
ECONOMIC EMPOWERMENT THROUGH MAINTENANCE LAWS: A MULTIDISCIPLINARY STUDY OF WOMEN'S FINANCIAL SECURITY

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ABSTRACT

Maintenance laws form a very critical part of the Indian legal provision safeguarding women economically due to their marriage, separation, divorce, or neglect. These laws are aimed at not just to enable financial assistance but to ensure the dignity of women and their equality as well as access to justice. Over the past years, the concept of maintenance has been transformed into something welfare-oriented solution and the tool of economic empowerment, which allows women to achieve financial stability and social security. In this paper, I have taken a multidisciplinary approach with the inclusion of legal, economic, and social approaches to explore how laws that support maintenance can be used to facilitate economic self-sufficiency of women in India.

The research critically examines the law which has supported maintenance in the Bharatiya Nagarik Suraksha Sanhita, 2023, the Hindu Adoptions and Maintenance Act, 1956, the Hindu marriage act, 1955, the protection of women against domestic violence act, 2005, and applicable personal laws. It also incorporates the role of judicial interpretations especially the principles established in *Rajnesh v. Neha* (2020) in creating uniformity and fairness in the determination of maintenance. The socio-economic issues surrounding the implementation of maintenance orders by women, such as procedural slowness, insufficient evaluation of income, non-compliance by the respondent, and financial dependence of women in unpaid domestic services or the informal economy are also discussed in the paper.

The paper presents a case based on a doctrinal and multidisciplinary research approach to show that effective maintenance laws do not just represent legal rights to obtain and enforce but critical mechanisms of lessening economic

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inequality by gender and enhancing the financial autonomy of women. It concludes that maintenance needs reforms in the law “institutional effectiveness, digital enforcement systems, financial literacy and gender sensitive judicial practice to change it into a subsistence-based subsistence remedy rather than an economic means of empowerment. This approach not only promotes constitutional principles of equality and social justice but also helps to achieve the greater goal of inclusive and sustainable development of women.

Keywords: Maintenance Laws, Economic Empowerment, Women's Financial Security, Gender Justice, Bharatiya Nagarik Suraksha Sanhita, 2023.

1. Introduction

Maintenance is an important element of the family law that aims at safeguarding those unable to support themselves financially because of marital or family ties. Maintenance is a traditional legal duty in India with the purpose of preventing destitution and making certain that the financially-dependent family members are well maintained, especially the women. The notion has over the years grown to be more than a measure of welfare to a significant tool in ensuring gender equality, social justice and economic empowerment of women. In a society that still has a large number of women economically dependent, property inequality, wage gaps as well as employment hindrances as a result of care giving, maintenance laws are very crucial in ensuring the stability of the finances and safeguarding their pride.³

Economic empowerment is the process whereby individuals are granted skills to engage in, contribute and enjoy the benefits of economic activity whilst developing control of and decision making over financial resource. Economic empowerment of women is tightly intertwined with access to education, workplaces, rights to property, financial inclusion, and quality legal redress. Maintenance is one such legal tool as it will safeguard women who are not left economically underprivileged in case of separation, divorce, desertion, or domestic violence. Instead of being considered as purely as a financial support, maintenance is a way of protecting the right of women to their reputable living, in line with the constitutional boundaries of equality and the right to life in the provisions of Articles 14, 15(3) and 21 of the Constitution of India.⁴

³ Paras Diwan, *Modern Hindu Law* 365–370 (Allahabad Law Agency, 26th ed., 2023).

⁴ Constitution of India, arts. 14, 15(3) & 21.

Legal system in maintenance in India is all round and includes secular and personal laws. The Bharatiya Nagarik Suraksha Sanhita, 2023 offers a correlational relief to wives, children, and parents who cannot sustain themselves. Also, other laws like the Hindu Adoptions and Maintenance Act, 1956, Hindu Marriage Act, 1955, Protection of Women from Domestic Violence Act, 2005 and other personal legislations undertaken by Hindu, Christian and Parsi regard the right of women to claim maintenance under varied circumstances. The statutory provisions have since been enhanced by judicial rulings that have attributed maintenance as a social justice concern and not charity. The case of *Rajnish v. Neha*⁵ (2020) decided by the Supreme Court played a big role in ensuring consistency and fairness in maintenance proceedings by setting up common principles in determining maintenance.

