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# **REFORMS IN MAINTENANCE LAWS: ADDRESSING GENDER BIAS**

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## **ABSTRACT:**

*This abstract delves into the present maintenance laws, focussing on addressing inherent biases towards men to understand why we need reforms in maintenance law to achieve gender equality. The discussion highlights the need for gender-neutral laws by analysing the laws from a gender perspective. The first part of this paper deals with the historical context behind the enactment of these laws and identifies the instances of gender biases in the current maintenance laws, followed by this the paper analyses the use, abuse, and impact of the maintenance laws and then the legal theories and frameworks to address biases. Further, the author suggests reformations needed to make it free from bias and discusses the challenges in implementing those reforms. This paper also sheds light on the role of advocacy in reforming these laws and explores the reformed maintenance laws in countries like the US, Canada, the UK, Australia, and France.*

Keywords: Gender Bias, Maintenance Laws, Legal Reforms, Gender Equality, Family Law

## **1. INTRODUCTION**

*“The soul has no gender, then why should the law?”* – Anonymous. This quote rightly points out the idea of gender equality. We all know that the past times were very tough for women which resulted in the enactment of many women-centric laws including the existing maintenance laws in India.

The word “maintenance” came from a French word “mentenir” which meant shelter or protection. Later the term evolved to signify the act of supplying the basic amenities to lead a healthy life. In Black’s Law Dictionary, the term maintenance means it is an act of maintaining, keeping up, and supporting the livelihood and means of sustenance. In simple words,

maintenance means monetary support given to persons who are unable to maintain themselves financially in terms of food, shelter, clothing, and other necessities for surviving. In India, various maintenance laws are there which are based on religion. Mostly these laws are gender biased as they unduly favor one gender that is the wife and neglect the rights and needs of the other that is the husband.

Under the existing maintenance laws generally, it is the duty of a man to maintain his wife, children, and parents by paying a certain amount periodically for the sustenance of the wife and other dependents. These laws serve a societal purpose where a man has the obligation to fulfil his moral commitments in respect of his wife, children, and parents.

## **2. HISTORICAL CONTEXT**

This segment deals with the historical context of maintenance laws which helps us to realize why these biased laws often favour one gender over the other.

The Manusmriti, published in the 5th Century C.E., defined the structure of the society. It described the roles and responsibilities of the four varnas: the Brahmins, Kshatriyas, Vaishyas, and Shudras. The Manusmriti portrayed women as dependents who needed protection and guidance throughout their lives. From then women are burdened with the old age patriarchal beliefs. Due to patriarchal customs, men are considered as the head of a family, holding the main authority over their family, where the duty of supporting their wives and dependents fallson them. Hence from ancient times, men are providing all the basic necessities to the wife and other dependents. Women were deprived of their basic amenities of life where they were restricted to the household only having no source of income and completely dependent on theirhusbands for survival. Their basic rights were denied and women were suppressed in their marital homes, where they were subject to destitution and vagrancy. This situation used to getworse when a woman had to walk out from her marriage due to the defects in her marital life. In such a circumstance the husband can sustain his needs, but a woman cannot.

Therefore by keeping into account the dreadful situation and position of the then women in the society, many women-centric laws including these maintenance laws have been enacted with the object of extending justice to such women as women have been oppressed for decades. The enacted Personal laws are rooted in religion as different religions have different sets of customs and traditions which are incorporated into each personal law as binding legal principles.

## 1. Identification of Gender Bias in Current Maintenance Laws

This segment identifies the inherent gender biases in current maintenance laws.

### Maintenance under Hindu Law

Under Hindu law maintenance can be granted under two different statutes the Hindu Marriage Act, 1955, and the Hindu Adoptions and Maintenance Act, 1956.

Section 24 of the Hindu Marriage Act states that if either the husband or the wife has no sufficient means to maintain themselves or to support his or her livelihoods, then they can claim maintenance under this section. The court on the application made by the wife or the husband orders the respondent to pay the maintenance amount to the claimant after analysing their source of income. Thus it can be inferred that the Hindu Marriage Act, of 1955 is gender neutral in terms of maintenance as both the wife and the husband can claim maintenance under this Act.

