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MAINTENANCE LAW IN INDIA: GENDER BIAS AGAINST MEN AND LIMITED LEGAL PROTECTION

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Abstract

In today's evolving society, equality before the law is often spoken about, yet in the domain of matrimonial disputes and maintenance laws in India, a silent struggle is faced by men. The laws that were initially crafted with the noble intent of protecting women from financial abandonment have, over time, tilted disproportionately in their favor — sometimes to the point of becoming tools for misuse. Indian statutes such as Section 125 of the Criminal Procedure Code (now referred to as section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) and the Hindu Marriage Act primarily view women as dependents and men as perpetual providers, failing to account for changing social dynamics where women are equally capable of financial independence.

This research aims to explore the gender bias embedded within these maintenance laws, highlighting how men are often presumed guilty, burdened with financial obligations regardless of their circumstances, and provided with minimal legal safeguards or support mechanisms. While the intent of these laws is protection, their implementation sometimes leads to injustice. False allegations, prolonged legal battles, and lack of awareness about men's rights only add to the emotional and economic toll faced by many husbands.

Keywords: Gender Equality, Injustice, Discrimination, Maintenance rights

Introduction

The concept of maintenance is based on compassion and justice in any civilized society; it makes sure that a spouse who is less wealthy is not left penniless following the dissolution of a marriage or family relationship. In India, maintenance rules have historically been designed to help women, who frequently lack the resources to maintain themselves following a separation or divorce.

This was justified during a period when women's access to property rights, work opportunities, and education was restricted. In a patriarchal society, the legal system, understandably, sought to shield women from exploitation and poverty. Today's women are becoming more self-sufficient in terms of their finances, education, and independence. Both spouses now make equal contributions to the family's income in many households. However, men—particularly those who are unemployed, aged, ill, or experiencing emotional distress—face difficulties that the law frequently ignores. However, the essence and implementation of maintenance rules have mainly not changed. They still function according to the antiquated notion that women are always the dependents and males are always the providers.

A increasing sense of legal imbalance has resulted from this. Even in cases of true necessity, men are frequently denied the ability to request maintenance. Even worse is the fact that many men are compelled to pay maintenance to spouses who are highly qualified, productive, or even make more money than they do. Without enough investigation, claims of cruelty or domestic abuse, whether true or not, frequently sway maintenance decisions in favour of women. Many men feel stuck as a result, not just financially but also emotionally and legally.

Legal Framework of Maintenance in India

India's maintenance laws are intended to provide financial support to those who are incapable of supporting themselves, especially following the dissolution of a marriage. Both civil and criminal laws are covered by this framework, most notably Section 125 of the Criminal Procedure Code, 1973, (now referred to as section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) which permits dependent parents, minor children, and wives—including divorced wives—to demand maintenance from a man who has enough money. Nevertheless, the clause does not give men, regardless of their financial situation, the same rights. The Hindu Adoption and Maintenance Act, 1956, which is based on Hindu personal law, provides for the

maintenance of a wife, widowed daughter-in-law, and some dependents, but it says nothing about a wife's duty to her husband. In a similar vein, the Protection of Women from Domestic Violence Act of 2005 leaves men completely out of its protective purview but permits women to seek financial assistance in cases of domestic abuse. Only divorced Muslim women are entitled to maintenance under laws that are special to their religion, such as the Muslim Women (Protection of Rights on Divorce) Act, 1986; men are not granted the same privilege. Despite the gender-neutral language of the Indian Divorce Act of 1869 and the Special Marriage Act of 1954, courts frequently grant support to women. In today's socioeconomic environment, where both sexes may be equally vulnerable financially, the long-held belief that men are always financially responsible and women are always reliant is reflected in this legal disparity. Because of this, the present legal system, although protective in nature, lacks a gender-neutral approach and ignores the idea that men might also want assistance.

Misuse of Maintenance Rights by Some Women

The right to maintenance is a vital protection for women who are truly in need, but some people are abusing it for their own benefit or to harass their husbands who are no longer with them. Women who had advanced degrees, independent incomes, or even well-paying careers have frequently filed maintenance claims, claiming financial desperation out of a desire to obtain financial benefits. In order to continue receiving maintenance, courts have seen instances when women have purposefully hidden their income or chosen not to look for work. Furthermore, support demands are frequently employed as a strategic weapon to apply pressure, obtain advantageous settlements, or purposefully put the husband through hardship during marital conflicts or divorce processes.

In certain regrettable instances, maintenance petitions are accompanied by fabricated or overblown claims of cruelty and domestic abuse, which makes it challenging for the accused to defend themselves because of the emotional, social, and legal strain involved. This biased interpretation of the law frequently entangles innocent men in drawn-out, expensive legal disputes while ignoring the potential for male vulnerability. These incidents show a serious weakness in the system—the lack of checks and balances, the lack of consequences for making false claims, and the failure to evaluate each case based on genuine need rather than gender—even though they do not represent the behaviour of all women requesting maintenance.

The issue of certain people, especially women, abusing or misusing their entitlement to

maintenance is a challenging and complicated one. It is important to understand that, even while there may be cases of exaggeration or false accusations, generalizing about all women or assuming malicious intent without evidence can reinforce negative stereotypes and undercut many women's actual needs. The right to maintenance is enshrined in many laws and regulations in India, as well as many other nations, to guarantee that individuals, particularly wives and children, have access to financial support to meet their basic needs. This privilege is particularly significant when one partner—typically the wife—has been financially reliant on the other throughout the marriage.

