has the authority to adjust or possibly revoke the payment if both spouses' circumstances alter. Such petitions may be submitted to the relevant jurisdiction. The provisions' goal is societal in character.

5.3 Who can file a petition for maintenance under secular law?

Wife

Section 144(1)(a) of BNSS formerly as Section 125 (1)(a) provides assistance for every woman, regardless of age or if she lacks the means to support her. Interpretation of subclause (b) states that an unmarried separated spouse was incorporated in the umbrella term "wife" within this provision. A separated woman had no right to alimony prior to the Mohammad Ahmad Khan v. Shah Bano case ruling, resulting in a great deal of unfairness to women, particularly those who are governed under Muslim personal law. In all of these instances, a union must be legally recognised. Notwithstanding the challenging circumstances, a female who is in a marriage involving somebody who is already married does not have the right to sustenance. This might seem unfair; however, the judiciary has ruled that the government is the sole entity that can address this issue.

Because this provision is intended to serve as an instrument to promote social equality and consequently subject to a larger comprehension, precise evidence of union cannot be considered necessary at all. Even so, the High Courts as well as the Supreme Court vigorously debated the subject until the Supreme Court decided that an adult male and an adult female who have lived jointly as spouses for a reasonable amount duration can be regarded, according to these provisions, as having established evidence for marital status and will be handled accordingly for maintenance issues. Although a subsequent union is lawful in private statutes and the initial spouse has given her agreement, she still falls within the phrase and has the right to sustenance when her spouse gets married again. In this situation, the woman can argue for sustenance without providing evidence of mistreatment.

There are certain situations in which this maintenance is acceptable. Provision under section 144 (4), formerly 125 (4), requires a judge to make certain that the spouse has enough money to support his spouse; otherwise, this provision is not applicable. Additionally, the wife should not be living in adultery apart from her spouse unless the court finds her unwillingness to live with her husband reasonable. Although the divorce is amicable, this rule still holds true. The spouse has no right to support when the union is declared to be invalid and unlawful under Section 12 of the Hindu Marriage Act, 1955.

Child

According to the provisions of clause 144, (1) subclause (b) BNSS formerly 125 (1)(b) CrPC, a child who is still considered a minor under the Indian Majority Act, 1875, meaning a person who has not reached the age of eighteen, regardless of their marital status or legitimacy, is entitled to maintenance. Additionally, under the proviso in this clause, the father of a minor girl must provide for her if her husband lacks the resources to do so. Regarding a claim like this to be considered valid, the child must have actually been delivered; maintenance of the unborn child while the female remains pregnant is not covered by this clause. The parent of the child remains obligated to provide them with childcare, regardless of whether the child is in the possession of another person.

According to this clause, a kid's maintenance is determined by their parentage. A child whose parents have not got married is nevertheless lawfully eligible for ma, regardless of whether the child's legitimacy is in question. A child has no entitlement if parentage is unable to be proved. The child could be conceived naturally or fostered.

A child, however legitimate or not, may seek sustenance per the provisions of section 144 (1)(c), formerly section 125 (1)(c), upon reaching adulthood if they're incapable of supporting themselves due to an illness, disability, or trauma, provided that she is not an already married daughter. Under Section 144 BNSS formerly as 125 CrPC, a significant unmarried daughter who is not mentally or physically ill is not eligible to get support.

Parents

A parent who has no way to take care of themselves may request maintenance from their children under section 144 (1)(d) BNSS formerly as Section 125(1)(d). Even though the term 'his' is used, it is used for both the mother and father of the child; the child is obligated to take care of them irrespective of whether they are male or female; both shares equal responsibility towards them. In Indian society, children are expected to support their guardians, and daughters are no exception. It is unclear if adoptive fathers and

mothers, as well as stepfathers and mothers, are included in the definition of "mother" and "father". In a ruling, the High Court of Bombay held that although the definition of the term "father" covered within provision of section 3(20) of general Clause Act encompasses an adoptive father, the phrase "mother" must be interpreted in accordance with the purpose and objective of the provision, which excludes stepmothers. In a subsequent ruling, the Court of Appeal interpreted the clause generously, holding that a stepparent that has no children of own and whose spouse has passed away, or who is still alive but lacks the means to provide for her, may be entitled to financial assistance from her stepchild. In *N.B. Bhikshu vs. State of Andhra Pradesh*²⁸, the High Court of Andhra Pradesh interpreted the absence of the word "parent" in sub clause (4) to mean that only a legitimate child has the duty to support their parent, and the parent may file a claim against any child if there are multiple children.

5.4 Characteristics of Maintenance Provision under Secular Law

The criteria, which are stated below, form the basis of maintenance claim-

1. Enough resources to sustain other spouse

The very first basic requirement is the fact that a judgement of sustenance against an individual will be authorised only if that individual has "adequate resources to sustain" the claimant and neglects or fails to undertake so. According to the High Court of Delhi, a male is considered to be in possession of the resources needed to maintain his relatives throughout his life as he remains physically and mentally competent, and he cannot be released from this commitment merely due to being out of work, in loans, or bankrupt. The individual asserting his or her lack of adequate resources bears the cost of evidence. The fact that he is without a job cannot relieve him of the duties. In the matter of *Hardev Singh v. state*, the judge held that if an individual is unable to provide the monthly allowance since he is an a monk, it's his obligation to cast away the yellow robe and labour. This case is another example of one of the Appellate Tribunal's more challenging constructions. This view cites the societal fairness component, particularly the safeguard of vulnerable segments of society such as women, children, and the elderly.

2. Negligence and Inability of Maintenance

"Neglect" refers to a disdain for obligation that may be deliberate or just malicious and can be applied to describe an inability to keep up regardless of whether no explicit request is placed from a custodian. The "unwillingness" to sustain refers to a spouse's deliberate reluctance to carry out his duties; this aversion could be spoken or merely suggested by his actions. In this case, the onus of proof lies with the applicant. In order for a married woman to be eligible for ma, she first needs to reside alongside with her spouse. However, this requirement may be waived if the judge determines that the woman possesses a legitimate explanation for doing so. For instance, if the partner is taking in another woman and their private law permits it, the applicant spouse could not reside alongside her spouse in order to be eligible for financial support. Even if he stipulates the fact that the applicant woman must live along with her husband and his different spouse for her to be eligible for ma, a husband could be deemed negligent and unwilling to carry out his duty in this instance.

3. The applicant has to be incapable of supporting themselves.

The wife's incapacity to support herself constitutes one of the requirements for women to be eligible for alimony. The woman doesn't need to expressly claim the fact that she cannot support herself. However, in one of the cases, the High Court of Karnataka passed a judgement, stating that the judiciary decided that if the woman is fit and healthy, well-educated, and yet incapable to support her own, she could still be entitled to sustenance; however, the sum of money granted will depend on all these variables.

4. The amount of maintenance

Up until the passage of Amendment Act No. 50 of 2001, the judge had to grant payments for no more than five hundred rupees monthly. There is absolutely no restriction on any particular cost; instead, the judge is free to determine the cost per month that best suits the circumstances. BNSS section 146, formerly section 127 of the CrPC, permits periodic changes regarding the maintenance cost, but it must be set and definitive rather than gradually growing. It is not within the provision to grant

²⁸ <https://indiankanoon.org/doc/1544271/?type=print>

the spouse and children shared compensation if they are both beneficiaries against a single individual; instead, both should possess an independent lawsuit that can be granted as appropriate.

Application of secular maintenance provision.

The part mentioned in subsection (3) can be enforced in the following ways:

1. Notice for Penalties
2. If reimbursement fails to be made in full or in partial portion upon the summons being issued, confinement could last a maximum of one month.

In accordance with the very first provision of subsection (3) of section 144, formerly section 125 (3) CrPC, a summons can only be obtained if a petition is submitted to a judge within one year after the sum becomes overdue.

The Court of Appeals has stated unequivocally that the period of detention allowed by this clause serves as a means of deterrence to ensure that the obligation of providing sustenance is fulfilled as soon as possible instead of acting as a substitute. Once the proceeds are received, the obligation is waived.

5.5 Can A Wife Under a Void Marriage Claim for Maintenance?

The union of two people is frequently seen as a holy bond under Indian tradition, but what occurs if a legally sanctified union among two people proves to be void? Should somebody get sustenance or alimony if they were never regarded as a "partner" for legal purposes? The mists might be cleared by a historic ruling on sustenance in invalid marriages. This dilemma is resolved by the recent decision of the Court of Appeals of India in *Sukhdev Singh v. Sukhbir Kaur* 2025, which precisely defines "wedding" within the Hindu personal law as understood under the Hindu Marriage Act, 1955. Let us examine the particular Hindu legislation in this context before examining the ruling of the Supreme Court.