Under the Hindu Adoption and Maintenance Act, 1956 only the wife, widowed daughter-in-law, children, elderly parents, and other dependents can be provided maintenance. Section 18 states that the wife can claim maintenance on any of the grounds mentioned in section 18(2) of the Act. A wife is not entitled to claim maintenance if she is unchaste or ceases to be a Hindu by conversion to another religion. Further under section 20 of the said Act children and aged parents can also claim maintenance. Children include both legitimate and illegitimate. This Section imposes an obligation on the parents both mother and father to maintain their children-legitimate and illegitimate till they attain the age of majority.

Thus it can be considered that the Hindu Adoption and Maintenance Act, 1956 is gender biased law in granting maintenance to the husband as only the wife has been given the right to claim maintenance under section 18 and this Act has no provision regarding the maintenance of the husband.

### Maintenance under Muslim Law

Under Muslim Law, the term “maintenance” is known as “Nafqah” which means, “what a person spends over his family”. Under Muslim law, maintenance can be claimed by the wife, children,

parents, and other relatives. A Muslim woman can also claim maintenance from her husband during the iddat period under section 3 of the Muslim Women (Protection of Rights on Divorce) Act 1986. A Muslim woman has been given the absolute and unconditional right to claim maintenance. The husband has to maintain his wife even if the wife has the means to maintain herself. Also, it is the husband's liability to maintain his children if he fails to do so then comes the mother and then the parental grandfather. Thus from the above discussion, it can be seen that Muslim personal laws do not recognise the right of the husband to claim maintenance and therefore it is a gender-biased law.

### **Maintenance under Christian Law**

The Indian Divorce Act, 1869 deals with the provisions of Christian maintenance. Under this Act, both civil and criminal suits can be filed by the wife. Section 36 of the said Act and section 24 of the Hindu Marriage Act are both similar in terms of maintenance but only the difference is under section 36 only the wife can claim maintenance pendente lite and interim maintenance and not the husband. If a Christian wife is not able to sustain herself she can apply for alimony or maintenance in a civil court or high court under section 37 of the said Act, and the court will order the husband to pay the maintenance amount till her lifetime. Under this legislation, if there arises any situation where the husband is not in a position to earn or becomes incapable of maintaining his wife, in such a circumstance the court upon its discretion can suspend, reduce or even dispose of the amount till such date he is capable again to maintain his wife.

Hence again it can be inferred by the above discussion that the maintenance under the Christian law is gender biased as there is no provision regarding the maintenance of the husband it only talks about the maintenance of the wife.

### **Maintenance under Parsi Law**

The Parsi Marriage and Divorce Act, 1936 deals with the provisions of maintenance under Parsi Law. Under this Act, both civil and criminal suits can be filed by the spouse. Section 39 of the said Act and section 24 of the Hindu Marriage Act are both similar in terms of maintenance. Section 39 states that either the husband or the wife can claim maintenance if either of them has no independent source of income sufficient for her or his support and the necessary expenses of the suit. The court on the application of the wife or the husband, orders the defendant to pay to the plaintiff, the expenses of the suit, and such weekly or monthly sum, during the suit after

analysing their incomes. Further section 40 states that either the spouses can claim permanent alimony or a monthly sum as maintenance.

Hence it is clear that maintenance under the Parsi law is gender neutral as it recognises the right of maintenance of both the husband and wife.

### **MAINTENANCE LAWS UNDER THE SPECIAL MARRIAGE ACT, 1954**

This Act applies to those whose marriage was performed under this act. The wife can claim maintenance pending the litigation under section 36 and permanent maintenance or monthly sum under section 37 of the said Act, making the Act gender biased.

### **MAINTENANCE UNDER THE CODE OF CRIMINAL PROCEDURE 1973**

Section 125 of Crpc (section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) talks about the maintenance of wives, children, and parents. Under this section, anyone can claim maintenance irrespective of their religion or caste. It states that if any person often the husband, having sufficient means neglects or refuses to maintain his wife, children, or parents, who are unable to maintain themselves, then a first class judicial magistrate may order such person to pay maintenance to them at such rate as he deems fit.

