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MAINTENANCE RIGHTS OF WOMEN IN INDIA: A COMPREHENSIVE LEGAL ANALYSIS

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Abstract

Maintenance rights constitute one of the most significant legal protections available to women in India, serving as a critical mechanism for ensuring economic security and dignity. This paper provides a comprehensive examination of the legal framework governing maintenance rights for women across different personal laws and secular legislation in India. It traces the historical evolution of these rights, analyses the statutory provisions under the Hindu Marriage Act 1955, the Hindu Adoption and Maintenance Act 1956, the Muslim Women (Protection of Rights on Divorce) Act 1986, Section 125 of the Code of Criminal Procedure 1973, the Protection of Women from Domestic Violence Act 2005, and the recent Bharatiya Nagarik Suraksha Sanhita 2023. Through an examination of landmark judicial pronouncements, the paper evaluates the scope, limitations, and contemporary challenges in the enforcement of maintenance rights. The analysis reveals that while India possesses a robust legal framework, significant gaps persist in implementation, quantum determination, and accessibility of relief. The paper concludes with recommendations for reform aimed at strengthening economic justice for women.

Keywords: Maintenance, Alimony, Women's Rights, Personal Law, Section 125 CrPC, Hindu Law, Muslim Law, Domestic Violence

1. Introduction

1.1 Conceptual Framework

Maintenance, in legal parlance, refers to the provision of basic necessities including food, clothing, shelter, medical attendance, and education that one person is obligated to provide to another arising from their legal relationship. The concept is rooted in the fundamental principle that individuals who are economically dependent on others—particularly within familial relationships—should not be left destitute upon the breakdown of such relationships or during their subsistence.

For women in India, maintenance rights assume particular significance given the historical and

continuing patterns of economic dependency, limited workforce participation, and the gendered division of labor that characterizes most Indian households. Women often sacrifice career opportunities and economic independence to perform unpaid domestic labor and caregiving responsibilities. When marriages break down or husbands neglect their obligations, women frequently find themselves without independent means of support.

1.2 Constitutional Foundation

The Constitution of India provides the foundational basis for maintenance rights through several provisions. Article 14 guarantees equality before law and equal protection of laws. Article 15(3) empowers the State to make special provisions for women and children. Article 21, which guarantees the right to life and personal liberty, has been interpreted expansively by the Supreme Court to include the right to live with dignity, which necessarily encompasses access to basic necessities of life.

Article 39(a) directs the State to ensure that citizens have the right to an adequate means of livelihood, while Article 39(e) mandates that the State direct its policy towards ensuring that the health and strength of workers, men and women, are not abused. Article 42 emphasizes just and humane conditions of work and maternity relief. These Directive Principles, while not directly enforceable, inform the interpretation and application of maintenance laws.

1.3 Scope and Objectives

This paper aims to provide a comprehensive analysis of maintenance rights available to women in India. The objectives include examining the statutory framework across different personal laws and secular legislation, analysing significant judicial interpretations that have shaped the contours of these rights, identifying the challenges and limitations in the current system, and proposing recommendations for reform.

2. Historical Evolution of Maintenance Rights

2.1 Pre-Independence Era

The concept of maintenance in India has ancient roots in religious texts and customary practices. In Hindu tradition, the Dharma shastra texts recognized the husband's duty to maintain his wife as a sacred obligation. The Manu smriti, despite its patriarchal framework, acknowledged that a husband must provide for his wife's maintenance. Similarly, under Islamic law, the concept of nafaqa (maintenance) was well-established, with husbands obligated to

provide for wives during marriage and through the iddat period following divorce.

During colonial rule, the British initially left personal law matters largely untouched, governing them according to religious customs. However, the codification project of the late nineteenth and early twentieth centuries began to formalize maintenance obligations. The Code of Criminal Procedure 1898 included provisions for maintenance of wives, children, and parents, providing a secular remedy that could be accessed by women of all communities.

2.2 Post-Independence Codification

The period following independence witnessed significant legislative activity aimed at reforming personal laws and strengthening women's rights. The Hindu Marriage Act 1955 and the Hindu Adoption and Maintenance Act 1956 codified and reformed Hindu law relating to maintenance. The Special Marriage Act 1954 provided maintenance provisions for those marrying under secular law.

These enactments represented an attempt to balance respect for religious traditions with the constitutional mandate of gender equality.