Conditions for a valid Hindu marriage under section 5 of HMA, 2005

1. Only when all of the requirements stated in Section 5—which were as follows—are met is a Hindu marriage deemed lawful.
2. No existing partner when getting married (no bigamy).
3. Both individuals are capable of giving lawful assent & have a sound mind.
4. The girl must be eighteen and above, and the boy should be older than twenty-one.
5. until and unless otherwise allowed by customary practice, both individuals aren't in a restricted or sapinda relation.

Marriages that are null and void ab initio under section 11 of HMA, 1955

If either of the aforementioned basic conditions—such as forbidden relations or bigamy or something else—are met, it is deemed unenforceable at the outset (i.e., it was just as though it had not occurred) and nullity. Therefore, a subsequent union is deemed invalid if the first husband is still alive. The union is unenforceable if both partners were in a forbidden relation and yet exchanged vows, regardless of their traditions were beneficial.

Interim maintenance during pending litigation under section 24 of HMA, 1955

Until the last decree of the marital lawsuits, both partners may apply seeking sustenance, including costs of litigation upon the pretext that they do not currently have sufficient means to maintain themselves.

The supreme court made it clear that the judge may nevertheless award interim assistance pursuant to this clause, if necessary, regardless of whether the relationship has been contested as null and void.

maintenance and permanent alimony under section 25 of HMA, 1955 When issuing a decision within the statute (such as a decree of divorce, dissolution, or perhaps a judgment of nullity), the judge may impose a lifetime maintenance obligation for any spouse, considering the following consideration:

- The wealth and earnings of each party.
- Partners' behaviour.
- situation in any case

Maintenance to wife and children under section 144 BNSS presently as section 125 CrPC

In incidents of abuse or destitution, this portion offers monetary assistance to wives, children, or elderly parent.

the supreme court had clarified that section 25 of Hindu Marriage Act, 1955 and section 144 BNSS presently as section 125 CrPC vary because under HMA sustenance covers either party in annulled unions, but CrPC sustenance is limited to females and minors.

The primary question is whether an annulled marriage can be maintained.

The Court of Appeals was faced with a fundamental yet challenging problem: Can an individual seek the advantage of perpetual sustenance under Section 25 if the union is null and unlawful under the provisions of Section 11 of the HMA?

Magistrates' Statements and the courts Findings in Null and Void Relationships

The court of appeal meticulously considered whether or not a partner in a null and void marriage may continue to be entitled to alimony (both monetary assistance) according to the Hindu Marriage Act, 1955 (HMA). The Court supported its ruling with well-reasoned arguments and significant statements.

Maintenance rights are not terminated by the declaration of void marriage

- The Supreme Court decided that the economically disadvantaged partner ought not to be abandoned, lacking assistance regardless of whether the union is deemed ineffectual pursuant to section 11 of HMA.
- The judges, Justice Abhay S. Oka, Augustine George, and Ahsanuddin Amanullah, were of the opinion that, even though the marriage is deemed invalid, both partners are entitled to perpetual maintenance under Section 25 of the HMA. Section 25 Addresses Every Kind of Marital Conflict

Section 25 of the Hindu Marriage Act considers every type of marriage

The judge clarified that the Hindu Marriage Act does not differentiate between -

- a marriage that is annulled as it was void-ab-intio or either in case of divorce
- The court decided the maintenance might still be awarded under this provision as the legislation is not intended to preclude null and void marriages.

In this instance, an interim maintenance may be provided.

- The Court made it clear that a partner may nevertheless ask for an interim maintenance under section 24 of the Hindu Marriage Act regardless of whether the union is subject to dispute.
- whereas the legal proceeding is pending, this assists the partner who is less wealthy to subsist.

Section 125 CrPC (Section 144 BNSS) varies from Section 25 of HMA.

- According to the Court, deserted spouses and minors are covered under the secular provision under section 125 CrPC (section 144 B.N.S.S).
- Given that it permits both partners, the husband or the wife, to request ma, section 25 of HMA is more comprehensive.

Whether the relationship is appropriate or inappropriate is irrelevant.

- A few contended marriages that are bigamous—marriages in which one spouse has previously married—should not be allowed to be protected by the law because they are undesirable.
- The Supreme Court disapproved, holding that when determining maintenance privileges, the ethical standards of the union are insignificant.

Maintenance is something that depends on facts and circumstances of each case; it does not automatically grant

- The Supreme Court clarified how a person cannot be guaranteed alimony merely owing to their petition for it. The ultimate choice is based on:

1. The particulars of the matter
2. partners' behaviour
3. The prospective petitioner's monetary requirements

The Final Ruling by the supreme court

- maintenance claim by wife was approved because the petition was granted.
- In order to determine the precise value of maintenance, grounds were based on the facts, the case was remanded back to the lower court.

Remark by judicial body-

When pronouncing the ruling, the three-judge bench of the Supreme Court, comprising Justice Ahsanuddin Amaullah, Justice Abhay S. Oka and Justice Augustine George Masih, gave the following significant statements:

Regarding Maintenance rights in Null and void marriages:

"The procedure in secular law is very different from maintenance provision under personal law." It gives both partners under a union deemed null and void under section 11 of HMA, 1955, the ability to demand assistance from the contrary partner. Either partner can use the maintenance.

Comment: The Supreme Court explained that, in contrast to section 144 BNSS (section 125 CrPC), which exclusively pertains to women and minors, whereas section 25 under the Hindu Marriage Act grants both partners in a null and void marriage the ability to request monetary assistance. It empowers either of the partners to sue for a maintenance claim, which means a husband can claim maintenance from his wife if she is in a better financial position than the husband.

Regarding Temporary Sustenance: The judge does not refrain from awarding temporary maintenance if the criteria stated previously meet the requirements, regardless of whether, on the surface, the family court believes that the union between both spouses is unlawful or voidable.

Justification: The judge decided that, regardless of whether the matter is pending, a partner may receive interim monetary assistance per section 24 of HMA, 1955.

Regarding Application under section 25 of HMA: "The parliament did not distinguish between an annulment order or a divorce decree when drafting section 25 sub clause 1 of the Act" Consequently, a decision of invalidity as per section 11 of HMA cannot be excluded from the scope of section 25(1) of HMA based on a literal interpretation of Section 25(1).

Justification: The judge determined that, regardless of whether the matter is pending, a partner may receive interim monetary assistance pursuant to section 24 of HMA.

Reasoning: The judge stressed that subsection 25 of HMA permits partners to request perpetual maintenance in any type of marital conflict, including divorce, voidable marriage, and void marriage.

Regarding Immorality and maintenance right: "claim under section 25 of HMA is not contingent on the uprightness or immorality of the bigamous marriage. The question regarding whether a marriage is bigamous is sinful is immaterial under section 25 of HMA, which applies to a decision of invalidity.

Justification: The court dismissed the claim that bigamous unions are sinful and ought not to be protected by the law. It was decided that a partner's claim to maintenance ought not to be impacted by ethical decisions.

Regarding the Supreme Court's autonomy in Providing Sustenance: "By asserting section 25 of HMA, a partner whose union had been deemed invalid pursuant to section 11 of HMA was allowed to demand perpetual support or sustenance from the other husband." The facts of every instance and the behaviour of both sides determine the degree to which a payment for lifetime maintenance may be provided. Assistance per section 25 is generally provided at the option of an applicant.

Reasoning: The judge has made it evident that all maintenance demands should be granted. The choice shall be based on:

1. partners' monetary situations
2. Every action and demeanour of spouse
3. The particulars of subject matter

"Apparently, the Supreme Court accepted the appeal petition to be heard while directing the issue to be submitted below the relevant bench pending an outcome on the basis of the case," the ruling's ultimate directive stated.

In order to determine the precise level of monetary assistance the spouse is entitled to, the Supreme Court remanded the matter back to the lower court after ruling in favour of granting alimony. This ruling is a significant landmark within the Hindu Marriage Act of 1955 because it guarantees that partners in annulled unions aren't deprived of their constitutional entitlement to monetary assistance.

Consequences of the Case

The Supreme Court in the present matter has significant implications for sustenance entitlements, constitutional safeguards for partners in legally invalid unions, and matrimonial conflicts. The main ramifications are listed as follows:

Safeguard for parties in void marriage

- The above ruling guarantees that partners in annulled unions (illegal per HMA section 11) won't be stranded without a source of income.
- Especially females, who are frequently reliant on finances along with could end up deserted if their relationship is ruled ineffectual, are especially protected by legislation.