Thus it can be inferred that this section also does not recognise the husband's right to claim maintenance. Though despite neglecting the maintenance rights of the husband we cannot say that this act is completely gender biased. This section has given the right to both the son and the daughter to maintain their parents and children legitimate or illegitimate to be provided maintenance by their mother or father. Hence this section is partially gender neutral.

### **USE AND ABUSE OF THE LAW OF MAINTENANCE**

This segment deals with the use and abuse of maintenance laws. Maintenance laws provide financial support to dependents who lack the means to maintain themselves such as wives, children, and parents from a person who is liable to pay maintenance. Maintenance is given after divorce or separation where one spouse has no adequate source of income. By providing maintenance it maintains the standard of living of the spouse which they enjoyed during their marital life, ensuring they do not have to struggle to get basic amenities and suffer economically

after the breakdown of their marriage. Maintenance laws also protect the rights of women from being destitute and vagrancy as they were suppressed for decades and the laws also protect women who are in genuine need. These laws help to safeguard and extend justice to women by providing means to sustain themselves. Further maintenance laws prioritize the welfare of children by ensuring that they receive sufficient monetary support from their parents. It is important to meet the child's basic necessities including education, healthcare, etc. Maintenance laws contribute to fostering social justice by distributing financial resources to those who lack the means to sustain within the family ensuring that all the members are getting their needs timely from the providers.

Now focusing on the abuse of maintenance laws, while these laws are enacted in providing financial support to individuals who are unable to sustain themselves there are many instances where these laws are being abused. One of the most prevalent forms of abuse is filing false suits where the spouses institute a false suit to gain more money by concealing their source of income to appear more dependent than they are. Sometimes the spouses file suit to claim maintenance not out of genuine need but to harass the other spouse which leads to unnecessary prolonged legal disputes. Another type of abuse is done through interim maintenance which is given during the pendency of the maintenance suit. Spouses often intentionally delay the proceedings to extract money from the other spouse, abusing these laws to prolong the proceedings. Sometimes the spouse who has the obligation to pay maintenance does not obey the order of the court despite having the means to do so. This leads to financial suffering for the claimant in getting timely adequate means.

## **2. Impact of Gender Bias in Maintenance Laws**

The existing gender-biased laws which are enacted for the purpose of extending justice to unprivileged women are now being misused by some privileged manipulating women to exploit men for securing more money. Women misuse these laws for money by instituting false cases against their husbands even if they have the means to maintain themselves. This led to significant financial, emotional, and social implications for all parties involved. It has been witnessed by the courts in different cases where the woman tried to obtain maintenance from her husband by misusing the laws. In the case of Anil Jain vs. Smt. Sunita<sup>i</sup>, the wife stayed in her marital home for only 12 days. During this time, there were no claims of harassing the wife by her in-laws, and she did not disclose any mistreatment and later she left the marital home. Afterward, the wife

filed a maintenance application, alleging that her husband and mother-in-law harassed her during the stay compelling her to leave the home. The court determined that there was a lack of evidence to prove the allegations of the wife. As a result, the court rejected the wife's maintenance claim. Because it was clear from the wife's actions that she filed a false case in an attempt to obtain maintenance from her husband. Again in *Smt. Ritu @ Ridhima & Anr. Vs Sandeep Singh Sangwan*<sup>ii</sup>, the wife was an assistant professor but she did not reveal her work status throughout the entire proceedings. Though she had the chance to amend the error during the proceedings still she did not disclose it. However during the cross-examination the income and employment status were disclosed. Hence the court decided that the wife intended to obtain maintenance from her husband by giving false information. The court further stated that it is the duty of the person claiming maintenance to disclose her financial status as it helps the court in determining the quantum of maintenance.

