

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed

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ISSN

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## **THE FINANCIAL SIDE OF SEPARATION: HOW ALIMONY WORKS IN INDIAN COURTS?**

AUTHORED BY - ISHA TIWARI & AAYUSH RAH

### **ABSTRACT**

Alimony, often referred to as spousal support or maintenance, represents a significant aspect of marital dissolution in India's legal system. Despite cultural traditions that once stigmatized divorce, Indian society has evolved to recognize that ending a marriage may sometimes be inevitable. In this context, the concept of alimony has become indispensable, ensuring that the spouse with fewer financial resources is not left destitute. Although no universal mathematical formula exists for its calculation, Indian law provides a structured framework through various statutes primarily the Hindu Marriage Act, of 1955<sup>1</sup>, alongside other legislative provisions such as the Special Marriage Act, the Hindu Adoption and Maintenance Act 1956<sup>2</sup>, the Protection of Women from Domestic Violence Act 2005,<sup>3</sup> And Section 125 of the Code of Criminal Procedure.<sup>4</sup> This article explores each facet of alimony, from its historical roots to contemporary judicial interpretations, highlighting how courts balance equity and practicality. It also delves into the emotional and psychological toll that divorce can exact on spouses and children, illuminating the broader societal and personal dimensions of alimony determinations. By examining landmark cases, legislative provisions, and evolving social norms, this article aims to provide a comprehensive understanding of how Indian courts approach the financial side of separation, offering clarity to those grappling with or studying the complexities of alimony.

**Keywords:** Alimony, Maintenance, Hindu Marriage Act, Indian Family Law

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<sup>1</sup> Hindu Marriage Act, 1955 (India).

<sup>2</sup> Hindu Adoptions and Maintenance Act, 1956 (India).

<sup>3</sup> Protection of Women from Domestic Violence Act, 2005 (India).

<sup>4</sup> Code of Criminal Procedure, 1973, S 125, Acts of Parliament, 1974 (India).

## INTRODUCTION

The dissolution of marriage has far-reaching consequences that extend well beyond the legal severing of bonds. When a union collapses, spouses frequently confront various challenges ranging from emotional trauma to financial uncertainty. While Indian society once dismissed divorce as a taboo, modern realities from increasing female workforce participation to shifting familial structures have made legal separation more widespread. In response, the concept of alimony has gained prominence as an instrument designed to ensure fairness and dignity for the financially dependent spouse post-divorce. Indian law, however, does not employ a one-size-fits-all approach to alimony. Each case presents a unique matrix of factors such as financial capacity, standard of living, childcare responsibilities, and duration of marriage that inform judicial decisions.

Alimony fulfills a dual role. On one hand, it acts as a buffer for the spouse who may otherwise be left vulnerable, having potentially sacrificed career development or educational opportunities to nurture the marital home or raise children. On the other hand, it aims not to punish the paying spouse but to sustain an equitable standard of living that mirrors the essence of what existed during the marriage. This dual objective underscores the delicate balance courts must strike: ensuring that alimony is neither so minimal as to reduce the dependent spouse to penury nor so excessive as to cripple the financial well-being of the paying spouse. Judicial discretion, guided by statutory provisions and case law, remains pivotal in achieving this equilibrium.

## UNDERSTANDING DIVORCE UNDER INDIAN LAW

While marriage in India is predominantly governed by personal laws, divorce principles have undergone substantial changes over the years. Historically, Hindu personal law demanded evidence of faults such as cruelty, desertion, or adultery for granting divorce. Though fault-based grounds still exist, mutual consent divorces have become more common since their introduction in the Hindu Marriage Act, of 1955<sup>5</sup>. Mutual consent marks a partial departure from the adversarial dynamic of fault-based proceedings, reducing bitterness and placing greater emphasis on negotiated settlements. This shift has had particular relevance for alimony negotiations, which benefit from a more conciliatory environment.

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<sup>5</sup> Hindu Marriage Act, 1955 (India).