Clearly Differentiating Both secular and personal law on maintenance

- The decision made it obvious that while Section 144 BNSS (Section 125 CrPC) solely extends sustenance to spouses and kids, whereas Section 25 of HMA, 1955, extends sustenance obligations for both spouses irrespective of gender.

- By using the appropriate court processes, this avoids uncertainty and guarantees that partners in legally invalid unions can obtain monetary assistance.

Additionally, in the midst of conflicts, interim amount is permitted.

- The Supreme Court ensured that a financially disadvantaged husband could receive assistance before a final judgement on the validity of the marriage by allowing interim maintenance during the ongoing litigation under section 24 of the HMA.

- It also keeps those who are embroiled in an extensive lawsuit about the legality of the union from experiencing financial difficulty.

Strengthening Judiciary Independence in maintenance cases

- The Court clarified that maintenance is not always granted and will depend on:

- subject matter of case
- parties' demeanour and monetary position of the couple
- The financial situation of the applicant

- This guarantees that maintenance is allocated equitably and not abused.

Empowering women's right and Global Equity

- By preventing females from being destituted in void and invalid unions lacking meaningful monetary assistance, this decision is an important move regarding female monetary stability.
- By providing disadvantaged partners with monetary security, it is in line with the nation's dedication to equality for women.

Effect on Upcoming Court Decisions

- This ruling establishes a solid foundation for situations concerning upkeep demands and annulment of partnerships in subsequent years.
- To ensure consistency in judicial rulings, judges throughout India shall adhere to this judgment while determining instances.

The ruling by the Supreme Court protects partners in annulled unions from monetary difficulties brought on by procedural inconsistencies. The Supreme Court has made significant progress towards accountability and equity in the context of personal legislation by permitting both interim and perpetual assistance.

5.6 Secular Maintenance Provision and Muslim Law Maintenance Provision

Section 5 of Muslim Women (Protection of Rights on Divorce) Act, 1986 states that wherein a Muslim divorced women has filed an application under section 3(2) of the Act than on the first date of hearing, such women and her former husband have to declare an affidavit or any other declaration either jointly or separately that they would preferred to be governed by the provisions of section 144 to 147 BNSS formerly as section 125 to 128 CrPC, these provision was also challenged as it appear to violate section 14 and 15 of the Indian constitution. However, the court observed that the requirement under section 144 BNSS (formerly as 125 CrPC) are - If the husband is having sufficient means and is neglecting or refusing her

divorced wife who is unable to maintain herself, rather than such wife can claim maintenance under this provision.

The main object of section 144 BNSS is to prevent vagrancy and destitution. The 1986 Act also aims to prevent destitution of Muslim divorced women who are unable to sustain themselves, moreover if the parties agree that the provision of section 144 to 147 BNSS would be applicable and even otherwise the magistrate has been conferred with the power to make appropriate provisions for maintenance and therefore what could be earlier granted by magistrate under section 144 BNSS can now be granted under 1986 Act itself. moreover, what could be granted under section 3(3) of 1986 Act the magistrate has to decide application within one month from the date of filing the application, above that then reasons are to be recorded.

On the other hand, under section 144 BNSS there is no time limit given in deciding the application of maintenance moreover imprisonment under section 3(4) is more compared to section 144 BNSS wherein the husband fails to comply with the order of the magistrate.

In case of Noor Sabha Khatoon v. Mohammad Quasim Supreme Court 1997²⁹, two judge bench, the main issue was, whether the children of the Muslim parent are entitled to grant of maintenance for the period till they attain majority or able to maintain themselves which ever is earlier, or in case of daughters till they get married or is their right restricted to grant of maintenance only for two year prescribed under section 3(1)(b) of 1986 Act notwithstanding section 144 B.N.S.S.

The court observed that the Act aims to protect the rights of Muslim women who have been divorced under this Act was not enacted to regulate the obligation of Muslim father to maintain his minor children who are unable to maintain themselves which continued to be governed within section 125 CrPC (Section 144 BNSS) maintenance. Section 3(1)(b) provides for grant of additional maintenance to her that is divorced women that is fosterage period of 2 years from the date of birth of child for maintaining such child. The maintenance for prescribed period under section 3(1)(b) is granted on claim of divorced women on her on behalf for maintaining in fact for the period of two year from the date of the birth of the child concerned who is or are living with her. This provision also aims at providing some extra amount to the mother for her nourishment for nursing or taking care of the infant up to age of 2 year. It has nothing to do with the rights of child to claim maintenance under section 125 CrPC (Section 144 BNSS) are satisfied the rights of minor children are unable to maintain themselves are not affected by section 3(1)(b) of the Act.

Under section 125 CrPC (Section 144 BNSS) the maintenance of children is obligatory on the father, irrespective of religion, and as long as he is in position to do and the children have no independent means of its own it remains his absolute obligation to provide for them. The effect of beneficial legislation like section 125 CrPC (Section 144 BNSS) cannot be allowed to be defeated through the clear provision of the statute. Therefore, a Muslim father's obligation to maintain his minor children as contained in section 125 CrPC (Section 144 BNSS) is absolute and not at all affected by section 3(1)(b) of the act. In other words, the right of children to claim maintenance under section 125 CrPC (Section 144 BNSS) is a separate distinct and independent right of a children. It is independent of the right of their divorced mother to claim maintenance for herself for maintaining the infant children up to the age of two year under section 3(1)(b) of the Act.

The applicant and respondent were married as for Muslim law. At the instance of the appellant a criminal case under section 498AIPC Redwood section 34IPC was lodged against the respondent husband and his family members. All accused in the said case were acquitted during pendency of the said case.

The apparent filed an application under section 125 CrPC (Section 144 BNSS) for the grant of maintenance on the ground of desertion and cruelty while the said application was pending, divorce between appellant and respondent took place at the juncture, the applicant filed an application under section 3 of 1986 act. The magistrate while hearing the application preferred under section 125 CrPC (Section 144 BNSS) dismiss the case on the ground that appellant had not been able to prove her case, but while deciding with the application preferred under section 3 of 1986 act. The magistrate allowed the application and directed the

²⁹ <https://indiankanoon.org/doc/1512218/>

husband to pay a sum of twelve thousand rupees towards Mehar, return of goods and ornaments and sum of two thousand rupees towards maintenance during Iddat period being aggrieved by the orders, not grinding or maintenance under section 125, the appellant approached the revisional court but did not succeed and now applicant had approached the High Court by way of petition under section 482 CrPC.

The court has raised following two issues –

Whether applicant application for granting maintenance under section 125 CrPC (Section 144 BNSS) was to be restricted to the date of divorce and as an ancillary to it whether filing of an application under section 3 of 1986 act after the divorce for grant of Meher and return of gift dis entitled the applicant to sustain her application under section 125 (section 144 B.N.S.S). According to the court, an entitlement underlying section 125 CrPC (Section 144 BNSS) is an autonomous, impartial recourse which can be used to avoid deprivation & is not immediately terminated following separation. A wife may still seek sustenance using the provisions of Section 125 CrPC (Section 144 BNSS) after submitting an application using Section 3 of the 1986 Act because the two procedures serve distinct purposes. The 1986 Act allows for some post-Divorce benefits, although, until otherwise noted, it does not forbid using Section 125 CrPC (Section 144 B.N.S.S)

Regard having been to present fact, the consent under section 5 of 1986 act was an imperative to maintain application under section 125 CrPC (Section 144 BNSS) decided. The Supreme Court made it clear that section 5 of the 1986 Act comes into play when both th spouses decide to accept section 125-128 CrPC (Section 144 BNSS) following a separation or divorce. Nevertheless, the entitlement for monetary support under Section 125 CrPC does not change in the denial of this permission, particularly in situations including minors. The desirable goal of reducing abandonment cannot be undermined by the interpretation of the provision.

The Supreme Court came to the conclusion that seeking recourse pursuant to the 1986 Act doesn't rule out an assertion pursuant to section 125 CrPC (Section 144 BNSS) and therefore, the petition is viable regardless of the separation. Section 5 does not always require knowledge or authorisation, especially when refusal seems unfair.

In Begum Sabnam Alias Saira Banu v. A M Abdul Guffur Supreme court, 1987 ³⁰the case dealt with a challenge where a Muslim husband has entered into second marriage and his first wife has left the matrimonial house, she filed a petition for maintenance under section 125 CrPC (section 144 B.N.S.S), the issue before the court is to adjudicate whether a Muslim separated women can claim maintenance under secular provision.