Further Gender bias in maintenance laws limits the financial independence and empowerment of women. In today's times still, many people accept that women manage the households and men are the providers thus after marriage women become completely dependent on their husbands knowing that they will be provided maintenance. These gender-biased laws underestimate the capabilities of a woman by impliedly saying that women are not able to maintain themselves with this notion some women do nothing to earn money which restricts their autonomy and limits their ability to make financial decisions. It further discourages women from pursuing education and employment opportunities hindering their professional growth and earning potential in the long run.

The gender-biased laws which favour women and neglect the maintenance rights of men impose a significant financial burden on men when they are required to pay an excessive amount of maintenance. They also face social stigma if they fail to provide maintenance to their dependents because of their low incomes. Men also need financial support but these laws neglect the rights of the husband. This unfair treatment causes emotional distress for men, which leads to the feelings of resentment, anger, and frustration, particularly if they believe they are being unfairly treated or exploited. Hence gender bias laws have significant implications for both men and women. Addressing these biases is crucial for upholding impartiality within the legal system.

### **3. Legal Theories and Frameworks**

Maintenance laws play an important role in providing financial support to individuals, often women after divorce or separation. This segment explores the legal theories and frameworks along with cases to address gender bias.

To understand the legal provisions we have to understand the jurisprudence first. Jurisprudence means the knowledge of law. In ancient India, jurisprudence is primarily based on customs and traditions. Part III of the Indian constitution talks about the fundamental rights of citizens and part IV states the directive principles. The main object of these provisions is to promote social welfare. The courts in many cases upheld the concept of social jurisprudence by abolishing triple talaq to protect women's rights and striking down Section 377 of IPC. Throughout history, women were deprived of equal status, rights, and opportunities as men. They have been engaged with household work. Feminist jurisprudence or feminist legal theory demands that law should be equal for all, without any bias or male domination. In feminist jurisprudence, three major ideological schools are there such as liberal, radical, and cultural feminism. Liberal feminism ensures independence and freedom from outdated stereotypes and gender discrimination. This philosophy is individualistic as it believes that an individual has the freedom to do what he wants to do without interference from others. It argues that society holds a false view that women are not intellectually capable as men which creates discrimination against women. Further, this ideology demands that laws should be gender-neutral and there should be no restriction on the basis of gender. Radical feminism is against inequality experienced by women and opposes the notion that all men are superior. It believes society is a patriarchal society where men dominate and women are suppressed. Further, it seeks to abolish patriarchy from society and liberate everyone from an unjust society. Cultural feminism is similar to radical feminism. It appreciates the unique qualities of both genders. This philosophy argues that women can function like men and are similar to men. There have been debates between liberal feminists and radical feminists. The former wants equal opportunities for women and non-discrimination, while the latter claims that the existing structure of law has the spirit of a patriarchal society.

If we read the constitution of India we can understand that the framers of the Constitution have tried their best to protect the interest of women due to the status of women in earlier society. The mindset of the framers was to position women equally in every sphere. Many women-centric laws were enacted to protect women some of them are the Protection of Women from Domestic Violence Act, 2005, Dowry Prohibition Act, 1961, Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, Maternity Benefit Act, 1961, Prohibition of

Child Marriage Act, 2006, Medical Termination of Pregnancy Act, 1971 and sections 498A, 304B, 375 of IPC, also including section 125 of Crpc and other personal laws regarding maintenance. Even the state has the power to make special provisions to protect women under Article 15(3) of the constitution. In the case of National Legal Service Authority

v. Union of India<sup>iii</sup>, it was held that the idea of social, economic, and political justice, equality of status and opportunity, and ensuring the dignity of the individual enshrined in the Preamble, recognizes the rights of every citizen to be given these basic essentials which help them to reach their highest potential. Thus every individual irrespective of their gender should be treated equally in the eyes of the law and equal protection of laws should be given to both men and women as the concept of equality is itself enshrined in the preamble which is the guiding principle of the Indian Constitution.