Even with mutual consent divorces, India does not currently have a fully codified “irretrievable breakdown of marriage” provision applicable to every case, though the Supreme Court has occasionally invoked the concept in exceptional circumstances. The absence of a uniform no-fault mechanism can complicate alimony determinations, as fault-based allegations sometimes color financial negotiations. Family Courts, established under the Family Courts Act of 1984,<sup>6</sup> strive to mitigate adversarial tensions by offering more informal and mediation-oriented settings. This approach encourages constructive dialogue regarding spousal support, underscoring that divorce and alimony arrangements need not become battlegrounds, but can be navigated through cooperative, solution-focused discussions.

## **HISTORICAL EVOLUTION OF ALIMONY IN INDIA**

Alimony as we understand it today did not exist under traditional Hindu customs in its modern legal form. In earlier eras, the wife’s maintenance was considered a familial responsibility rather than a codified right. This often meant reliance on patriarchal joint families for post-marital support, a system that offered little financial autonomy or clarity for women when serious marital disputes arose. With the codification of Hindu personal law in the mid-20th century, particularly through the Hindu Marriage Act of 1955<sup>7</sup>, the legislative framework began to formally address maintenance for women whose marriages had broken down.

Over time, Indian courts progressively recognized that spouses, particularly women, make substantial contributions to the marital household even when they do not earn a salary. This recognition shifted the focus from minimal subsistence payments toward more meaningful financial arrangements intended to preserve a standard of living comparable to that enjoyed during the marriage. Consequently, contemporary Indian jurisprudence acknowledges both tangible and intangible spousal contributions. Such an acknowledgment includes child-rearing, managing household affairs, and relocating one’s life to accommodate a partner’s career moves. While vestiges of patriarchal norms persist, modern case law reveals a judiciary increasingly inclined to view marriage as a partnership of equals, where unpaid domestic labor has quantifiable value. These evolving standards of fairness have shaped how courts interpret and grant alimony awards.

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<sup>6</sup> Family Courts Act, 1984 (India).

<sup>7</sup> Hindu Marriage Act, 1955 (India).

## ALIMONY VERSUS MAINTENANCE: DEFINING KEY TERMS

Although the terms “alimony” and “maintenance” are often used interchangeably in India, nuanced distinctions exist. Alimony usually refers to the financial support provided to one spouse after a marriage has ended, whereas maintenance can encompass various forms of support both during and after legal proceedings. In Indian courts, Section 24 of the Hindu Marriage Act <sup>8</sup>Allows for what is termed maintenance pendente lite a periodic provision ensuring that a spouse without independent income receives sustenance while the case is sub judice. This arrangement includes covering litigation expenses, reflecting the principle that neither spouse should be handicapped by lack of funds in defending or pursuing a legal claim.

Permanent alimony, often invoked under Section 25 <sup>9</sup>The same statute addresses the post-divorce scenario. It may be disbursed in a lump-sum payment or structured through recurring installments, preserving flexibility based on the spouses’ financial profiles. Although separate from child support, alimony orders can intersect with it, as courts frequently evaluate overall family finances, particularly when children’s welfare is at stake. The principle underlying all these arrangements remains consistent: a fair and equitable outcome that minimizes economic shock for the vulnerable party, without imposing undue hardship on the financially stronger spouse.

## LEGISLATIVE FRAMEWORK FOR ALIMONY

The Hindu Marriage Act, of 1955, <sup>10</sup>Stands as the foundational statute for most alimony disputes among Hindus, providing the structure upon which courts rely when adjudicating spousal support. However, other critical enactments complement or even overlap with the provisions of this primary statute. The Special Marriage Act, of 1954<sup>11</sup>, for example, caters to interfaith and civil marriages, mirroring many of the alimony and maintenance principles of the Hindu Marriage Act. The Hindu Adoption and Maintenance Act, 1956<sup>12</sup>, and the Protection of Women from Domestic Violence Act, 2005,<sup>13</sup> Extend additional rights to secure spousal welfare and protect against financial exploitation, thereby underscoring legislative intent to uphold economic fairness in matrimonial contexts.

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<sup>8</sup> Hindu Marriage Act, 1955, S 24, Acts of Parliament, 1955 (India).

<sup>9</sup> Hindu Marriage Act, 1955, S 25, Acts of Parliament, 1955 (India).