The explanation of section 125(3) CrPC states that a wife can claim maintenance while she lives separately from her husband provided if husband has contracted second marriage with some other women or even in case where husband keeps a mistress, in such scenario the judge consider it as just cause for the wife to live apart and she can refuse to return to her matrimonial house, this provision empower women in such case to claim maintenance from their husband. This is secular law which means it implies to all the women regardless of their religion therefore it also covers a Muslim women whose husband has remarried without giving her divorce. The secular provision supports the wife leaving matrimonial home even if the husband is ready to take her back the law cannot compel her to stay with husband or with his second wife or either with his mistress.

As per the facts of the present case, the supreme court held that provision under this secular law, the explanation of section 125(3) is not to overpower Muslim law ideology of allowing having more than one wife not in its legal or social status, the objective behind the explanation was simply that the legislature wanted to give equal stances to first wife on matrimonial injury on her by husbands second marriage hence the ideology has to comprehend in way that it talks about the wife suffering due to husbands immoral conduct and not to be mixed with any personal law. Therefore, the objection raised were invalid and she had a right to live separately and claim maintenance under secular legislation by virtue of explanation of section 125(3) CrPC (section 144 B.N.S.S).

³⁰ <https://indiankanoon.org/doc/709902/>

In similar other case of Iqbal Bano vs. State of UP Supreme court 2007³¹, the judge ruled that a the maintenance claim under Muslim Women (Protection of Rights on Divorce) Act, 1986 can only be beneficial to a Muslim women if she is divorced, there is no law under Muslim personal law which provides maintenance to a separated women therefore she can claim maintenance under section 125 CrPC (section 144 B.N.S.S). Further the court also stated that it is a judicial magistrate discretion to treat an application filed under section 125 CrPC as application under section 3(2) of the Muslim Women (Protection of Rights on Divorce) Act, 1986 as both are beneficial statues covered under same the same court's jurisdiction.

5.7 Landmark Cases on Section 125 CrPC

Shammai Farooqui V. Shahid Khan Supreme court 2015³²

In case of Shammai Farooqui V. Shahid Khan Supreme court 2015, the case is noteworthy as it laid down a legal principle for wives claiming maintenance from their spouses under section 125 CrPC presently as section 144 B.N.S.S. the case acknowledged the importance of providing maintenance to wive under the above provision that is to protect the women from suffering any abandonment and economical hardship, because women are mostly relaint on their husband to sustain themselves and after separation they had no means to provide for them therefore court ruled that maintenance is not only a legal obligation but also a social duty of the husband to look after the wife even after the divorce in cases where she cant sustain herself.

In the case the applicant Shamima Farooqui filed an application in the district court seeking maintenance from her husband shahid khan, on ground of his negligence and refusal to sustain her. The case through proceeding emerged a major question as what describes a maintenance amount as "just" and "reasonable" amount.

The supreme court considering issue made some significant observations and provided with some guidelines while pertaining to provisions for maintenance –

Sufficient and justifiable maintenance- the spouse ought to receive maintenance that is appropriate, justifiable and valid, considering factors into account the competence of the person providing maintenance and the person receiving the maintenance. The court stressed that the focus of guaranteeing maintenance should be maintain the spouse same the standard of living as she was living before her marriage or before separation rather than just providing her mere means of subsistence.

Extensive Application of Sustenance: The judge ruled that the idea of sustenance should be defined liberally to encompass measures enabling the spouse to survive with respect as she would typically reside in her marriage residence. The term consists of assistance for housing, nourishment, and clothing. Furthermore, there are various necessities in addition to bodily needs.

Purpose underlying the section 125 CrPC (Section 144 BNSS) The tribunal underlined and stated the purpose of the provision 125 CrPC (Section 144 BNSS) achieve societal fairness and minimise starvation and homelessness by obliging the responsible person to assist individuals that are incapable of sustaining themselves.

Inviolable Responsibility: Rather than being only a formal requirement, a man's commitment to support his spouse is viewed as an equal fairness policy. It is a legal obligation.

Conclusion of the case- the supreme court in Shamima Farooqui v. Shahid Khan, held that the constitutional precept that a wife should get support in order to maintain their worth after a divorce or separation by ordering a husband to give his spouse sufficient sustenance.

This ruling is important because it defines and fortifies the statutory stricture protecting female maintenance rights. It guarantees that the maintenance is adequate to sustain a quality lifestyle comparable to the condition of marital residence, rather than just figurative.

³¹ <https://indiankanoon.org/doc/390198/>

³² <https://indiankanoon.org/doc/189967724/>

Rajnish v. Neha and another supreme court 2020³³

Rajnish v. Neha and another supreme court 2020, is another landmark judgment that strengthened as well as explained the rules pertaining to maintenance of spouse, children and elderly parents under section 125 CrPC (section 144 B.N.S.S). this case is noteworthy because it established extensive standards meant to improve uniformity and consistency in maintenance order throughout martial legal proceeding.

The subject matter of the case –

The husband challenged his wife request for temporary maintenance on a number of reasons, notably the amount of assistance. The evaluation of the earning of man and the legitimate requirement of the husband and wife was main point of contentions.

Remark and instructions of the supreme court in the case-

The supreme court established several important rules in its ruling to simplify and harmonise the maintenance granting procedure, including:

Disclosure of wealth and obligations- their financial status and assets. In order to guarantee that maintenance order is founded on realistic assets and liabilities of both parties, the court established an official declaration of information that must be submitted by the two partner in maintenance procedures.

Amount of maintenance- The court enumerated various variables that should be taken into account while calculating the amount of maintenance, including the party's social standard, the wife's and children's legitimate wants and the appellant level of education and professional qualifications, and how many dependent the respondent has to take care and various other.

Perpetual Maintenance: The judge additionally made instructions for judges to take into account while calculating perpetual maintenance, stressing that there is no set methodology, but rather it can be used and that judges must make decisions on an individual basis.

Time of maintenance award- According to the supreme courts ruling, alimony must be granted starting on the day the petition was submitted.

Implementation of maintenance-

Time of alimony award- according to the supreme courts ruling, alimony must be granted starting on the day the petition was submitted.

Implementation of maintenance measures: the ruling, emphasised the need to quickly enforce order for maintenance and allowed for the granting of a summons to collect the amount payable per the decree.

In parallel proceedings- to prevent incompatibility orders and maintain legal uniformity, the court explained that in instances in which maintenance asserts have been filed pursuant to various statutes such as domestic violence laws and CrPC, the applicant has to disclose the prior actions and demands enacted within it.

the implication the case- the case Rajnish v. Neha and another is crucial to regulating the process and factors take into account when determine maintenance awards in martial conflicts. The goal of the ruling is to guarantee that maintenance decisions are reasonable, fair, and grounded in the real needs and living conditions of those who are eligible for maintenance. By requiring an open statement of economic position, it additionally aims to discourage creditors from avoiding their economic obligations. In order to tackle and reduce the difficulties and irregularities encountered in maintenance processes throughout India, this ruling is a major stride.

Rohtash Singh v. Smt. Ramendri and others supreme court 2000³⁴

Rohtash Singh v. Smt. Ramendri and others supreme court 2000, the supreme court rendered a significant ruling in this matter which explore the terms of section 125 criminal procedure code (section 144 B.N.S.S). the section mandates the system of laws for providing sustenance to wives, children and parents who cannot support themselves.

The subject matter of the case-

³³ <https://indiankanoon.org/doc/117541087/>

³⁴ <https://indiankanoon.org/doc/1728416/>

In the following case the husband Rohtash Singh appealed the alimony award granted to his wife Ramendri Singh under the above provision. The key point of contention was whether a lawfully wedded wife can claim maintenance from her husbands, even though she refuses to stay with him on the ground of accusations of abandonment and abuse.

Judgment-

The Supreme Court presented a number of important remarks and explanations about female right to maintenance under the secular provision that is under section 125 CrPC (Section 144 BNSS) in its ruling. The court decided that –

Maintenance of separated wife- if the wife presents a adequate explanation for her decision to not reside with her husband and court find it justifiable then the court will grant her maintenance under section 125 CrPC (Section 144 BNSS) provided the maintenance grant will only be given in the instance where she has no means to sustain herself. The Court made it clear that the wife continues to be eligible to financial support even if she is forced to live apart because of the domestic violence of her husband or if he abandons her.

Description of the term ‘Wife’- the supreme court made it clear that any female who is divorced and yet she hasn’t married again is included in the term ‘wife’ under the secular law. The idea of the legislation was to safeguard any wife who either lives separately or is divorced and had not remarried to provide with sustenance and not left abandonment in poverty.