The maintenance laws are not uniform and are different in each personal law. The Hindu Marriage Act, 1955 and The Parsi Marriage and Divorce Act, 1936, these two laws are gender-neutral in providing maintenance to men. Article 39 of the Constitution states that the state can make policies in securing the right to an adequate means of livelihood for both men and women, thus both of this legislation follows the very idea of this Article where either husband or wife can claim maintenance. The courts in many cases granted maintenance to the husband. In the case *Nivya V M v. Shivaparsad M K*<sup>iv</sup> the Kerala high court held that if the wife is in a position to maintain her husband and if the husband is not capable of maintaining himself then maintenance can be provided by the wife. Again in *Lalit Mohan v. Tripta Devi*<sup>v</sup> husband was injured due to an accident and he made an application for maintenance. The Jammu and Kashmir High Court stated that the husband can claim maintenance throughout his life from his wife and also ordered for pendent lite.

However, the court in many cases held that before providing maintenance to the husband, he has to prove his incapability. Such as in the case of *Smt. Kanchan v. Kamalendra*<sup>vi</sup> the Bombay High Court ruled that before claiming maintenance the husband has to prove that he is incapable of earning. It is done to prevent the husbands from abusing the laws by making their wives work and claim maintenance. Again in the case of *Yashpal Singh v. Anjana Rajput*<sup>vii</sup>, the Madhya Pradesh High Court held that if a person voluntarily makes himself incapable of earning to claim maintenance, then it will not be considered by the courts.

Other laws including the Hindu Adoptions and Maintenance Act, 1956, section 125 of CRPC, and the religious personal laws are all gender biased which imposes the obligation to the husband only to maintain their wives and children. Section 125 being secular does not recognize the right of a husband to claim maintenance. Article 14 guarantees that the state shall not deny to any person equality before the law or the equal protection of the laws. Equality before the law implies the absence of any special privilege in favour of individuals and equal protection of the law implies equality of treatment in equal circumstances. This Article also prohibits the state from making any discriminatory laws. While Article 15(3) permits the state to make laws for the protection of women and children. However, all the maintenance laws were reasonable when they were enacted to protect women and due to the then position of women, as women faced deplorable situations in earlier times but they do not meet the current position of women. In the case of *Jagannath Prasad v. State of Uttar Pradesh*<sup>viii</sup>, the court stated that equal laws should be applied to individuals in similar circumstances. Thus in cases where the husband is not capable of earning, the wife should be made liable to pay maintenance if she has sufficient income as now women are also becoming as independent as men and earning more than their husbands. But because of these biased laws, women are still considered as a weaker section of society. Thus section 125 and the personal laws violate the principles of Article 14 by granting the right of maintenance only to the wife. In *Thamsi Goundan vs Kanni Ammal*<sup>ix</sup>, the court upheld the constitutional validity of section 125 and neglected the rights of the husbands to claim maintenance which is unfair and biased.

In *Navtej Singh Johar v. Union of India*<sup>x</sup>, the court struck down section 377 of IPC and recognized the existence of LGBT communities where both of them or neither of them are women. These biased laws not only neglect the rights of husbands but also the rights of LGBT communities as Indian society has started recognizing the LGBT communities as part of the society. In such a situation there is a strong need for gender neutral laws.

The courts in many maintenance cases denied the claim of husbands and favoured women. Such as in *Pradeep Kumar vs Smt Bhawna and Anr*<sup>xi</sup>, the Delhi High Court specified that it is the worst offense to deny maintenance to a separated wife and child. Hence the court dismissed the petition filed by a husband and ordered him to pay Rs. 20,000 as interim maintenance to his wife and child. In *Sandeep Walia vs Monika Uppal*<sup>xii</sup>, the court awarded maintenance to the wife even though the husband claimed that his wife was well-qualified and employed. The court further

emphasized the importance of providing maintenance to the dependents irrespective of their qualifications. In *Vishesh Taneja vs Reeta*<sup>xiii</sup>, the High Court of Delhi held that the main object of maintenance is to encourage persons, mostly husbands, to fulfil their responsibilities by providing monetary support to their dependents. Thus from the above cases it is clear that strong protection has been given to women and men are neglected thus creating gender gaps.