<sup>10</sup> Hindu Marriage Act, 1955 (India).

<sup>11</sup> Special Marriage Act, 1954, (India).

<sup>12</sup> Hindu Adoptions and Maintenance Act, 1956 (India).

<sup>13</sup> Protection of Women from Domestic Violence Act, 2005 (India).

Section 125 of the Code of Criminal Procedure <sup>14</sup>Further expands the legal safety net by allowing spouses irrespective of religious background to claim maintenance if they can prove neglect by a person who has sufficient means to support them. This provision offers relatively swift relief compared to protracted civil litigation, marking an essential tool for those in dire financial need. Collectively, these statutes carve out multiple pathways to seek alimony, ensuring that the dependent spouse can find a suitable forum and legal basis for relief. Such pluralism can generate confusion for litigants unfamiliar with the complexities of family law, but it also underscores a robust legislative commitment to preventing economic ruin following marital breakdown.

### KEY PROVISIONS OF THE HINDU MARRIAGE ACT

Section 24 of the Hindu Marriage Act <sup>15</sup>Is crucial for awarding maintenance pendente lite. When one spouse does not have independent income sufficient for personal support or litigation expenses, the court can direct the other spouse to provide monthly aid until the conclusion of legal proceedings. This measure preserves the litigation rights of economically disadvantaged spouses, ensuring they can participate meaningfully in defending or initiating divorce proceedings. It also covers child-related expenses if the children live with the applicant, bridging the gap until a final decision regarding custody and long-term maintenance is reached.

Permanent alimony under Section 25 <sup>16</sup>Allows a court to order post-divorce financial support based on a variety of considerations: the duration of the marriage, the financial standing of both spouses, the dependent spouse's likelihood of securing employment, and the sacrifices made for the family. Judges often invoke the notion of dignified living, underscoring that the aim is not to penalize the financially capable spouse but rather to mitigate economic disparities that may arise from the marriage's dissolution. Section 26<sup>17</sup> Deals specifically with the custody, education, and maintenance of children, reaffirming that child welfare is intertwined with spousal financial arrangements. In practice, family courts may consolidate hearings, addressing custody, child support, and spousal maintenance to craft a holistic resolution. These provisions collectively form the backbone of alimony law under the Hindu Marriage Act, illustrating how legal frameworks strive to ensure a measure of economic stability amid the emotional

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<sup>14</sup> Code of Criminal Procedure, 1973, S 125, Acts of Parliament, 1974 (India).

<sup>15</sup> Hindu Marriage Act, 1955, S 24, Acts of Parliament, 1955 (India).

<sup>16</sup> Hindu Marriage Act, 1955, S 25, Acts of Parliament, 1955 (India).

<sup>17</sup> Hindu Marriage Act, 1955, S 26, Acts of Parliament, 1955 (India).

turbulence of divorce.

## **CALCULATION OF ALIMONY: DETAILED FACTORS**

Unlike certain Western jurisdictions where formula-based calculations are common, Indian courts adopt a case-by-case methodology, guided by extensive judicial discretion. Financial capacity remains a primary consideration. Judges scrutinize tax returns, property documents, employment contracts, and business ledgers to gauge the paying spouse's true earning capacity. In parallel, they evaluate the dependent spouse's qualifications and employability to determine whether they can realistically find work that preserves a semblance of the marital lifestyle. If the dependent spouse spent years as a homemaker, caring for children and elders, that contribution is factored into the final determination. This holistic analysis reflects the judiciary's stance that both tangible and intangible efforts within the marriage shape financial outcomes.

The duration of the marriage significantly influences the quantum of alimony. Longer marriages often involve deeper financial interdependence and a more significant lifestyle shift upon separation, thereby warranting higher awards. Courts also look at the couple's pre-divorce standard of living. A spouse who regularly vacationed abroad drove luxury cars and had domestic help may justifiably seek alimony commensurate with that lifestyle, provided it does not impose an unjust burden on the paying spouse. Children's needs frequently overlap with spousal support discussions, as the parent entrusted with primary custody must manage educational, medical, and other child-related costs. Judges sometimes allocate distinct sums for child maintenance within the broader rubric of alimony, thereby acknowledging that child-rearing responsibilities place extra financial strain on the custodial spouse. Ultimately, the court's paramount consideration is equity, ensuring that the post-divorce living standards are not drastically skewed against the spouse who lacks financial power.