Although we have a comprehensive legal system, there are yet numerous obstacles met by women in their quest to have effective maintenance. The lack of urgency, insufficient evaluation of the financial situation of the respondent, and delays in court processes, maintenance order enforcement complications, and not having information about legal rights often hamper the task of financial security. Women in the informal sector, homemakers, and domestic violence survivors tend to be more economically vulnerable because they lack a significant source of individual income and support by the institution. Therefore, the legal adequate working of the maintenance laws does not only rely on the legislative content but also a good judicial administration, accessibility to legal assistance and favorable government policies.⁶

The multidisciplinary approach is needed to comprehend the expanded importance of maintenance laws. Whereas the legal branch outlines how the statutory framework and judicial interpretation explain the law, the economic branch brings out the importance of maintenance as a tool to mitigate financial insecurities and poverty among women. Sociological approaches look at how women depend on the patriarchal norms, unpaid care work and family structures, gender studies look at the connection between maintenance and substantive equality. This is also contributed by public policy which examines the usefulness of government efforts, institutional processes, and legal changes to empower women financially. By incorporating these varying opinions, it is possible to get a better and more detailed picture of maintenance

⁵ *Rajnish v. Neha*, (2021) 2 SCC 324.

⁶ *Bhuwan Mohan Singh v. Meena*, (2015) 6 SCC 353.

as a means of economic empowerment and not so much as an outcome of a legal solution.⁷

In this paper, I will take a doctrinal and multidisciplinary method of discussing how maintenance laws can enhance the financial security of women in India. It examines the constitutional and statutory structure of maintenance, examines major judicial innovations, discusses the economic and social consequences of maintenance, discusses the issues that have afflicted its application, and provides some reform suggestions. The paper postulates that proper and gender sensitive maintenance regime is inevitable in enhancing economic autonomy of women, in implementing gender-based inequalities, as well as attainment of constitutional vision of equality, dignity and social justice.

2. Concept of Maintenance and Economic Empowerment

Maintenance is a court requirement which is used to enforce a person to support another dependent spouse, kid, or parent who cannot sustain herself or himself. When it comes to women, maintenance is intended to ensure that they are not faced by economic hardship due to separation, divorce, desertion or domestic violence. It makes women able to maintain their low-level needs and dignified lifestyle.⁸

Economic empowerment is the capacity of a woman to earn, manage, and spend money autonomously. It empowers women to engage in economic decision making and decreases their reliance on others. Maintenance also adds to this empowerment process where at the vulnerable times, financial security is offered thus enabling women to access opportunities to education, health, shelter, and livelihood.

In this way, maintenance is not just another welfare measure but a means of creating gender equality and social justice. Maintenance laws elevate the dignity of women, their independence, and their active and meaningful roles in society since women are prevented against financial instability.⁹

3. Constitutional Framework for Women's Financial Security

The Constitution of India gives the basis of safeguarding the women of their financial rights

⁷ Flavia Agnes, *Family Law and Constitutional Claims* 148–156 (Oxford University Press, 2011).

⁸ Paras Diwan, *Modern Hindu Law* 365–370 (Allahabad Law Agency, 26th ed., 2023).

⁹ N.R. Madhava Menon, *Law and Social Justice* 112–118 (Eastern Book Company, 2005).

and ensuring gender equality. Article 14 ensures equality under the law whereas Article 15(3) gives the State the power to accord any special attention to women and children. Article 21 guarantees the right to life and personal liberty and this has been interpreted judicially to mean the right to live with dignity.¹⁰

The constitutional framework is further thrown into strength by the Directive Principles of State Policy. Article 38 urges the State to eliminate social injustices, Article 39(a) guarantees the right to a sufficient means of livelihood, Article 39(d) promotes the creation of equal pay to equal work and Article 39(e) aims at safeguarding the health and wellbeing of females. Also, Article 41 invites the State to, in instances of unemployment, old age, sickness and other needy situations, offer public assistance.¹¹

All these provisions of the constitutional supporting maintenance laws acknowledge the financial security as a key part of women dignity, equality, and social justice. They lead legislative as well as judicial interpretation undertaken to protect women who are economically vulnerable.