As a result, the ruling expanded the maintenance right not only to the legally wedded wives but any women who is associated or covered under the term wife, as long as she has not remarried.

The objective of section 125 CrPC (section 144 B.N.S.S)- the court reaffirmed that main goal of section 125 CrPC (Section 144 BNSS) is to prevent women from destitution and vagrancy. It is societal fairness concept that protect women and their offspring and is supported by the Indian constitution under article 15 and furthermore under article 39.

No legalization of the martial ties- the supreme court also stated that in section 125 CrPC (Section 144 BNSS) procedure is not intended to legitimize illegal marriages. By forcing those who are not able to assist individuals who are incapable of sustaining themselves and had an ethical responsibility for assistance, the goal is to accomplish the societal purposes of reducing impoverished circumstances and abandonment.

The implication of the case –

The Rohtash Singh V. Smt. Ramendri, ruling is noteworthy because it expanded the interpretation as well as execution of Section 125 CrPC (Section 144 B.N.S.S). It emphasised the significance of paying sustenance to divorced women and separated spouses, highlighting the significance of legislation in protecting the welfare of women and their dignity. This case's significance in the country's domestic legislation and female liberties legislative environment is demonstrated by the fact that it is frequently referenced as a reference in sustenance-related disputes.

Mangat Mal V. Punni Devi 1995³⁵

Regarding the obligation to maintain under section 125 criminal procedure code (Section 144 BNSS) the supreme court rendered a significant decision in the matter of Mangat Mal v. Punni devi, 1955. If a person cannot afford to support himself, then he is legally required by this provision to give sustenance to his wife, children and elderly parents.

The subject matter of the case-

The major question in the above case is that whether the concerned wife’s right to financial support under section 125 CrPC (Section 144 BNSS) and conditions in which she might make such an assertion. The spouse submitted an application to ask her divorced husband for alimony.

Supreme court stated that-

In its ruling the supreme court judge bench, upheld the idea that the goal of section 125 CrPC (Section 144 BNSS) is to avoid impoverished circumstances and abandonment by giving people who are incapable of supporting themselves a prompt redress. The Court stressed that the clause constitutes a component of the

³⁵ <https://indiankanoon.org/doc/1245246/>

constitutional requirement to provide an opportunity to reside with decency and is fundamentally an equitable policy.

The courts understanding of negligence or refusal to maintain constitutes one of the judgement's key features. According to the court, a spouse does not need to demonstrate that her partner had "rejected" to provide for her in the form of an explicit requirement accompanied by an obvious dismissal in order to make an application for maintenance under section 125 CrPC (Section 144 BNSS) Instead, according to this clause, a wife may petition a judge for assistance if her partner, who has adequate resources, still fails to pay her support.

The implication of the judgement –

The Mangat Mal v. Punni Devi ruling is important for various kinds of explanations:

It emphasized the importance of section 125 CrPC (Section 144 BNSS) in reducing impoverished circumstances and abandonment amongst reliant partner, minors, and parents, clarifying its comprehensive and advantageous character.

It emphasized the idea that section 125 CrPC (Section 144 BNSS) alimony clause is 'sui generis' which means of its own kind & intended to uphold the principles of fairness.

It made clear that negligence or inability to fulfil is the basis for granting maintenance and that explicit application and rejection are not necessary for such negligence.

The instance's ongoing significance in the formulation and execution of legislation pertaining to maintenance responsibilities is demonstrated by the fact that it is frequently mentioned in later court cases concerning sustenance demands pursuant section 125 CrPC (section 144 B.N.S.S)

D. Patchahaimmal v. D Velusamy, Supreme Court 2010³⁶

The supreme court of India rendered a landmark decision the D. Velusamy v. D Patchahaimmal, 2010 case that clarified the constitutional standing and entailment of women living together within the protection of women from Domestic Violence Act, 2005. The protection of women from Domestic Violence Act, 2005. The grounds for a connection to be deemed to be relationship in the nature of marriage for the purpose of granting protection and maintenance under the aforementioned Act were outlined in this ruling.

The subject matter of the case-

D. Patchaimmal filed a lawsuit against D. Velusamy, alleging that two had a relationship in the type of marriage for a number of years. In accordance with the term of the protection of women from Domestic Violence Act 2005, she requested support from velusamy, claiming that she had been victim of domestic abuse and now resided in poverty and abuse.

However, Velusamy disputed these assertions, claiming that he had previously tied the knot to some other women and that his connection with Patchahaimmal did not meet the Acts definition of matrimony. According to him, Patchahaimmal was not eligible for any sort of relief under the Act.

Judgment-

In its ruling the supreme court established several requirements that must be met for a partnership to be classified as a relationship in the type of marriage under the 2005 protection of women from Domestic Violence Act. The court stated that not every live-in-relationship was going to be eligible for protection within the Act and listed a number of requirements such as, yet not restricted to:

- Both partners must present themselves to the public as a couple.
- To get married, they have to be of legitimate age.
- They must satisfy all other requirements, namely being single, in order to legally get married.
- They have to have lived together willingly and presented themselves to the public as married for a considerable amount of period.

Additionally, the court distinguished between connections that are in the context of a union as opposed to those that are just cohabitation or sexual interactions. Legal recourse is available for the former, but not for the latter.

³⁶ <https://indiankanoon.org/doc/1521881/>

The implication of judgment-

The ruling in *D Velusamy v. D. Patchahaimmal* is significant because it established precise standards for evaluating the validity of claims made by women in cohabitation under the protection of women from domestic violence act. It stated that only partnership that resembled a union would be entitled to safety and maintenance, and that not all live-in-relationship would be viewed similarly within the legislation.

The present matter is foundational ruling in the framework of Indian domestic laws and privileges of women who resides in non-martial but marriage like partnership since it is frequently mentioned in court cases concerning the interest of women in live-in-relationships.

Chanmuniya v. Virendra Kumar Singh Kushwaha supreme court 2011³⁷

The supreme court of India clarified the constitutional concept of partnership eligible for sustenance as per section 125 criminal procedure code (section 144 B.N.S.S), in the turning point case of *Chanmuniya v. Virendra Kumar Singh Kushwaha* supreme court 2011. The case expanded the definition of term 'wife' under this clause and significantly contributed to the liberties of women in cohabitation.

The subject matter of the case-

Chanmuniya, the applicant was wedded to the brother of Virendra Kumar Singh Kushwah, who died. Applicant Chanmuniya after her husband passed away, she tied the knot with his brother Virendra Kumar Singh Kushwaha in accordance with the traditional customs and resided with him as married couple. But the disagreement emerged, she claimed to be his lawfully married spouse and demanded sustenance against him under section 125 CrPC (section 144 B.N.S.S).

Virendra Kumar Singh Kushwaha disputed the claim asserting that they were not legally married, they were ineligible for maintenance under section 125 CrPC (section 144 B.N.S.S), a provision to enforceable against lawfully married couple, parents and children irrespective of legitimate or illegitimate.

Judgment

The supreme court acknowledged the women in live-in-relationship or situations that mirrored marriage although they weren't formally wedded, needed to be protected. The court noted that if a male and a female cohabitated for an extended time period as a couple, like husband and wife, the legislation ought to assume that they were legally married, giving the lady the right to financial support per Section 125 CrPC.

The court ordered that the definition of "wife" under section 125 CrPC (Section 144 BNSS) be construed broadly, encompassing situations in which a male and female had cohabitated as a couple as partners for an adequate length of duration. The goal of this explanation was to stop discrimination against those females who, in the absence of this explanation, would have been stranded with no assistance from their live-in partner with whom they shared a common household and lived in a marriage-like residential arrangement.

Implication of judgment

A significant move in the direction of acknowledging the harsh reality of shifts in society and relationships beyond the conventional structure of matrimony was Chanmuniya ruling. In order to safeguard the interests and integrity of females residing in cohabitation, who had formerly been in a state of uncertainty with respect to their entitlement to support, it emphasised the necessity for legislation to adjust to the reality of society.

Following this, then, this ruling was used in several instances to support female sustenance entitlements within prolonged partnerships that mirror marriages, even when those partnerships do not strictly fit the formal requirements of marriage. It highlighted the idea of equal rights for females, making sure that these individuals are not left defenceless or impoverished as a result of their connection's lacking constitutional status.

In order to ensure that family members who are reliant, particularly women and children, are not left impoverished or homeless due to the incapacity or inability of the people who are under a statutory duty to assist them, these instances demonstrate the changing application of section Maintenances Laws Supporting to Husband.