## **LANDMARK CASE LAWS**

Recent decades have seen the courts refine alimony jurisprudence through landmark decisions. In *Parvin Kumar Jain vs. Anju Jain* (2024),<sup>18</sup> The Supreme Court underscored the importance of maintaining a dignified standard of living for the dependent spouse, clarifying that spousal support should neither serve as a penalty for the paying party nor be so minimal as to undermine

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<sup>18</sup> *Parvin Kumar Jain v. Anju Jain*, 2024 INSC 961.

the receiving party's livelihood. The Court directed a substantial lump-sum payment of five crores for the wife and one crore for the child's welfare, highlighting that high-net-worth divorces might necessitate large awards that appear extraordinary at first glance but are justifiable given the family's established financial status.

In matters like *Kusum Sharma vs. Mahinder Kumar Sharma* (2015)<sup>19</sup>, courts emphasized the necessity of transparent financial disclosures, requiring each spouse to provide detailed affidavits on incomes, assets, and liabilities. Such guidelines have curtailed the common practice of underreporting income to reduce alimony obligations.

Another prominent case that captured public attention was the divorce of Indian cricketer Yuzvendra Chahal and choreographer Dhanashree Verma, finalized in 2025. Although early media rumors of exorbitant alimony circulated widely, the confirmed settlement was significantly more modest, underscoring how rumor and speculation can distort perceptions around alimony. These cases, along with older precedents recognizing a homemaker's domestic contributions as valuable unpaid labor, shape the contemporary judicial landscape, underscoring that financial decisions must account for both spouses' realities.<sup>20</sup>

## **MEN SEEKING ALIMONY: A GENDER-NEUTRAL PERSPECTIVE**

Although alimony is often associated with wives receiving financial support, Indian family law statutes are generally gender-neutral in their wording, permitting husbands to claim maintenance under Sections 24<sup>21</sup> And 25 of the Hindu Marriage Act.<sup>22</sup> In practice, however, societal attitudes and the relatively lower frequency of men serving as primary caregivers have made such claims less common. Cases where a husband successfully secures alimony typically involve disability, significant health issues, or documented evidence that the wife was the principal breadwinner while the husband remained financially dependent.

Despite the legal neutrality, courts tend to exercise heightened scrutiny when men seek alimony, largely due to prevailing assumptions about gender roles and financial responsibilities. Yet evolving economic dynamics in which more women ascend to top-level jobs may render male

<sup>19</sup> *Kusum Sharma v. Mahinder Kumar Sharma*, A.I.R. 2015 Del. 53.

<sup>20</sup> TOI, <https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/dhanashree-verma-and-yuzvendra-chahal-are-now-officially-divorced-confirms-lawyer-says-no-longer-husband-and-wife/articleshow/119251259.cms> (last visited Mar. 14, 2025).

<sup>21</sup> Hindu Marriage Act, 1955, S 24, Acts of Parliament, 1955 (India).

<sup>22</sup> Hindu Marriage Act, 1955, S 25, Acts of Parliament, 1955 (India).

alimony claims less surprising in the future. Increased recognition of a husband's domestic contributions, parallel to what courts already acknowledge for wives, can further normalize such claims. The essential principle remains the same: if one spouse genuinely lacks the means to maintain a post-divorce standard of living near to what was experienced during marriage, the law entitles that spouse to seek financial support, irrespective of gender.

## **PSYCHOLOGICAL DIMENSIONS OF DIVORCE AND ALIMONY**

Divorce, an inherently emotional experience, is amplified by the complexity of alimony negotiations. For the dependent spouse, asking for spousal support can trigger feelings of vulnerability, resentment, or shame, particularly in communities that stigmatize divorce. Conversely, the spouse expected to pay may perceive alimony demands as punitive, generating anger and potential resistance. Such emotional undercurrents can prolong disputes, complicating mediation attempts and spurring vindictive behaviors.