4. Legal Framework Governing Maintenance in India

India has a well developed legal system of the right to maintenance of women. The secular and personal laws acknowledge maintenance as a right as well as a duty though on the individual who is supposed to offer financial aid.¹²

The Bharatiya Nagarik Suraksha Sanhita, 2023 offers a summary solution where wives and children, as well as parents, who cannot support themselves, are entitled to maintenance. The idea behind the provision is to avoid the state of destitution and to guarantee prompt financial aid.¹³

Hindu wives are accorded the right under the Hindu Adoptions and Maintenance Act, 1956 to demand maintenance by the husband in the event of marriage under certain conditions. In a similar spirit, the Hindu Marriage Act, 1955 has provisions of interim maintenance in

¹⁰ Constitution of India, arts. 14, 15(3) & 21; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹¹ Constitution of India, arts. 38, 39(a), 39(d), 39(e) & 41.

¹² Paras Diwan, *Modern Hindu Law* 365–382 (Allahabad Law Agency, 26th ed., 2023).

¹³ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 144.

matrimonial proceedings and permanent alimony in case of divorce or judicial separation.¹⁴

The Protection of Women from Domestic Violence Act, 2005 keeps women financially secure as it empowers courts to grant women financial relief through monetary right such as maintenance due to domestic violence. Maintenance rights are also recognized by personal laws that address the Muslim, Christian and Parsi faiths, but the extent and terms of applicability differ among various legal systems.¹⁵

All these laws are in place to make sure that women are not disempowered to live without financial aid and live in dignity after some conflicts in marriage or family.

5. Maintenance Laws from a Multidisciplinary Perspective

The laws governing maintenance cannot be interpreted on a legal perspective alone. They have tremendous economic, social, and policy consequences which directly impact the lives of women.

In law, maintenance is a legal right which secures women against economic deprivation and access to justice. Courts have defined maintenance as a way of social justice as opposed to charity.

Economically, maintenance gives economic stability to women who do not have their own income. It assists in the fulfillment of the basic needs like food, shelter, health and education, thus, decreasing the reliance on the economy.¹⁶

The sociological approach to maintenance is used to deal with inequality of the unpaid domestic and caregiving work that sometimes restricts the earning potential of women. It appreciates the economic importance of the role of women in the family.

Gender wise, maintenance enhances substantive equality, the dignity of women, and provides women with autonomy as frustrated by separation, divorce, and so on.

Lastly, in terms of the public policy, a proper execution of the maintenance laws helps in poverty eradication, empowerment of women and constitutional objectives of equality and

¹⁴ Hindu Adoptions and Maintenance Act, 1956, ss. 18–20; Hindu Marriage Act, 1955, ss. 24–25.

¹⁵ Protection of Women from Domestic Violence Act, 2005, s. 20.

¹⁶ Amartya Sen, *Development as Freedom* 87–110 (Oxford University Press, 1999).

social justice.¹⁷

6. Judicial Trends and Landmark Decisions

The Indian judiciary has shown a strong contribution in fortifying the right of women to maintenance by adopting progressive interpretation of the statutory provisions. The courts have always believed some social justice to be maintained through maintenance so as to take care of women not experiencing financial difficulties and provide them with a decent standard of living.¹⁸

In *Mohd. In Ahmed Khan v Shah Bano Begum* (1985) the Supreme Court recognised that a divorced Muslim woman is entitled to claim maintenance, but underlined that the aim of maintenance laws is to avoid destitution. However, in *Danial Latifi v. Union of India* (2001) the Court declared the Muslim Women (Protection of Rights on Divorce) Act, 1986, to be constitutionally valid, but interpreted it to mean that divorced Muslim women would be adequately financially cared of.¹⁹

One of the greatest advances was made in *Rajnesh v. Neha* (2020), as the Supreme Court offered comprehensive principles in calculating maintenance. The Court ordered parties to share their financial assets and liabilities, discouraged several maintenance proceedings, and established consistent principles to compute maintenance. These rules have enhanced uniformity and transparency on maintenance adjudication.²⁰

Such judicial cases prove that maintenance is not only a legal right, but a valuable tool to uphold the dignity of women, their economic and constitutional rights.²¹

7. Challenges in Ensuring Women's Financial Security

Although there is an elaborate legal framework, realisation of maintenance laws is still fraught

¹⁷ Constitution of India, arts. 38, 39 & 41; Sustainable Development Goal 5: Achieve Gender Equality and Empower All Women and Girls, United Nations (2015).

