



Maintenance of Wife Under Indian Law: Legal Framework, Judicial Trends, and Societal Implications

Prof. Ashok Kumar Rai¹

Dr. Santosh Kumar²

ARTICLE DETAILS

Research Paper

Keywords :

Maintenance, Wife, Family Law, Judicial Response, Legal framework

ABSTRACT

Maintenance laws in India are designed to protect the financial well-being of women, particularly those who are unable to sustain themselves post-separation or divorce. The legal framework includes Section 125 of the Code of Criminal Procedure (CrPC), 1973, Hindu Adoption and Maintenance Act, 1956, and Muslim Women (Protection of Rights on Divorce) Act, 1986, among others. Judicial precedents have significantly influenced the interpretation of "wife" to include women in long-term live-in relationships. This paper explores the statutory provisions, key judicial decisions, contemporary challenges, and societal implications of maintenance laws in India. It also proposes legal reforms to ensure a balanced approach to gender justice.

1. Introduction

Maintenance refers to the financial support a man is legally obligated to provide to his wife after separation or divorce. In India, patriarchal societal norms often leave women economically dependent on their spouses. Recognizing this, Indian law mandates maintenance for wives, children, and parents to prevent financial hardship. Etymology, Meaning, and Definition of Maintenance

1.1. Etymology of "Maintenance"

The word "maintenance" originates from:

- **Old French:** maintenir (to hold, support, preserve)
- **Latin:** manu tenere (to hold in hand) → manutenerere (to support, sustain)

The term evolved in English from Middle English maintenaunce, meaning "upkeep, support, or preservation" of something

¹ Dean, Faculty of Law, Dr. Rammanohar Lohiya Avadh University, Ayodhya

² Faculty of Law, Dr. Rammanohar Lohiya Avadh University, Ayodhya



1.2. Meaning of Maintenance

Maintenance generally refers to the act of preserving, sustaining, or providing support for something or someone. It is commonly used in legal, financial, and technical contexts.

1.3. Definitions of Maintenance

A. General Definition

- **Oxford English Dictionary (OED):** "The process of keeping something in good condition by checking or repairing it regularly."
- **Cambridge Dictionary:** "Money that a person must pay regularly by law to support their spouse or children after separation or divorce."

B. Legal Definition

- **Black's Law Dictionary:** "A financial obligation imposed on one party to support another, particularly in cases of divorce or separation."
- **Section 125 of CrPC (India):** "Financial support that a husband must provide to his wife, children, or parents who are unable to maintain themselves."

C. In the Context of Indian Family Law

In Indian legal terms, maintenance refers to the financial support granted to a dependent spouse, child, or parent under various personal laws and statutory provisions such as:

- Hindu Adoption and Maintenance Act, 1956
- Muslim Women (Protection of Rights on Divorce) Act, 1986
- Indian Divorce Act, 1869 (for Christians)

The legal provisions governing maintenance of wives vary across religions and personal laws. However, Section 125 CrPC is a secular provision that applies universally, ensuring that no woman is left destitute due to the absence of marriage under religious customs.

This paper will analyze:

- The legal framework governing maintenance for wives.
- Judicial interpretations expanding the scope of maintenance.
- Challenges and potential misuse of maintenance laws.
- Societal implications and need for reforms in maintenance provisions.

2. Legal Framework for Maintenance in India

2.1 Section 125 CrPC, 1973: A Secular Remedy for Maintenance

Maintenance is a crucial legal provision that ensures financial support for dependents who are unable to sustain themselves. Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, replaces



Section 125 of the Code of Criminal Procedure (CrPC), 1973, while retaining its essence of protecting vulnerable individuals. This provision empowers a Judicial Magistrate of the First Class to order maintenance for a wife, children (legitimate or illegitimate), and parents when a person with sufficient means neglects or refuses to provide for them.

Legal Provisions and Scope

Section 144 of BNSS, 2023, mandates that a person must provide maintenance to:

- (a) His wife, if she is unable to maintain herself.
- (b) His legitimate or illegitimate minor child, whether married or not, if the child lacks the means to support itself.
- (c) His legitimate or illegitimate adult child, except a married daughter, if the child is physically or mentally incapacitated.
- (d) His father or mother, if they are unable to sustain themselves financially.