#### **4. Challenges in Implementing Reforms**

Implementing reforms in maintenance laws can be challenging. As for decades women are considered to be maintained by the husband and if maintenance laws are being reformed by recognizing the husband's right to claim maintenance under the present laws then it would be challenging to change the traditional mindset of the people to accept the reforms because of the patriarchal society where the husband is always held liable to provide. Reforms require amendments to the existing laws which is also time-consuming and their implementation also gets slower. Further, enforcement of the reformed maintenance laws can be challenging due to the burden of the courts which are already occupied with a large number of cases.

#### **5. Role of Advocacy and Awareness**

The role of advocacy and raising awareness is crucial to reforming the maintenance laws to serve gender justice in maintenance disputes. Advocacy helps in raising the voices of those who are affected by these laws. Through advocacy, it can pressure lawmakers to enact meaningful reforms. In countries like India where the maintenance laws often favour one gender advocacy can help to raise awareness about the gender-biased laws. Further advocacy helps to challenge biased laws and set judicial precedents that promote gender equality. By raising awareness among people and litigants it aims to educate them about the impact of gender-biased laws in society. Education is a key factor through which people become more aware of their rights. Hence through legal clinics, campaigns, and raising awareness reformation in maintenance laws can be achieved to eradicate gender-biased laws within the present laws.

#### **6. Impact Assessment of Reforms**

Reforming the existing maintenance laws requires a multifaceted approach here are some suggestions to reform the maintenance laws. Firstly and most importantly the existing laws can be reformed by adopting gender-neutral laws and removing biases that often favour women and

neglect men. Both personal laws and the code of criminal procedure which are biased in terms of maintenance should be amended to recognize the husband's rights to claim maintenance. Secondly, these laws can be reformed by implementing adequate mechanisms ensuring whether the maintenance orders are complied with or not and whether the claimant is receiving the maintenance timely. Lastly by raising awareness about the maintenance rights among both men and women. This can be done through conducting campaigns, legal aid, and counselling, helping people to make them understand their rights and liabilities which can reduce the chance of creating biases and misuse of laws.

## **7. Case Studies of Reformed Maintenance Laws**

This segment deals with reformed maintenance laws in countries like the US, Canada, the UK, Australia, and France.

### **Maintenance Laws In The Us**

In the US, maintenance laws are known as alimony or spousal support and the meaning of which depends on the state the spouse lives in. The maintenance is often provided after divorce or separation. The alimony payments are made after considering the following factors such as spouses' earnings and expenses, their marriage length, Spouses' age, health, and their economic and non-economic contributions during marriage.

### **Maintenance laws in Canada**

Spousal support in Canada is similar to the maintenance laws in the US which is paid after divorce or separation. In Canada monthly maintenance is common but some spouses are also provided with lump sum amounts with the object of compensating a spouse for taking care of children, reimbursing a spouse who sacrificed their earning capacity during the marriage, and ensuring financial stability of a spouse after divorce.

### **Maintenance laws in the UK**

In the UK spousal support is called maintenance order. The payment is made after divorce for a specified time. In rare cases, the spouses need to provide spousal support until the death of the other spouse or when they marry again. The amount is made after considering some factors such as the claimant's income, needs, and earning capabilities. However, the maintenance orders may be altered if the spouse loses their job or gets a higher-paying job.

## **Maintenance laws in Australia**

In Australia, Australia's Family Law Act 1975, deals with the provisions of spousal support. This law determines how long and how much the claimant is to be provided with maintenance. The payment is provided after examining the various factors including spouses' earning potential, the standard of living enjoyed by the spouses during their marriage, and their financial needs.

## **Maintenance laws in France**

The French civil code of 1804 deals with maintenance provisions in France. Article 208 of the said code states that maintenance can be provided in proportion to the needs of the claimant and the earnings of the defendant. With the object of balancing the financial needs and incomes available to both spouses. The court while granting maintenance to the claimant will take into account various factors such as the income of both spouses, their compulsory expenses, and standard of living. Further Article 271 of the civil code states the following factors which a judge shall take into account, these are the duration of the marriage, professional qualifications and occupations, age and health of each spouse, assets of the spouses, etc.