³⁷ <https://indiankanoon.org/doc/1949767/>

In India, maintenance rules have always been intended to assist spouses financially. But as social and economic situations have changed, the law has changed to allow husbands to have maintenance rights under specific circumstances. While there is not a single statute that solely deals with provisions of maintenance for husbands, there are a number of statutes that permit such assertions under certain conditions.

Hindu Adoption and Maintenance Act, 1956 (HAMA) - Although the primary emphasis of this statute is on a woman's entitlement to maintenance, Sections 18 and 24 allow a man to get a sustenance amount if he is incapable of supporting himself because of a medical condition or monetary difficulties. Nevertheless, the court's authority determines this meaning.

Section 144 Bhartiya Nagrik Suraksha Sanhita (B.N.S.S), 2023- Section 144 B.N.S.S., formerly Section 125 CrPC, permits an individual who is economically reliant to request assistance. Wives, kids, and parents have often used this law to demand sustenance from an immediate family member who earns money. Nevertheless, in some instances, judges have acknowledged that a male partner may also be entitled to alimony if he has been incapable of working for legitimate causes, like a handicap or fiscal constraints, particularly if his spouse has large monetary assets.

The new enacted law seeks to establish impartial policy on maintenance, guaranteeing that men may request monetary assistance from their spouse in the event that they are reliant and are incapable of maintaining themselves.

Section 24 of Hindu Marriage Act, 1955 (HMA)- covers costs associated with litigation and the cost of maintenance during pending litigation. When any partner, irrespective of gender, even the male, is not able to sustain himself monetarily, he can even during the pending litigation apply for interim maintenance. In situations where the woman is substantially better off and the man is economically reliant; judges have awarded maintenance to the husband under this clause.

Personal laws for other religions – under different religious beliefs, a man's right to maintenance is not very clearly stated. Yet there is some room for maintenance demands by spouses under certain conditions. The Parsi Marriage and Divorce Act, 1936 And the Indian Divorce Act, 1869 which also governs Christians. 125 CrPC (section 144 B.N.S.S).

5.8 Maintenance Law in Context of Live-In-Relationship

Women in partnership in the form of marriage, which includes some live-in relationship, are entitled to financial assistance and legal safeguards under the Protection of Women from Domestic Violence Act, 2005 (PWDVA). Although the Act was mainly established to shield women from domestic abuse in the home, its interpretation has expanded to grant maintenance rights to women who live together.

In *Indra Sarma v. V.K.V. Sarma* supreme court 2013, ³⁸ruled that a women who is reliant on her partner in live-in-relationship that resemble like union may be entitled to protection and maintenance under PWDVA. The court underline that live-in-relationship must fulfil several requirements, including residence for a considerable amount of time, acceptance by society and monetary reliance, in order to be eligible for maintenance. In the same spirit the supreme court in *D. velusamy v. D. Patchahaimmal* 2010, that a female in any prolonged stable live-in situation was entitled to maintenance as long as the connection was neither immoral nor illicit.

A female who feels mistreated in a live-in relationship may be granted relief, including maintenance by courts under section 20 of Protection of Women from Domestic Violence Act, 2005. Basic necessities, including proper meals, clothes, housing and healthcare cost that are covered by monetary assistance.

Furthermore, the judge may grant reimbursement for the female's financial mistreatment and mental misery under section 22 of PWDVA. Such rules are meant to prevent suffering of females who cohabits with their partner and are reliant on them for their monetary needs and are treated unfairly because of lack of valid marriage.

Although women in cohabitation are entitled to sustenance under statute, there are several obstacles. It is the female's responsibility to demonstrate that their connection is comparable to matrimony. Continuous living together, joint home duties, and common bank accounts are examples of proof of judicial need.

³⁸ <https://indiankanoon.org/doc/192421140/>

Additionally, Protection of Women from Domestic Violence Act, 2005 the does not provide security for purely physical or transient interactions.

In a nutshell, women in cohabitation are granted sustenance entitlements under the PWDVA, 2005, which shields women from violence at home and economic difficulties. Courts have recognised the rights of women in real in life-in relationships and secured their economic stability by ensuring that they have access to lawful recourse via a number of decisions by the courts.

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

5.9 Introduction

The Indian parliament passed the historic maintenance and welfare of parents and senior citizens welfare act 2007, to safeguard the economical and psychological welfare of senior citizens. The legislation was created in reaction to significant social and economic shifts that rendered numerous elderly people suffering without proper assistance, including urbanisation, relocation for employment, the breakup of families with children, and shifting societal ideals.

Indian culture has historically placed a strong emphasis on parental devotion, in which kids look after their elderly parents. But as the structure deteriorated, cruelty to seniors, desertion, and mistreatment skyrocketed. Acknowledging these circumstances, the Act ensures that no senior citizen is compelled to endure life in hardship or in humiliation by establishing a timely, compassionate, and readily available administrative procedure and granting a legal entitlement to assistance.

Article 41 and 46 of the Indian constitution, which mandate that the state safeguard disadvantaged segments of the community, are reflected in the Act. It also operationalises the idea that taking care of guardians is an ethical responsibility as well as a social commitment.

Caring shouldn't be difficult. It just involves paying attention to the subject or individual in front of us and taking little steps to address its requirements at that moment. As the current generation grows, there are numerous instances where kids have no concern regarding their elderly parents and relatives until they become older and struggle with various bodily and psychological disabilities; occasionally, they even fail to secure a place to reside and are unable to provide for themselves economically." As per the census conducted in 2011, citizens over 60 include 8.6 per cent, which could grow to 21 per cent by 2050.

The ministry of legal affairs created the "Maintenance and welfare of parents and senior citizens Act, 2007" in order to guarantee that those elderly people have adequate resources for their well-being since the proportion of elderly people was increasing at that rate and the issues, they encountered significant concern. In addition to providing monetary protection, this measure will mandate that their children give their parents and grandparent's support.

Who all are eligible under the Act to claim maintenance?

This act allows parents, grandparents, or senior individuals to receive maintenance through their children or family members. Regardless of whether they are actual or stepparents or if they meet the requirements for senior citizenship, their parent can be either a mother or a father or both. "If a stepmother who does not have any child is a widow or her spouse, if alive, is also unable to take care of her, she may be entitled to maintenance from her stepson."

A senior citizen who is Indian and above 60 years of age or older than that. It also includes parents who are unable to support themselves through their own income or through their own assets. An elderly person can receive sustenance through a family member if they are unable to support themselves and so not have children. Any lawful successor who is in ownership of his property- whether it is moveable or immovable or inherited or self-acquired or intangible or tangible- or who will receive it upon his passing is referred to as a distant relative. If an elderly citizen has multiple relatives who are eligible to receive their possessions, the cost of care that each relative must pay will be determined by the percentage of the assets that each family is going to acquire.

If multiple people are subject to a support order, the death of any of the individuals will not impact other people's obligation. However, the elderly person may only make an argument under one of the Acts-

maintenance of senior citizens and welfare act 2007, or either under Bhartiya Nagarik Suraksha Sanhita 2023(formerly as criminal procedure code)

Who is responsible for Maintaining

According to the Act, children shall be responsible for their parents and grandparents for their maintenance. Son, daughter, grandson and granddaughters are also included in the phrase “children”, although they ought to include any children who is a minor. They will be in charge of providing their parents and grandparents with the necessities in order to live a regular life, they need to take responsibility for their sustenance, clothing, housing, healthcare treatment, and medication.

Process

If an elderly person or senior citizen is unable to meet their needs with their own income or assets, they may apply for maintenance under section 5(3) of the said Act. If they are unable to do so, any other individual or organisation that they have given permission to (such as a charitable organisation enrolled under the society registration act, 1880) may do so, or the court may take the matter ‘Suo Moto’. Children or relatives will receive notification of the petition once it is filed, giving them a chance to be addressed and to question the assistance sum.

An allowance per month Applications must be processed in 90 days, with a 30-day extension only possible in certain extraordinary circumstances. The costs must be covered starting on the order date. If required, the court may additionally mandate that the money be paid starting on the application date. The money must be received before thirty days of receipt after the order date.

If children or family members disobey orders, they must provide adequate justification; otherwise, the court can declare a summons, impose a penalty, or condemn the offender to incarceration for a maximum of thirty days or until the money is made. Until the three-month period has elapsed, the Court will not issue a summons for collecting this sort of sum.

If children or relatives live in the court's competence or have lived there in the past, the court will have authority to continue.

The children or family members upon whom a summons has been served must be present when testimony is collected.

The judge may make an ex-parte ruling if the judge is convinced that children or relatives are wilfully failing to attend the proceedings. A summons shall be delivered in the format prescribed by the central government in the official gazette if the children are living outside of India.