A Magistrate has the discretion to decide the monthly maintenance amount based on the financial condition of the person liable to pay and the needs of the dependent. The provision ensures that maintenance obligations are fulfilled in a just and equitable manner.

Comparison with Section 125 of CrPC, 1973

While Section 144 of BNSS, 2023, largely follows the principles of Section 125 of the CrPC, it modernizes certain aspects. The provision continues to uphold gender-neutral maintenance for children and parental support, reinforcing social responsibility. The key change is its inclusion within the revised criminal procedure framework, which aims to streamline legal proceedings. Like Section 125 CrPC, the provision ensures that a married daughter is not entitled to maintenance upon attaining majority, unless she suffers from physical or mental disabilities.

Judicial Interpretations and Precedents

Over the years, Indian courts have consistently ruled in favor of maintenance to uphold social justice and prevent destitution. In *Bhuvan Mohan Singh v. Meena* (2014), the Supreme Court held that maintenance should be awarded expeditiously as it is a fundamental duty. In *Rajnish v. Neha* (2020), the Court laid down comprehensive guidelines for maintenance calculation, making financial disclosures mandatory for both spouses. Similarly, in *Chanmuniya v. Virendra Kumar Singh Kushwaha* (2010), the Court expanded the interpretation of "wife" to include women in long-term live-in relationships, ensuring they are not left destitute.



Societal Impact of Section 144, BNSS 2023

The inclusion of maintenance provisions in BNSS, 2023, has a significant societal impact. It provides economic security to women, children, and elderly parents, ensuring that financially capable individuals do not abandon their responsibilities. The provision helps reduce the burden on the judiciary by providing clear guidelines for maintenance claims, leading to faster resolution of disputes. Additionally, by recognizing obligations toward elderly parents, it reinforces familial responsibility in an era where senior citizens face neglect and financial hardships.

However, the provision may also lead to increased litigation, especially with evolving societal norms regarding live-in relationships, marital disputes, and parental responsibilities. Courts will have to interpret the law dynamically to balance the rights of dependents with the financial capacity of the person liable to pay.

Section 144 of BNSS, 2023, reflects India's commitment to social welfare and justice. By ensuring financial support for wives, children, and elderly parents, it upholds the constitutional principles of dignity and equality. While largely retaining the provisions of Section 125 CrPC, the new framework aims to enhance efficiency and accessibility in maintenance-related disputes. Moving forward, judicial interpretations will play a crucial role in shaping how the provision is applied, especially in cases involving live-in relationships and the evolving concept of family structures.

- **Applies to all religions**, ensuring maintenance for wives, children, and aged parents.
- **Objective:** Prevent destitution and uphold social justice.
- **Eligibility:** A legally wedded wife, including a divorced woman, if she is unable to maintain herself.

Section 144(4): Disqualifications for Wife's Maintenance

Section 144(4) of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, specifies conditions under which a wife is not entitled to claim maintenance from her husband. These include:

1. **Living in adultery** – If the wife is engaged in an extramarital relationship.
2. **Refusing to live with her husband without sufficient reason** – If she voluntarily separates without justifiable cause.
3. **Mutual consent separation** – If both spouses have agreed to live separately.

This provision ensures that maintenance is granted only to those wives who are genuinely in need and not to those who have violated marital obligations.



Section 146(3): Cancellation of Maintenance for Divorced Women

Section 146(3) outlines situations where a divorced woman's maintenance order under Section 144 can be canceled by a Judicial Magistrate:

1. **If the woman remarries** – The order is canceled from the date of remarriage.
2. **If the woman has received the full amount due under customary or personal law** –
 - If the amount was received before the maintenance order, it is canceled from the date of the order.
 - If the amount was received after the order, it is canceled from the date when maintenance was last paid.

This provision prevents double benefits and ensures that divorced women do not receive maintenance beyond what is legally or customarily due to them.