The Code of Criminal Procedure 1973 retained and strengthened the secular maintenance provision in Section 125, which became a crucial tool for women seeking immediate relief. Subsequent decades saw further legislative developments, including the controversial Muslim Women (Protection of Rights on Divorce) Act 1986 and the more progressive Protection of Women from Domestic Violence Act 2005.

2.3 Contemporary Developments

Recent years have witnessed continued evolution in maintenance law through both judicial interpretation and legislative reform. The Supreme Court has consistently expanded the scope of maintenance rights, recognizing the economic realities faced by women. The replacement of the Code of Criminal Procedure 1973 with the Bharatiya Nagarik Suraksha Sanhita 2023 has introduced certain changes to maintenance provisions, including provisions for interim maintenance and modifications to procedural aspects.

3. Statutory Framework for Maintenance

3.1 The Hindu Marriage Act, 1955

3.1.1 Maintenance Pendente Lite and Expenses of Proceedings

Section 24 of the Hindu Marriage Act provides for maintenance pendente lite (during the

pendency of proceedings) and expenses of proceedings. Either spouse who has no independent income sufficient for support may apply for maintenance during the pendency of any proceeding under the Act. The court may order the respondent to pay the applicant expenses of the proceeding and monthly maintenance during the proceeding as the court considers reasonable, having regard to the petitioner's own income and the income of the respondent.

This provision is significant because it ensures that a spouse, typically the wife, is not handicapped in pursuing or defending matrimonial proceedings due to lack of financial resources. The Supreme Court in *Jasbir Kaur Sehgal v. District Judge, Dehradun* (1997) emphasized that maintenance pendente lite must be granted with due expedition to serve its purpose effectively.

3.1.2 Permanent Alimony and Maintenance

Section 25 of the Hindu Marriage Act deals with permanent alimony and maintenance. Any court exercising jurisdiction under the Act may, at the time of passing any decree or at any time subsequent thereto, on application by either spouse, order that the respondent shall pay to the applicant such gross sum or monthly or periodical sum for maintenance and support as the court considers just.

The court considers several factors in determining the quantum, including the respondent's own income and property, the income and property of the applicant, the conduct of the parties, and other circumstances of the case. The provision also allows for modification of orders if there is a change in circumstances and for rescission if the applicant remarries or, in the case of a wife, if she has not remained chaste.

The "chastity" requirement has been criticized as patriarchal and discriminatory, though courts have interpreted it to apply only to post-divorce conduct and not as a morality test for granting maintenance.

3.2 The Hindu Adoption and Maintenance Act, 1956

3.2.1 Scope of Maintenance under HAMA

The Hindu Adoption and Maintenance Act 1956 (HAMA) provides a comprehensive framework for maintenance of Hindu wives, children, and other dependents. Section 18 specifically addresses the maintenance of a Hindu wife by her husband. A Hindu wife is entitled to be maintained by her husband during her lifetime, and this right is not contingent on the breakdown of marriage.

3.2.2 Conditions for Claiming Separate Residence and Maintenance

Section 18(2) specifies conditions under which a Hindu wife is entitled to live separately from her husband without forfeiting her right to maintenance. These include situations where the husband is guilty of desertion, cruelty, leprosy (though this ground has been criticized as discriminatory), maintains a concubine, or if there is any other cause justifying her living separately.

A wife who is unchaste or ceases to be Hindu by conversion loses her right to maintenance under Section 18(3). The conversion provision has been challenged as potentially violating freedom of religion, though it remains in the statute.

3.2.3 Quantum of Maintenance

Section 23 of HAMA provides guidance on determining the amount of maintenance. The court must consider the position and status of the parties, the reasonable wants of the claimant, the claimant's living separately is justified, the value of the claimant's property and income from it, and the number of persons entitled to maintenance.

3.3 Section 125 of the Code of Criminal Procedure, 1973

3.3.1 Nature and Scope

Section 125 of the Code of Criminal Procedure 1973 (CrPC) is the most significant secular provision for maintenance, applicable to all citizens regardless of religion. It provides a summary remedy to prevent vagrancy and destitution by compelling persons who can afford to do so to maintain those who are unable to maintain themselves.

The provision enables a wife who is unable to maintain herself to claim maintenance from her husband who, having sufficient means, neglects or refuses to maintain her. The term "wife" under Section 125 includes a divorced wife who has not remarried.