The amount of maintenance that the tribunal may impose cannot be more than 10,000 per month or more than the cap set by the state government.

An elderly person can bring a lawsuit with the appeals court within sixty days of the date of the order if they are unhappy with it or feel wronged by the tribunal's ruling. A designated counsel must address each side fairly before any appeal can be granted.

The individual in charge of providing service can get imprisoned for a maximum of three months, fined up to five thousand rupees, or both if they abandon the individual in question in any location with the aim of neglecting him.

Governmental Accountability

This Act requires the government to construct and maintain entirely or substantially subsidised clinics that offer adequate bedding arrangements for all elderly patients and facilities for the management of persistent illnesses. There ought to be an additional line set up at clinics or places for the public.

In order to guarantee that the requirements of this law are correctly implemented, the state government could prescribe these responsibilities to district magistrates.

If a senior citizen transfers his assets following the Act's implementation through a donation or another means, the person receiving it will be responsible for meeting the transferor's fundamental tangible demands and services. If the recipient refuses, it will be deemed that the transfer was made under duress or fraudently and will be deemed invalid.

The state government has the authority to create and operate assisted living facilities in locations that are easily available to a large number of individuals.

Conclusion

This Act states that the state government may create assisted old age homes facilities; it does not make this mandatory. This is the most important factor for maintaining elderly people, so the act ought to render it mandatory. If the government is not appropriately providing attention of these improvised individuals, how could they demand others provide taking care of them.

The primary argument is that parents are unlikely to go to tribunal to force their kids to meet their requirements, so instead of emphasizing how kids must support their parents, the Act should have concentrate on developing a system concentrate on developing a system that allow these elderly people to receive pensions or money directly into their back account to support themselves. More awareness-raising initiatives should be implemented nationwide to help these people realise that they are entitled and that they have the right to healthy life in addition to not having to suffer because of their children.



CHAPTER 6

COMPARATIVE DOCTRINAL ANALYSIS OF MAINTENANCE LAWS IN INDIA

6.1 Introduction

The laws on maintenance the junction of secularism, legislative rules and private legislation and conceptual concepts is reflected in maintenance rules. The government has implemented secular procedures to guarantee that women do not remain in poverty, even while various faiths are subject to their own individual regulations. The maintenance requirements in Hindu law, Muslim law and secular law are compared doctrinally in this chapter, with a focus on chapter 125 of the code of criminal procedure (currently embodied in section 144 of the Bhartiya Nagarik Suraksha Sanhita).

Examining these laws parallels, variances and efficacy in defending the rights of females in addition to assessing how well they match with the fairness and equitable society objectives of the founding document is the purpose.

Theoretical variations among legal structures

In India varied systems of law have diverse theoretical basis for maintenance.

Maintenance is typically seen in Hindu law as an ethical and statutory duty resulting from a marriage. The duty is codified, and organized solutions are provided by legislation such as the Hindu marriage act of 1955 and Hindu adoption and maintenance act of 1956.

Muslim law on the other hand, views sustenance (nafaqah) as a husband's obligation that is mainly restricted to his wife's sustenance throughout marriage and in some situations, following divorce. The extent of maintenance altered with the passage of the Muslim women (protection of rights on divorce) Act, 1986, especially following court interpretations.

Secular law takes a welfare- orientated stance, especially when it comes to section 125 of the code of criminal procedure. It is non-religion and priorities eliminating poverty over upholding personal law duties.

Important Components for comparison

Criteria for obtaining maintenance

A Lawfully married wife, children, dependent parents are all entitled for maintenance under Hindu law. The entitlement of widow daughter-in-law and other reliant are also acknowledged by the law. According to Muslim law, the woman is the one who receive maintenance for the duration of the marriage. Maintenance is customarily restricted to the Iddat period following a divorce, however judicial interpretation has broadened its application. The breath is wider under secular law. Maintenance claims can be made by parents, minor children, wives including divorced wives. Crucially, legal interpretive law has protected women in some non-formal relationship as well. In the innovative decision of Chanmuniya V. Virendra Kumar Singh Kushwaha 2010 SC ³⁹, the court acknowledged maintenance entitlement in marriage-like situation.

Duration of maintenance

Depending on the situation, Hindu law permits both temporary and permanent maintenance. The Hindu marriage act, 1955 sections 24 and 25 deal with maintenance both during and after marriage.

Maintenance following a divorce is often limited by Muslim law to iddat term. In Danial Latifi v. Union of India⁴⁰, however the supreme court construed the 1986 Act to mandate a "reasonable and fair provision" for the divorced women's future, so extending maintenance beyond iddat.

Time constraints are not imposed by secular law. As long as the applicant satisfies legal requirements and is unable to support herself, maintenance will continue.

Amount of maintenance

Family courts take into account various factors in consideration before assigning the amount of maintenance for instances the standard of life they live before separation or divorce, income of both parties if working, legitimate requirements etc. the amount is often determined by the husbands monetary situation however there is no set of specific rules that determine maintenance amount under Muslim law.

Under secular law, there is more judicial autonomy, enabling judges to decide on a fair sum depending on the party's situation.

³⁹ <https://indiankanoon.org/doc/1949767/>

⁴⁰ <https://indiankanoon.org/doc/410660/>

Discrepancies in the calculation of maintenance amount results from lack of standard rules among various legal system, despite these prohibitions.

Factors on which maintenance can be denied

If a wife is living in adultery, denies residing with her husband with no valid explanation, or adopts different religious faith, she cannot claim maintenance under Hindu law.

In the same vein, Muslim law also excludes a wife who wilfully declines to live with her husband with no valid cause or is a disobeying (nashiza).

Some other disqualifications like infidelity or refusing to remain with the spouse without any valid cause also is a legitimate ground for not providing her with maintenance under secular law. Nonetheless, secular law is usually understood more broadly to shield women from poverty.

The judiciary role in coordinating in among different personal laws

The Indian court has been instrumental in reconciling the distance between constitutional fundamental and private legislation.

By ruling that women under Muslim personal law have right to seek maintenance under section 125 CrP even after divorce, in landmark verdict of Mohammad Ahmed Khan v. Shah Bano Begum, 1985 SC ⁴¹marked a turning point. This ruling made it clear that when social justice is at stake, secular law out law's other laws. The supreme court subsequently interpreted the 1986 Act in way that maintained constitutional values in Danial Latifi v. Union of India⁴², guaranteeing that divorced Muslim women would not be left without monetary support. These ruling show the judiciary's dedication to harmonizing personal laws with fundamental rights, especially those in

- Article 14 of the Indian constitution
- Article 21 of the Indian constitution

Limitation and challenges

Even if there are numerous legal systems, there are also a number of inconsistencies-

1. Uncertainty in deciding quantum of maintenance – Arbitrary awards are the outcome of unclear regulations.
2. Challenges in implementation- because of inefficiencies and violation, implementation is still weak regardless of whether maintenance is approved.
3. Inconsistency
4. Gender biased laws- although laws are meant to safeguard women, their effective execution is frequently hampered by societal and procedural impediments.

Analytical assessment

The secular law offers the most extensive and conveniently available maintenance remedy according to comparative comparison. It is an effective instrument for defending women's rights because of its religious neutral stance and emphasis on averting poverty. Despite being progressive in many ways, Hindu law nevertheless has some clauses that could limit women's rights. Despite having its roots in Islamic beliefs, Muslim law has expanded rights for women through judicial analysis.

Nevertheless, instability and uncertainty result from the simultaneous existence of several systems of law. The goal of attaining gender justice is compromised by the absence of consistent criteria.

Conclusion

The comparative doctrinal research reveals that although India has created a complex system of law for maintenance, there are still notable differences in personal laws. In the interest of justice, secular measures have become an essential Défense against poverty, frequently superseding personal law restrictions.

Although the expansion of the women right has been greatly aided by judicial involvement, structural changes are still required. To guarantee that maintenance laws genuinely uphold the equality and dignity of women in India, a more improved and coherent approach is necessary, whether through judicial harmonization or legislative reform.

⁴¹ <https://indiankanoon.org/doc/823221/>

⁴² <https://indiankanoon.org/doc/410660/>

Uniform Civil Code and maintenance rights of women in India

6.2 Introduction

One of the most contentious topics in Indian constitutional and legislative conversation has been the idea of Uniform Civil Code (UCC). Article 44 of the Indian constitution, which instructs the state to work towards obtaining a consistent set of civil rules regulating private concerns like marriage, divorce, succession and maintenance, envisions it. India still has a diverse system of law where private laws vary according to belief system, contradicting this fundamental aim. The variety of cultures had led to inequalities and contradictions in the context of women's rights since women from various faiths are bound by varied legal criteria, which frequently result in disproportionate safeguarding.