Key Judicial Interpretations

- **Bhuvan Mohan Singh v. Meena (2014)**: Maintenance is a fundamental duty and must be provided expeditiously.
- **Chanmuniya v. Virendra Kumar Singh Kushwaha (2010)**: Women in long-term live-in relationships should be treated as wives under Section 125 CrPC.
- **Smt. N. Usha Rani v. Moodududula Srinivas (2025)**: Recognized maintenance rights for women in long-term cohabitation, even without formal marriage.

2.2 Hindu Adoption and Maintenance Act, 1956

- **Section 18**: A Hindu wife can claim maintenance if the husband:
 - Deserts her.
 - Is guilty of cruelty or adultery.
 - Has a serious disease (e.g., leprosy).
- **Widows' Rights**: Section 19 grants maintenance to widows from their deceased husband's estate.

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

- Passed after the Shah Bano case (1985), initially limiting maintenance for divorced Muslim women.
- **Daniel Latifi v. Union of India (2001)**: The Supreme Court ruled that Muslim women are entitled to reasonable and fair maintenance beyond the iddat period (three months post-divorce).

2.4 Christian and Parsi Maintenance Laws

- Under **Indian Divorce Act, 1869 (for Christians)**, courts may order maintenance based on husband's financial status.



- **Parsi Marriage and Divorce Act, 1936:** Allows maintenance claims for divorced wives.

2.5 Protection of Women from Domestic Violence Act, 2005

- **Section 20:** Maintenance includes residence rights, medical expenses, and monetary relief.
- Recognizes live-in relationships and grants maintenance to women suffering domestic violence.

3. Judicial Trends on Maintenance

3.1 Expanding the Definition of "Wife"

- **Malimath Committee Report (2003):** Recommended that long-term cohabitation should be presumed as marriage.
- **Indra Sarma v. V.K.V. Sarma (2013):** Distinguished between a relationship in the nature of marriage (eligible for maintenance) and casual live-in relationships (not eligible).

3.2 Maintenance for Working Women

- Courts have ruled that a working wife can still claim maintenance if her income is insufficient.
- **Sunita Kachwaha v. Anil Kachwaha (2014):** A wife's employment does not bar maintenance if her salary is inadequate.

3.3 Quantum of Maintenance

- **Rajnish v. Neha (2020):** Established guidelines for deciding maintenance amount based on husband's earnings, wife's needs, and standard of living.

4. Challenges and Misuse of Maintenance Laws

4.1 Proof of Marriage and Cohabitation

- Many women fail to receive maintenance due to the lack of documentary proof of marriage.
- Courts demand strong evidence to prove long-term live-in relationships.

4.2 Potential Misuse of Maintenance Laws

- Some cases involve false claims where women misuse maintenance provisions for financial gain.
- Courts are increasingly cautious in scrutinizing genuine cases vs. frivolous claims.

4.3 Maintenance for Husbands: The Gender Debate

- Indian laws do not recognize maintenance for men, creating an imbalance in gender justice.
- Countries like the UK and USA have gender-neutral alimony laws, a model India could consider.

5. Societal Implications of Maintenance Laws

5.1 Protection of Women's Rights and Economic Security

- Maintenance ensures financial independence for women, preventing destitution post-separation.
- Women in live-in relationships are now protected, reflecting progressive social norms.



5.2 Changing Social Perception of Live-in Relationships

- **Judicial recognition** of live-in relationships is gradually reducing societal stigma.
- However, many still view marriage as the primary institution, making legal acceptance difficult.

5.3 Need for Legal Reforms

- **Uniform Civil Code (UCC):** Can bring uniformity to maintenance laws across religions.
- **Gender-Neutral Maintenance:** Laws should allow financially weaker husbands to seek maintenance.

6. Conclusion and Suggestions

The interpretation of maintenance laws in India is evolving to meet societal needs. While landmark judgments have expanded the scope of maintenance, legal inconsistencies and misuse concerns persist. A Secular Civil Code aims to establish uniform laws for civil matters such as marriage, divorce, maintenance, and inheritance, ensuring equal rights for all citizens irrespective of their religion. In India, maintenance laws for wives currently vary based on religious personal laws, leading to disparities in legal rights. While Hindu, Muslim, Christian, and Parsi personal laws govern maintenance separately, Section 144 of BNSS, 2023 (earlier Section 125 CrPC) provides a secular remedy for maintenance, applicable to all religions.