3.3.2 Key Features

The section is notable for several features. First, it is a secular provision applicable to all communities. Second, proceedings under Section 125 are criminal in nature but have civil consequences. Third, the remedy is summary and expeditious, designed to provide quick relief. Fourth, the maintenance amount was subject to a maximum limit initially, but amendments have progressively enhanced this.

The 2001 amendment increased the maximum maintenance from Rs. 500 to no specific limit, leaving it to judicial discretion. The provision also mandates that applications be disposed of

within sixty days of service of notice on the respondent, emphasizing the urgent nature of the remedy.

3.3.3 Conditions for Maintenance

To claim maintenance under Section 125, the wife must establish that she is unable to maintain herself, and the husband has sufficient means and neglects or refuses to maintain her. The section also specifies conditions under which a wife is not entitled to maintenance: if she is living in adultery, or if without sufficient reason she refuses to live with her husband, or if they are living separately by mutual consent.

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

3.4.1 Historical Context

The Muslim Women (Protection of Rights on Divorce) Act 1986 was enacted in response to the Supreme Court's landmark judgment in *Shah Bano v. Union of India* (1985). In that case, the Supreme Court upheld the right of a divorced Muslim woman to claim maintenance under Section 125 CrPC, holding that the provision was secular and applied to all citizens.

The judgment sparked significant controversy, with conservative Muslim groups arguing that it interfered with Muslim personal law. The government responded by enacting the 1986 Act, which was widely criticized as regressive and as overruling the progressive *Shah Bano* judgment.

3.4.2 Provisions of the Act

The Act provides that a divorced Muslim woman is entitled to a reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband. She is also entitled to maintenance for her children born to her before or after divorce for a period of two years from their birth, and to mahr (dower) and all properties given to her by relatives, husband, or friends.

If these amounts are not paid during iddat, the woman can approach the Magistrate for enforcement. Crucially, Section 4 provides that if she is not maintained after iddat, she can approach the Magistrate who may direct her relatives or the State Wakf Board to maintain her.

3.4.3 Judicial Interpretation

Despite concerns that the Act was regressive, the Supreme Court in *Danial Latifi v. Union of India* (2001) interpreted the Act in a manner that substantially preserved the rights recognized in *Shah Bano*. The Court held that the "reasonable and fair provision" must be made within the iddat period but should be sufficient to cover the woman's entire life unless she remarries. This

interpretation effectively required a lump sum payment that would serve as lifetime maintenance.

3.5 The Protection of Women from Domestic Violence Act, 2005

3.5.1 Comprehensive Protection Framework

The Protection of Women from Domestic Violence Act 2005 (PWDVA) represents a paradigm shift in the legal approach to domestic violence and provides comprehensive civil remedies including maintenance. The Act recognizes that domestic violence is not merely a private family matter but a violation of human rights requiring state intervention.

3.5.2 Maintenance Provisions

Section 20 of PWDVA empowers the Magistrate to direct the respondent to pay monetary relief to meet expenses incurred and losses suffered by the aggrieved person and any child as a result of domestic violence. This includes the loss of earnings, medical expenses, property damage, and maintenance for the aggrieved person and her children.

3.5.3 Scope of "Aggrieved Person"

The definition of "aggrieved person" under PWDVA is notably expansive. It includes any woman who is or has been in a domestic relationship with the respondent, encompassing wives, former wives, women in live-in relationships, sisters, mothers, or any woman related by consanguinity, marriage, or adoption.

This broad definition significantly expanded the categories of women who could claim maintenance, particularly by including women in live-in relationships who were previously without legal recourse.

3.6 The Bharatiya Nagarik Suraksha Sanhita, 2023

3.6.1 Replacement of Section 125 CrPC

The Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), which came into effect in 2024, replaced the Code of Criminal Procedure 1973. Section 144 of BNSS corresponds to Section 125 of CrPC and continues the provision for maintenance of wives, children, and parents.

3.6.2 Key Changes

The BNSS introduces certain modifications to the maintenance framework. Section 144(2) mandates that proceedings for maintenance shall be disposed of within ninety days from the date of service of notice. The provision also explicitly includes digital and electronic evidence provisions consistent with the overall modernization approach of the new criminal laws.

Section 144(9) provides that maintenance shall be payable from the date of the order or from the date of application, as the Magistrate may direct. The provision for interim maintenance under Section 144(5) allows the Magistrate to order interim maintenance during the pendency of proceedings, with such proceedings to be decided within sixty days.