The impact on children cannot be overlooked. When parents devote excessive energy to alimony battles, children often sense the heightened tension, risking emotional fallout that can manifest as academic difficulties, behavioral changes, or strained parental relationships. As a result, many family courts encourage counseling and mediation, recognizing that structured dialogue can ease the psychological toll. In these sessions, mental health professionals and trained mediators facilitate communication, aiming to resolve financial disputes without further eroding emotional well-being. By framing alimony not as an adversarial victory but as a cooperative tool to ensure fair living conditions for both spouses, mediation helps divorcing couples lay the groundwork for healthier interactions in the future.

## **CHILD CUSTODY AND ITS INTERSECTION WITH ALIMONY**

While spousal support and child custody are legally distinct, they often overlap in practice. A spouse who obtains primary custody also shoulders day-to-day child-related costs, making it crucial for the other spouse to contribute proportionately. Courts routinely factor the expenses of education, extracurricular activities, healthcare, and basic living needs into alimony determinations, ensuring that child welfare remains paramount. If one parent has significantly higher earning capacity, the court may increase that parent's financial obligations so as not to compromise the child's standard of living.

Disputes sometimes arise when allegations of child neglect or misuse of protective laws intersect with maintenance claims. In the late AI techie Atul Subhash's case,<sup>23</sup> Involving custody disputes with his estranged wife Nikita exemplified how complex such allegations can become, as the courts must disentangle genuine concerns about child welfare from potential attempts to leverage custody for financial advantage. By prioritizing a child-focused approach, courts endeavor to shield minors from undue stress and drama. Even when parental relations deteriorate, financial arrangements aim to ensure that children remain insulated from the economic upheaval commonly accompanying divorce.

## GLOBAL PERSPECTIVES ON SPOUSAL SUPPORT

Examining spousal support practices worldwide provides a comparative lens to understand India's hybrid approach. In many American states, formula-based calculations offer a degree of predictability, factoring in each spouse's income and the marriage's duration. The United Kingdom leans on "fairness" as a guiding principle, with courts attempting a clean break wherever possible, to encourage post-divorce self-sufficiency. Germany and France, within Continental Europe, often adopt a short-term rehabilitative model, expecting spouses to resume or develop careers rather than rely indefinitely on alimony.

Scandinavian countries, known for their progressive social policies, rarely grant extended spousal support, reflecting cultural norms around individual financial autonomy. By contrast, certain Middle Eastern nations particularly those following Sharia law restrict spousal maintenance to a brief window, focusing on short-term financial transitions after divorce. India's unique stance stems largely from its diversity of religious and cultural traditions and the discretionary authority of courts. As a result, Indian alimony can range from short-term rehabilitative aid to long-term, even lifetime, support in marriages of long-standing or cases involving severe financial disparities. This flexibility demonstrates both the strengths and weaknesses of a discretionary system that must grapple with a wide spectrum of socio-economic circumstances.

## COMMON MISUSES AND CRITICISMS

While alimony statutes and related protective laws exist to uphold fairness, critics argue that

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<sup>23</sup> The Hindu, <https://www.thehindu.com/news/national/karnataka/stranger-to-child-supreme-court-denies-atul-subhashs-mother-custody-of-his-minor-son/article69075164.ece> (last visited Mar. 15, 2025).

they are sometimes misused. Allegations include filing false claims of cruelty or domestic violence to secure higher alimony or coerce out-of-court settlements. In response, courts have introduced preliminary mediation and stricter evidentiary requirements to distinguish meritorious claims from spurious ones. Another criticism targets the variability of alimony orders across different courts and judges. The absence of a standard formula can lead to unpredictable outcomes, causing frustration for litigants who desire greater certainty in financial planning.

Some detractors also contend that indefinite or extended alimony discourages the recipient spouse from seeking employment or professional training, effectively creating a state of dependency. Yet proponents of the status quo counter that short-term assistance may not suffice to offset years of lost career opportunities, especially when the spouse devoted significant time to child-rearing or caring for elderly in-laws. Indian jurisprudence generally aims to strike a middle ground, awarding rehabilitative or transitional maintenance where feasible, and approving longer-term support only in cases where circumstances genuinely demand it.