Thus from the above case studies of maintenance laws in different countries, it can be seen that the maintenance laws in these countries are more reformed in granting maintenance to the spouses. The most unique feature is that these laws recognize the concept of gender neutrality and safeguard both husband and wife's rights to claim "spousal maintenance" rather than only protecting the "rights of the wives to claim maintenance".

## **8. CONCLUSION**

The situation of women has changed in the post-modernization era. In this era women are not restricted anymore in the household instead they are attaining equality with men in terms of education, employment, and social status due to the women-centric laws. Now with rapidly changing societies women are also becoming independent in every field. However, the existing maintenance laws are still conservative in one perspective that it is still considered women a weaker section of society while it also neglects to recognize the husband's rights to claim maintenance. Today it can be seen that some women are earning more than their husbands and she is in a position to maintain her dependents, then why is the parliament not amending the laws

by including husbands' rights to be maintained by their wives? These biased laws not only harm the husband's rights but also the rights of LGBT communities. Further, we can see from cases like *Vasant v. Govindrao Upasrao Naik and Ors*<sup>xiv</sup> and *V.M. Arbat v K.R. Sawai*<sup>xv</sup> where the court held that not only the sons but the daughters are also responsible for providing maintenance to their parents. From these judgments, we can infer that the courts are holding daughters responsible for maintaining their parents. If daughters are held liable to maintain their parents then the same principle must be applicable also for women in maintaining their husbands. If maintenance laws can be gender neutral for the parents then why the maintenance laws cannot be made gender neutral for the spouses? Today most of the laws favour women, if we demand that women should be treated equally as men then why a man is not being treated equally as women? Therefore both genders should be treated equally in the eyes of the law because both men and women can be victims, it is not always that women are victims and men are found guilty sometimes it can be visa-versa too. Thus the present biased laws should be reformed and made gender neutral by including men's rights. The intention of making the law gender-neutral is not to limit women's rights but to broaden the scope of the maintenance laws by including husband's rights also. Many developing and developed countries that we discussed above have already adopted the concept of gender-neutral laws by granting maintenance to both spouses. Hence the term 'maintenance to wife' must be replaced with 'spouse' to make the laws gender-neutral in India.

#### CITATION:

<sup>i</sup> *Anil Jain v. Smt. Sunita* 2016 SCC OnLine MP 6368 (India)

<sup>ii</sup> *Smt. Ritu @ Ridhima & Anr. v. Sandeep Singh Sangwan*, 2022 LiveLaw (PH) 44 (India)

<sup>iii</sup> *National Legal Service Authority v. Union of India* AIR 2014 SC 1863

<sup>iv</sup> *Nivya V M v. Shivaparsad M K* 2017 (2) KLT 803

<sup>v</sup> *Lalit Mohan v. Tripta Devi*, AIR 1990 J K 7

<sup>vi</sup> *Smt. Kanchan v. Kamalendra Alias Kamalakar* AIR 1992 BOM 493

<sup>vii</sup> *Yashpal Singh Thakur v. Smt. Anjana Rajput* AIR 2001 MP 67A

<sup>viii</sup> *Jagannath Prasad Sharma v. State Of Uttar Pradesh & Ors* 1961 AIR 1245

<sup>ix</sup> *Thamsi Goundan v. Kanni Ammal* AIR 1952 Mad 529

- <sup>x</sup> Navtej Singh Johar v. Union Of India AIR 2018 SC 4321
- <sup>xi</sup> Pradeep Kumar v. Smt Bhawana, 2022 SCC OnLine Del 2082 (India)
- <sup>xii</sup> Sandeep Walia v. Monika Uppal, 2022 LiveLaw (Del) 677 (India)
- <sup>xiii</sup> Vishesh Taneja v. Reeta, 2022 LiveLaw (Del) 679 (India)
- <sup>xiv</sup> Vasant v. Govindrao Upasrao Naik & Ors, Criminal Revision Application No. 172/2014
- <sup>xv</sup> V.M. Arbat v K.R. Sawai, 1987(1) SCALE 379

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