4. Landmark Judicial Pronouncements

4.1 Shah Bano v. Union of India (1985)

4.1.1 Facts and Issues

The case of Mohd. Ahmed Khan v. Shah Bano Begum (1985) is arguably the most influential judgment on maintenance rights in India. Shah Bano, a 62-year-old Muslim woman, was divorced by her husband through triple talaq after 43 years of marriage. She filed an application under Section 125 CrPC for maintenance, which was granted by the lower courts.

The key issue before the Supreme Court was whether a Muslim woman could claim maintenance under Section 125 CrPC, a secular provision, or whether she was restricted to the personal law remedy of maintenance only during the iddat period.

4.1.2 The Supreme Court's Decision

The Supreme Court, in a unanimous decision, held that Section 125 CrPC applied to all citizens irrespective of their religion. The Court reasoned that the provision was part of the Code of Criminal Procedure, not personal law, and was designed to prevent vagrancy and destitution. It observed that the provision was a measure of social justice applicable to all sections of society.

The Court also noted that even under Islamic law, there was support for maintenance beyond iddat and that the limitation to iddat was not mandated by Quranic injunctions. Justice Chandrachud's observation that "it is also a matter of regret that Article 44 of our Constitution has remained a dead letter" sparked significant controversy and contributed to the political backlash against the judgment.

4.2 Danial Latifi v. Union of India (2001)

4.2.1 Constitutional Challenge

Following the enactment of the Muslim Women (Protection of Rights on Divorce) Act 1986, the validity of the Act was challenged as violating Articles 14, 15, and 21 of the Constitution. The petitioners argued that the Act discriminated against Muslim women by denying them the right to claim maintenance under Section 125 CrPC, which was available to women of other

communities.

4.2.2 The Court's Interpretation

The Supreme Court upheld the constitutional validity of the Act but interpreted it in a manner that substantially preserved the Shah Bano ruling. The Court held that the Act requires the husband to make a "reasonable and fair provision" for the future of the divorced wife, which includes maintenance for her entire life or until she remarries. This provision must be made within the iddat period, but the amount should be sufficient to cover future needs.

This interpretation effectively required Muslim husbands to pay a lump sum at divorce that would serve as lifetime maintenance, making the provision comparable to, if not more generous than, periodic maintenance under Section 125.

4.3 Shamima Farooqui v. Shahid Khan (2015)

In this case, the Supreme Court held that a divorced Muslim woman is entitled to maintenance under Section 125 CrPC even after the expiry of the iddat period, as long as she has not remarried. The Court emphasized that Section 125 is a secular provision meant to prevent destitution, and its application cannot be restricted based on religious identity.

4.4 Rajnesh v. Neha (2020)

4.4.1 Comprehensive Guidelines

In *Rajnesh v. Neha* (2020), the Supreme Court issued comprehensive guidelines for determining maintenance in matrimonial matters. Recognizing the absence of uniform standards leading to inconsistent awards, the Court laid down detailed criteria to be followed by all courts.

4.4.2 Key Guidelines

The Court mandated that parties must file affidavits of assets, income, and expenditure in a specified format. It prescribed the factors to be considered in determining quantum, including the status of the parties, reasonable needs of the wife and children, the husband's income and earning capacity, and the standard of living enjoyed during marriage.

The Court also addressed the issue of overlapping maintenance proceedings, holding that maintenance awarded in one proceeding should be adjusted against amounts awarded in other proceedings to prevent double recovery. It emphasized the need for courts to ensure that maintenance awards are neither inadequate nor excessive.

4.5 Badshah v. Urmila Badshah Godse (2014)

The Supreme Court in this case reiterated that Section 125 CrPC is a beneficial provision meant to achieve a social purpose. The Court held that in a case where denial of maintenance would reduce a woman to beggary, courts should not adopt hyper-technical interpretations that would defeat the purpose of the provision.

4.6 Chanmuniya v. Virendra Kumar Singh Kushwaha (2011)

In this landmark decision, the Supreme Court held that the term "wife" under Section 125 CrPC includes a woman who has been in a long-term live-in relationship resembling marriage, provided such relationship satisfies the criteria of a "relationship in the nature of marriage" under the PWDVA. This expanded the scope of maintenance rights significantly.