## **MEDIATION AND OUT-OF-COURT SETTLEMENTS**

Given the emotional, financial, and social complexities of divorce, Indian family courts increasingly promote mediation and out-of-court settlements as pragmatic alternatives to prolonged litigation. Mediation sessions allow spouses to negotiate alimony on their terms, with the guidance of neutral mediators trained in conflict resolution. This process can lessen adversarial posturing and protect private matters from public scrutiny, which is especially pertinent for high-profile or celebrity couples. Spouses can tailor agreements that address unique family dynamics, for instance, by creating trusts for children's education or dividing properties instead of monthly payments.

These settlements, once reached, are typically presented to the court for formal approval, granting them the same legal enforceability as a judicial decree. Although mediation does not always succeed particularly in intensely hostile situations it offers a less combative forum that prioritizes long-term family welfare over short-term victory. In cases where participants enter mediation with goodwill, the results tend to be more satisfactory and enduring, reducing the likelihood of future legal skirmishes. Mediation thus serves as a valuable complement to the judicial process, reinforcing that alimony can be negotiated thoughtfully rather than dictated

solely by statutory mandates and court orders.

## POTENTIAL REFORMS

Many legal experts and social commentators argue for clearer alimony guidelines to minimize subjectivity and inconsistency in judicial awards. One reform proposal suggests an adaptable yet standardized framework similar to the guidelines in some parts of the United States that factors in each spouse's income, the marriage's duration, and the dependent spouse's re-employment prospects. Such a system might offer greater predictability while preserving judicial discretion in extraordinary circumstances. Another potential avenue involves recognizing the irretrievable breakdown of marriage as a formal no-fault ground for divorce, thereby lessening the animosity that can spill over into alimony negotiations.

Support also exists for bolstering family court infrastructures by providing specialized training in financial forensics and mental health counseling. Judges and court-appointed mediators equipped with expertise in these areas can craft more informed, fairer alimony orders. Emphasis on rehabilitative measures like career counseling or skill development for the dependent spouse could foster self-sufficiency, reducing prolonged reliance on alimony. Some reformers advocate consolidating matrimonial laws into a uniform family code, streamlining the multiple statutes under which maintenance can be sought. While opinions diverge on the extent and manner of these reforms, consensus holds that India's evolving socio-economic landscape warrants a dynamic legal approach, ensuring that alimony remains a viable and fair mechanism.

## CONCLUSION

Alimony represents a cornerstone of India's legal apparatus for handling divorce, embodying the broader principle that marital dissolution should not leave the vulnerable spouse without recourse. Evolving from patriarchal customs that subordinated women's financial autonomy, modern Indian family law has expanded to include various statutes safeguarding a dependent spouse's right to maintenance. The Hindu Marriage Act of 1955<sup>24</sup>, together with auxiliary legislation and landmark judicial decisions, forms a framework aimed at balancing both parties' interests. Courts assess multiple criteria financial capacity, lifestyle, duration of the marriage, children's needs, and intangible contributions to fashion alimony orders that uphold fairness without devolving into punishment.

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<sup>24</sup> Hindu Marriage Act, 1955 (India).

Yet these statutory and judicial measures do not operate in a vacuum; they intersect with deeply personal, sometimes volatile emotions. Divorce can be emotionally devastating, with alimony magnifying issues of identity and self-worth. Mediation and counseling thus emerge as valuable mechanisms that allow spouses to navigate these upheavals constructively, often leading to settlements that better address family dynamics. Challenges persist, including allegations of misuse, inconsistencies in awards, and calls for clearer guidelines. Nevertheless, alimony in India continues to evolve, guided by a judiciary increasingly mindful of both cultural traditions and contemporary realities. As societal norms shift and more individuals, regardless of gender, pursue careers outside the home, the law strives to remain adaptive. Although far from perfect, Indian alimony frameworks seek to ensure that the financial side of separation reflects empathy, equity, and justice, underscoring the fundamental truth that marriage is not just a private affair but a partnership with tangible economic dimensions.