The Indian judiciary has frequently underlined the need for uniform civil code, especially when personal statutes clash with the values of fairness and impartiality. The supreme court noted in Mohammad Ahamad Khan V. Shah Bano Begum that a unified civil code will aid in fostering nation unity and removing inconsistencies brought about by legislation based on religion, particularly with regard to maintenance. In similar veins supreme court notes in Sarla Mudgal v. Union of India that the lack of a Uniform Civil Code permits people to abuse personal laws for their own gain, undermining the cause of justice.

The court reaffirmed the significance of enacting a standard statute to end discriminatory practices in John Vallamattom v. Union of India. In addition, it was stressed that personal laws must adhere to the constitutional ideals of fairness and equality in Shayara Bano v. Union of India, despite the narrow scope of the case. Together, these judicial findings emphasize the necessity of a consistent legal framework that does not repeat specific case facts.

The absence of consistency in maintenance rules through various personal legal systems is one of the key arguments in favour of a Uniform civil code. Muslim law has historically restricted maintenance after divorce, although judicial interpretation has expanded its scope. In contrast, Hindu law offers very broad rights to maintenance within the current framework, including post-divorce provisions.

In an effort to close this gap, secular measures like 125 CrPC give a remedy that is independent of religion, yet they coexist with personal laws causing overlap and confusion. The principle of equality embodied in article 14 of Indian constitution and the prohibition against discrimination under article 15 of the Indian constitution are thus violated when two women in comparable situations are granted different legal recourse based only on their religious beliefs.

Another important step in attaining gender fairness is the adoption of uniform civil code. Even while personal laws have changed over time many still feature clauses that could be detrimental to women, like maintenance rights that are contingent on behaviour, conduct-based restrictions and unfair treatment following divorce. By creating universal rules that apply to all people, a universal civil code would solve these issues and end discrimination based on religious differences. Because maintenance is closely related to the right to live with dignity as guaranteed by article 21 of the Indian constitution, it is essential to preventing women from becoming impoverished. Therefore, a standard system of law would guarantee that all women have equal legal protections and increase the preservation of this right.

The decrease in statutory complexities resulting from the presences of several personal laws and secular rules is a significant argument in support of a uniform civil code. Currently, courts frequently have to reconcile and interpret conflicting statutes, which results in inconsistent decisions. For example, a woman may request maintenance under both secular and personal laws creating procedural complexities and overlapping jurisdiction. In addition to burdening the judiciary, this multiplicity confuses applicant. By offering a single, cohesive structure, Uniform Civil Code will streamline the legal system, lowering litigation, guaranteeing uniformity in court ruling and improving accessibility to the law.

The more general goal of fostering national integration is likewise connected to the implementation of uniform civil code. Divisions within society might occasionally be strengthened by the established by the establishment of various personal laws based on religion.

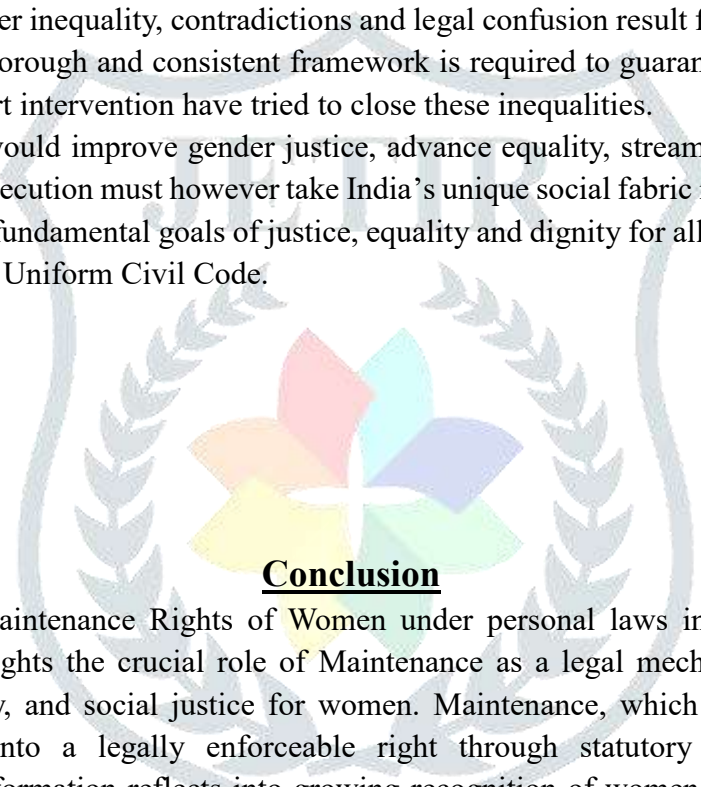
A unified civil law can promote a sense of solidarity and shared identity among residents while honouring cultural variety. The judiciary has repeatedly emphasized that a Uniform Civil Code will aid minimizing

inconsistencies and bolstering national cohesion. Nonetheless, it is crucial that such a code be drafted in a way that upholds India's cultural and religious diversity without sacrificing fundamental liberties.

However, the abuse of personal laws may result from the lack of a uniform civil code by deliberately selecting clauses that are most beneficial to them, people might evade legal duties and create exemptions in the system. The judicial system is weakened and the concept of justice is compromised by this selective application. By creating a single standard that applies to everyone, a Uniform Civil Code would remove these disparities and improve transparency and justice.

The introduction of a Uniform Civil Code is not without difficulties, notwithstanding these benefits. Opponents contend that it might violate the freedom of religion protected by article 25 of the Indian constitution. They argue that personal laws must be preserved due to India's diversity and enforcing a unified system could encounter opposition from different ethnicities. These issues emphasize the necessity of a methodical and balanced approach. In order to achieve gender justice sensitivities, reforms should strive to harmonize personal laws with constitutional principles rather than imposing uniformity suddenly. In conclusion, the necessity of a Uniform Civil Code is especially clear when considering women's maintenance rights. Gender inequality, contradictions and legal confusion result from the current system of many personal laws. A thorough and consistent framework is required to guarantee equal safeguard to all women, even though court intervention have tried to close these inequalities.

A Uniform Civil Code would improve gender justice, advance equality, streamline the legal system and prevent legal abuse. Its execution must however take India's unique social fabric into careful consideration. In the end, achieving the fundamental goals of justice, equality and dignity for all citizens would be greatly aided by the creation of a Uniform Civil Code.



Conclusion

The present study on Maintenance Rights of Women under personal laws in India – A Comparative Doctrinal Analysis highlights the crucial role of Maintenance as a legal mechanism aimed at ensuring financial security, dignity, and social justice for women. Maintenance, which originated within family structure has evolved into a legally enforceable right through statutory provisions and judicial interpretation. This transformation reflects into growing recognition of women's economic vulnerability and the need for legal safeguard in situations of marital breakdown, neglect, or abandonment.

The analysis of various personal laws reveals that while all legal systems acknowledge the right of women to maintenance, the scope, duration and conditions governing such rights significantly. Under Hindu law, statutory provisions provide a relatively structured and comprehensive framework for maintenance, covering not only wives but also dependents such as children and parents. In contrast, Muslim law traditionally limited maintenance right post-divorce, although judicial interpretations have expanded the scope to ensure fairness and long-term financial protection. Similarly, Christian and Parsi laws provide for maintenance largely through court discretion, which can lead to variability in outcomes.

The study also emphasizes the importance of section 125 of the code of criminal procedure (section 144 BNSS) as a secular and welfare-oriented provision that transcends personal law boundaries. It serves as a quick and effective remedy to prevent destitution and ensure that women, irrespective of religion, have access to basic financial support. Judicial pronouncements have consistently reinforced the idea that maintenance is not merely a statutory right but a fundamental aspect of social justice and human dignity.

However, despite the existence of multiple legal provisions, several challenges persist in the effective implementation of maintenance laws. Issues such as delay in judicial proceedings, difficulties in enforcement of maintenance orders and inadequacy in maintenance amounts continues to undermine the

processes of these laws. Additionally, disparities across personal laws create unequal standards of protection for women based on religious identity raising concerns about constitutional equality and uniformity. In conclusion, maintenance laws play a vital role in protecting the economic rights of women and protecting gender justice within the legal system. The study underscores the importance of continued legal system. The study underscores the importance of continued legal reform, judicial sensitivity, and policy intervention to address existing gaps and to ensure that maintenance serves its true purpose of securing dignity, equality and social welfare for women in India.

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