4.7 Vimala (K.) v. Veeraswamy (K.) (1991)

The Supreme Court held that maintenance must be determined with reference to the reasonable needs of the wife and should enable her to live in reasonable comfort, not merely subsist. The Court emphasized that the wife is entitled to a standard of living comparable to that she would have enjoyed had she lived with her husband.

5. Determination of Quantum

5.1 Factors Considered by Courts

The determination of maintenance quantum involves consideration of multiple factors, as courts attempt to balance the needs of the claimant against the capacity of the respondent. The primary factors include:

Income and Earning Capacity of the Husband: Courts examine the husband's salary, business income, rental income, investments, and potential earning capacity. Where income is concealed or underreported, courts may make reasonable estimates based on lifestyle and expenditure patterns.

Income and Earning Capacity of the Wife: While the wife's income is considered, courts recognize that many women sacrifice career opportunities for domestic responsibilities and may not have independent income. The wife's qualifications, work experience, and potential for employment are relevant factors.

Standard of Living During Marriage: The wife is generally entitled to maintain a standard of living comparable to that enjoyed during marriage. Courts consider the lifestyle, residential

area, educational expenses of children, and general expenditure patterns.

Reasonable Needs of the Claimant: Courts assess the reasonable requirements of the wife, including housing, food, clothing, healthcare, education of children, and other necessities. This assessment accounts for rising costs and inflation.

Conduct of Parties: While fault is not a prerequisite for maintenance in most circumstances, egregious conduct may be considered. However, courts are increasingly moving away from conduct-based determinations.

5.2 Methods of Calculation

5.2.1 Percentage-Based Approach

Some courts have adopted a percentage-based approach to maintenance determination. Common formulas include awarding one-third to one-half of the husband's net income as maintenance for the wife and children combined. In *Jasbir Kaur Sehgal v. District Judge, Dehradun* (1997), the Supreme Court suggested that 25% of the husband's net salary would be a just and proper amount for maintenance, though this is not a rigid rule.

5.2.2 Needs-Based Approach

An alternative approach focuses on the actual needs of the wife and children, calculating maintenance based on itemized expenses for housing, food, education, healthcare, and other necessities. This approach may result in amounts higher or lower than percentage-based calculations depending on the circumstances.

5.2.3 The Rajnesh Guidelines

The Supreme Court in *Rajnesh v. Neha* (2020) attempted to bring uniformity by prescribing a detailed methodology. The Court suggested considering the net disposable income of the husband after deducting essential expenses and existing liabilities. It also mandated consideration of the expenses incurred by the wife and children and any contribution made by the wife to family income during marriage.

5.3 Interim Maintenance

The importance of interim maintenance cannot be overstated, as matrimonial proceedings often continue for years while the wife's immediate needs must be met. Courts have emphasized that interim maintenance should be granted expeditiously and should be sufficient to enable the wife to prosecute or defend her case and meet her basic needs during pendency.

6. Rights of Women in Live-In Relationships

6.1 Evolution of Recognition

The legal recognition of maintenance rights for women in live-in relationships represents a significant development in Indian jurisprudence. Traditionally, only legally wedded wives could claim maintenance. However, judicial interpretation has progressively expanded this scope.

6.2 Protection under PWDVA

The Protection of Women from Domestic Violence Act 2005 defines "domestic relationship" to include "a relationship in the nature of marriage." This has been interpreted to include stable live-in relationships where the parties hold themselves out as spouses, even without formal marriage.

In *D. Velusamy v. D. Patchaiammal* (2010), the Supreme Court laid down criteria for determining a "relationship in the nature of marriage": the couple must hold themselves out to society as being akin to spouses, they must be of legal age to marry, they must be otherwise qualified to enter into a legal marriage, and they must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period.

6.3 Section 125 CrPC and Live-In Relationships

The Supreme Court in *Chanmuniya v. Virendra Kumar Singh Kushwaha* (2011) held that a woman in a live-in relationship resembling marriage could claim maintenance under Section 125 CrPC. The Court reasoned that the provision should be interpreted liberally to prevent destitution of women and their children.

However, this protection extends only to stable, marriage-like relationships and not to casual liaisons or relationships where one party is already married and conceals this fact.