However, it's important to acknowledge that many women depend on maintenance to sustain themselves and their kids, especially during divorce or separation when they might not have as much money or access to resources. Due to social norms that restrict their financial independence, a lack of education, or a lack of work prospects, these women frequently find themselves in precarious situations.

Gender Bias in Interpretation and Implementation

Although India's maintenance law may appear neutral on paper, its actual application and interpretation frequently reveal a different picture, one that many men find extremely taxing and incredibly unfair. Regardless of his actual circumstances, courts frequently assume that the guy must be the provider and that the woman is always the partner with the lower income. Because of this, maintenance is frequently given to women without a full investigation into their qualifications, ability to work, or even income. However, a man's financial difficulties are rarely treated with the same compassion.

Even if a spouse is unemployed or in debt, he is still required to make monthly payments that are frequently above his means; if he doesn't, he could be accused of neglect or even imprisoned. This is made more worse by the system's propensity to minimise a man's suffering. He is immediately viewed with mistrust if a woman makes accusations, whether or not they are accurate, whereas she is given the benefit of the doubt. For years, many men endure court disputes in silence, depleting their funds, experiencing emotional distress, and feeling alone since they were never given a fair hearing by the law.

These are not isolated incidents; they are getting more frequent yet are still hardly discussed. The prejudice is not often in the language of the law, but rather in the way it is applied, with

presumptions that seem archaic in a culture where men and women are equally capable of independence or vulnerability, educated, and employed. If justice is supposed to be blind, then it should look at the truth rather than gender. In actuality, guys are also susceptible to financial ruin, manipulation, and abandonment. We will continue to witness biased rulings that harm not only males but also the basic principle of justice that the law is meant to protect until the courts and society are prepared to acknowledge that.

Misuse of Domestic Violence Laws to Gain Maintenance

With the admirable goals of protecting women from violence and making sure they have assistance during emergencies, the Protection of Women from Domestic Violence Act of 2005 was introduced. In a society where many women suffered in silence behind closed doors, it was a much-needed step. However, a terrible irony has developed over time: the rules that were intended to protect have occasionally turned into tools of manipulation, resulting in severe injustice against defenceless men and their families. Claims of cruelty or domestic abuse are occasionally presented in many contemporary matrimonial disputes as a legal tactic — a means of gaining the upper hand in maintenance disputes or divorce processes — rather than as a cry for assistance. The balance of justice frequently shifts significantly in favour of the accuser after such a charge is made. Without confirming the facts, courts have the authority to grant interim maintenance based only on accusations. Without even having the opportunity to defend himself, a guy finds his family pulled into a maelstrom they never anticipated, his money weighed down, and his reputation damaged. These are emotional battlefields rather than merely court cases. Imagine a man being listed as an abuser in public records who has never raised his hand or voice.

Imagine his elderly parents being named as co-accused in court. Imagine his already meagre income being used to support a case he feels is based on lies. Sleepless nights, worry, despair, and the crushing weight of being assumed guilty based just on his gender are all examples of the emotional trauma, which is frequently unnoticed but extremely damaging.

The Hon'ble Supreme Court of India addressed the increasing abuse of Section 498A IPC, (now referred to as section 85 of the BNS) which addresses cruelty against women, in *Arnesh Kumar v. State of Bihar* (2014).

Arnesh Kumar and his family were afraid of being arrested right away after his wife accused

him of dowry harassment. The Court acknowledged that these clauses were frequently abused to harass husbands and in-laws, describing this as an instance in which the law was used as a weapon rather than a shield. It decided that arrests in these situations shouldn't be made automatically and should instead be the result of an initial investigation authorized by senior officers. This historic ruling recognized that innocent people shouldn't suffer because of unsubstantiated accusations and underlined the necessity of striking a balance between men's rights and women's protection.

Conclusion

Laws are designed to protect the weak and maintain justice, yet justice must be equitable for everyone by definition. The goal of India's maintenance laws and domestic abuse measures was to protect women from financial difficulty, cruelty, and abandonment. But as time has gone on, these rules themselves have exposed a stark disparity: males have little to no legal protection when they are wrongfully accused or unfairly singled out.

According to this study, the assumption of male culpability and the lack of gender-neutral judicial remedies frequently result in serious injustices, even if real victims must always be safeguarded. Misuse of protective legislation, excessive maintenance requests, strategic litigation, and false claims are not only legal problems.

The absence of legal and social space to recognize male suffering in marriage disputes is the reason for the silence surrounding it, not a lack of sorrow. It is not appropriate to automatically assume that men who are mistreated, weak, or just stuck in a bad marriage are aggressors. Empathy for all genders and legal resources that enable each person, male or female, to defend oneself with dignity are essential components of equality in the legal system.

India has to develop institutions that put the truth above stereotypes, raise awareness about the abuse of maintenance laws, and pursue balanced legislative reforms in the future. In a society where one side is always heard and the other is never believed, justice cannot really prevail.

References

Criminal Procedure Code, 1973 – Section 125

Bharatiya Nagarik Suraksha Sanhita, 2023 – Section 144

Hindu Marriage Act, 1955 – Section 24, 25 Hindu Adoption and Maintenance Act, 1956

Protection of Women from Domestic Violence Act, 2005 Men’s Rights Activists India –

www.saveindianfamily.org Law Commission of India Reports

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