Under Hindu law, maintenance is granted under the Hindu Marriage Act, 1955, and the Hindu Adoptions and Maintenance Act, 1956. Muslim women, on the other hand, have rights under Sharia principles and the Muslim Women (Protection of Rights on Divorce) Act, 1986, which limits post-divorce maintenance. Christian women can seek maintenance under the Indian Divorce Act, 1869, while Parsi women are covered under the Parsi Marriage and Divorce Act, 1936. The multiplicity of laws creates inconsistencies in how maintenance is granted, making a secular, uniform legal approach essential.

A Uniform Civil Code (UCC) would eliminate these discrepancies and ensure that all women, regardless of their religious background, receive equal maintenance rights. It would promote gender justice, ensuring that women are not denied support based on religious interpretations. The Supreme Court, in landmark cases such as *Shah Bano v. Union of India* (1985) and *Daniel Latifi v. Union of India* (2001), has upheld the principle that maintenance should be based on need rather than religious restrictions. A uniform law would provide clarity, reduce legal conflicts, and simplify enforcement.

However, implementing a secular code for maintenance faces challenges. Many religious groups see personal laws as part of their identity and resist changes that impose a common legal framework. There are also constitutional limitations under Article 25, which guarantees religious freedom and may conflict



with a uniform personal law system. Additionally, achieving legislative consensus for a UCC requires political will and societal acceptance, making it a complex legal reform.

Despite these challenges, a secular approach to maintenance is necessary to protect women's financial security and uphold constitutional values of equality and justice. By ensuring that maintenance laws are equal for all, a Secular Civil Code would mark a significant step toward gender-neutral family laws in India.

Recommendations for Reform

1. **Inclusion of Live-in Partners in Maintenance Laws** – Explicit recognition under Section 144 of BNS 2023.
2. **Fixed Maintenance Criteria** – Courts should adopt uniform parameters for maintenance calculations.
3. **Gender-Neutral Approach** – Laws should recognize financially weaker husbands' right to maintenance.
4. **Strict Scrutiny Against Misuse** – Establishing clear guidelines to prevent frivolous maintenance claims.

A balanced approach is needed to ensure women's financial security while preventing legal exploitation. Strengthening judicial guidelines and legislative reforms will further enhance social justice and gender equality in India.

References

1. Bhuwan Mohan Singh v. Meena, (2014) 7 SCC 458.
2. Chanmuniya v. Virendra Kumar Singh Kushwaha, (2010) 1 SCC 141.
3. Daniel Latifi v. Union of India, AIR 2001 SC 3958.
4. Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755.
5. Malimath Committee Report. (2003). *Committee on Reforms of Criminal Justice System Report*. Ministry of Home Affairs, Government of India.
6. Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).
7. Rajnesh v. Neha, (2020) 3 SCC 794.
8. Shah Bano v. Mohammed Ahmed Khan, AIR 1985 SC 945.
9. Smt. N. Usha Rani v. Moodududula Srinivas, (2025) Supreme Court of India.
10. Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715.
11. The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974 (India).



12. The Hindu Adoption and Maintenance Act, 1956, No. 78, Acts of Parliament, 1956 (India).
13. The Indian Divorce Act, 1869, No. 4, Acts of Parliament, 1869 (India).
14. The Muslim Women (Protection of Rights on Divorce) Act, 1986, No. 25, Acts of Parliament, 1986 (India).
15. The Parsi Marriage and Divorce Act, 1936, No. 3, Acts of Parliament, 1936 (India).
16. Vidhya Viswanathan v. Kartik Balakrishnan, (2014) 15 SCC 21.
17. Vimala v. Veeraswamy, (1991) 2 SCC 375.
18. Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav, AIR 1988 SC 644.
19. Kusum Sharma v. Mahinder Kumar Sharma, (2020) SCC OnLine SC 108.
20. Vijaya Manohar Arbat v. Kashirao Rajaram Sawai, (1987) 2 SCC 278.