7. Maintenance Under Muslim Personal Law

7.1 Traditional Islamic Law Position

Under traditional Islamic jurisprudence, a husband is obligated to maintain his wife during the subsistence of marriage. Upon divorce, the obligation extends only to the iddat period—approximately three months during which the woman must observe a waiting period before remarrying. The mahr (dower) paid at marriage is also considered part of the financial settlement.

7.2 Statutory Modifications

The Muslim Women (Protection of Rights on Divorce) Act 1986, despite its controversial origins, has been interpreted by the Supreme Court to provide substantial protection. Following *Danial Latifi*, a divorced Muslim woman is entitled to:

A reasonable and fair provision that covers her future needs
Payment of maintenance during iddat
Return of mahr and all property given to her
Where parents or relatives liable to maintain her are unable to do so, the State Wakf Board must provide maintenance

7.3 The Triple Talaq Verdict and Its Implications

The Supreme Court's judgment in *Shayara Bano v. Union of India* (2017) declared instant triple talaq unconstitutional. This was followed by the Muslim Women (Protection of Rights on Marriage) Act 2019, which criminalized triple talaq. These developments have strengthened the position of Muslim women, as the summary and arbitrary divorce through triple talaq was often used to deny women their maintenance rights.

8. Enforcement and Implementation Challenges

8.1 Procedural Delays

One of the most significant challenges in the enforcement of maintenance rights is procedural delay. Despite statutory mandates for speedy disposal, maintenance cases often drag on for years. The reasons include overburdened courts, adjournments sought by parties, and procedural complexities.

The Supreme Court has repeatedly expressed concern over such delays. In *Badshah v. Urmila Badshah Godse* (2014), the Court noted that delays defeat the purpose of maintenance provisions and directed courts to dispose of such cases expeditiously.

8.2 Execution of Decrees

Even after obtaining a maintenance order, enforcement remains challenging. Husbands often evade payment by concealing assets, changing employment, or simply refusing to pay. While non-payment can result in imprisonment under Section 125 CrPC, actual enforcement varies significantly across jurisdictions.

The provisions for attachment of salary and recovery as arrears of land revenue exist but are not uniformly implemented. Many women abandon maintenance claims due to the difficulties of enforcement.

8.3 Undervaluation of Maintenance Awards

Maintenance awards by Indian courts have historically been criticized as inadequate. Awards that may have been reasonable at the time of grant become wholly insufficient due to inflation and changing circumstances. While modification petitions are available, these add to litigation and expense.

The Supreme Court in *Rajnish v. Neha* (2020) addressed this concern by directing that maintenance orders should account for the cost of living and be reviewed periodically. However, implementation remains inconsistent.

8.4 Multiplicity of Proceedings

A wife may seek maintenance under multiple provisions—Section 125 CrPC, the applicable personal law, and the PWDVA. While this provides multiple avenues for relief, it can also lead to confusion, conflicting orders, and harassment through multiple proceedings. The *Rajnish* guidelines address this by requiring adjustment of maintenance amounts across proceedings, but practical implementation remains challenging.

8.5 Access to Justice

Many women, particularly those from marginalized communities and rural areas, lack awareness of their maintenance rights. Even when aware, they may face barriers including lack of legal aid, distance from courts, and social stigma associated with legal proceedings against family members. The legal aid system, while extensive on paper, has significant gaps in reaching beneficiaries effectively.

9. Comparative Analysis

9.1 The United Kingdom

The United Kingdom provides maintenance through the Matrimonial Causes Act 1973, which empowers courts to make financial provision orders including periodical payments, lump sum payments, and property adjustment orders. The UK approach emphasizes a "clean break" where possible, encouraging self-sufficiency while recognizing the contributions of the economically weaker spouse during marriage.

9.2 The United States

In the United States, alimony laws vary by state, but common types include temporary alimony

during divorce proceedings, rehabilitative alimony to support the spouse in becoming self-sufficient, permanent alimony in long-term marriages, and reimbursement alimony for contributions to the other spouse's education or career. American courts increasingly consider the length of the marriage, with longer marriages more likely to result in permanent or substantial alimony.

9.3 Lessons for India

Comparative analysis suggests several areas for potential reform in India: adoption of clearer guidelines for quantum determination similar to those in several US states, greater emphasis on rehabilitative approaches to help women achieve economic independence, improved enforcement mechanisms drawing from practices in jurisdictions with more effective collection systems, and consideration of marital property division as part of the maintenance framework.

10. Recommendations for Reform

10.1 Legislative Reforms

Uniform Civil Code for Maintenance: While the broader Uniform Civil Code debate remains contentious, a uniform maintenance code applicable to all citizens could eliminate disparities based on religious identity while respecting cultural sensitivities in other areas of personal law.

Mandatory Guidelines for Quantum: Statutory guidelines specifying minimum maintenance percentages based on income brackets would reduce uncertainty and ensure consistency. Such guidelines should include provisions for periodic revision based on inflation indices.

Strengthened Enforcement Provisions: Legislative amendments should provide for direct recovery from salary accounts, attachment of bank accounts and assets, and more stringent consequences for non-compliance. Establishing a specialized enforcement mechanism for maintenance orders could improve compliance.

Recognition of Domestic Contributions: Legislation should explicitly recognize the economic value of domestic labor and caregiving, ensuring that maintenance awards reflect the contributions made by women to household management and family welfare.

10.2 Judicial Reforms

Fast-Track Courts: Establishment of dedicated fast-track courts for maintenance matters, with strict timelines and reduced adjournments, would address the perennial problem of delay.

Training and Sensitization: Judicial officers should receive specialized training on gender

sensitization, economic aspects of divorce, and the purposes of maintenance to ensure that awards are appropriate and adequate.

Use of Technology: Electronic filing, video conferencing for hearings, and digital payment mechanisms for maintenance could improve accessibility and efficiency.

10.3 Institutional Reforms

Enhanced Legal Aid: The legal aid system should be strengthened specifically for maintenance cases, including provision of specialized lawyers, assistance with documentation, and outreach to women in need.

One-Stop Centers: Integration of maintenance proceedings with existing one-stop centers for women (such as those under the Nirbhaya scheme) could improve access to justice, particularly for rural and marginalized women.

Maintenance Collection Agencies: Establishment of government agencies responsible for collection and disbursement of maintenance payments, similar to child support agencies in other countries, could significantly improve enforcement.

10.4 Social Measures

Financial Literacy Programs: Programs aimed at enhancing women's financial literacy and independence can complement legal reforms by enabling women to better manage maintenance received and work towards economic self-sufficiency.

Awareness Campaigns: Public awareness campaigns about maintenance rights, targeting women as well as men and community leaders, can improve voluntary compliance and reduce litigation.

11. Conclusion

Maintenance rights constitute a crucial legal protection for women in India, providing a safety net against economic vulnerability arising from the breakdown of familial relationships or neglect by those obligated to provide support. The legal framework, comprising personal laws and secular legislation, has evolved significantly since independence, with judicial interpretation consistently expanding the scope and quantum of maintenance.

The landmark judgments from Shah Bano through Rajnesh demonstrate a judicial commitment to ensuring that maintenance provisions fulfill their purpose of preventing destitution and enabling dignified life. The extension of maintenance rights to women in live-in relationships

and the progressive interpretation of Muslim personal law have been particularly significant developments.

However, significant challenges remain. Procedural delays, inadequate quantum awards, enforcement difficulties, and barriers to access continue to limit the effectiveness of maintenance rights. The gap between law on the books and law in practice remains substantial for many women, particularly those from disadvantaged backgrounds.

Addressing these challenges requires a multi-pronged approach combining legislative reform, judicial initiatives, institutional strengthening, and social measures. The recent enactment of the Bharatiya Nagarik Suraksha Sanhita 2023 and continued judicial engagement with maintenance issues provide opportunities for such reform.

Ultimately, maintenance rights must be understood as part of a broader project of economic justice for women. While maintenance provides crucial support, the goal should be to enable women's economic empowerment and independence rather than perpetuate dependency. A maintenance framework that combines adequate support with rehabilitation and self-sufficiency would best serve the constitutional vision of gender equality and dignity for all.

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Appendix: Format of Affidavit of Assets and Income

As prescribed by the Supreme Court in Rajnesh v. Neha (2020), parties in maintenance proceedings must file affidavits containing:

Income Details: Salary slips, income tax returns for the previous three years, Form 16, details of any other income

Assets: Immovable property, movable property, bank accounts, investments, shares, vehicles

Liabilities: Loans, mortgages, credit card dues, other liabilities

Expenditure: Monthly household expenditure, education expenses, medical expenses, other regular payments

Dependents: Details of persons dependent on the party for maintenance

This format is intended to bring transparency and consistency to maintenance proceedings across all courts in India.