¹⁸ *Bhuwan Mohan Singh v. Meena*, (2015) 6 SCC 353.

¹⁹ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; *Danial Latifi v. Union of India*, (2001) 7 SCC 740.

²⁰ *Rajnesh v. Neha*, (2021) 2 SCC 324.

²¹ *Shailja v. Khobbanna*, (2018) 12 SCC 199.

with a number of challenges. Delay in disposal of maintenance applications is one of the greatest problems as the women are sometimes left without decent financial assistance. Maintenance is not a long-term solution because of prolonged court proceedings.

The second difficulty is that it is hard to determine the right level of maintenance to grant since respondents can hide their income. Women also encounter problems to enforce maintenance orders in most cases, owing to the failure to comply with the orders by the responsible party.

Most women are dishearten by the absence of legal wise, financial reliance and social stigma to seek maintenance in the ordinance of law. It is especially susceptible to women who work in informal sector or do unpaid domestic work since their economic input is estimated.²²

The response to these issues is ensuring quick court resolution of cases, proper enforcement systems, improved legal cognizance, dotted maintenance order monitoring digitally, and judicial processes with gender sensitivity. Such reforms can make sure maintenance laws are effective at ensuring women have a degree of financial security and economic empowerment.

8. Comparative Perspective

Some of the nations have come up with good maintenance legislation to guarantee women of economic stability following a marital collapse. In the United Kingdom the courts put in place maintenance by taking into account the income of the spouses, their earning capacity, the necessity of financial provisions, and the standard of living of the spouses. Canada We have the Divorce Act in which the spousal maintenance is all about fairness and economic self-sufficiency. In a similar manner, Australia has the concept of spousal maintenance where one partner is incapable of supporting the other plus their own self and the other partner can support his/her.²³

The Indian legal system has several statutory solutions provided by both secular and personal laws compared to these jurisdictions. Nonetheless, some setbacks like the delay of litigation process, unreliability in terms of maintenance relief and implementation of the court order

²² Flavia Agnes, *Family Law and Constitutional Claims* 148–156 (Oxford University Press, 2011).

²³ Matrimonial Causes Act, 1973 (UK), c. 18, ss. 23–25; *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.) (Can.); *Family Law Act* 1975 (Cth) ss. 72–75 (Aust.).

remain a sensitive issue to the effectiveness of such legislations.²⁴

India can learn something by examining the experience of other countries in this field to better its maintenance regime: by adhering to common rules, quicker dispute resolution, increased implementation of maintenance orders, and increased financial assistance to economically vulnerable women.²⁵

9. Recommendations

To enhance the financial autonomy of women, the maintenance statutes must be more effectively put in place by introducing rigorous legal, judicial and institutional changes. One, the maintenance applications ought to be determined within a designated period so that there is financial alleviation at the appropriate time and future extended court battles can be minimized. Second, mandatory disclosure of income, assets, and liabilities should be effectively enforced in courts in order to identify fair, realistic and transparent maintenance amounts.

Digital technology should be utilized in filing applications, tracing of cases and granting of maintenance orders to enhance efficiency and limit delays in procedures. Free legal aid, legal literacy Initiatives, and awareness programmes also need to be beefed up so that the poor women in the society possess the technical ability to exercise the rights stipulated by law without the fear of being socially stigmatized or lack of finances.

Besides, maintenance laws ought to follow the same criteria in determining maintenance in various personal laws without undermining the constitutional values of equality, dignity and justice. Maintenance should be coupled with skill development, employment opportunities, vocational training, as well as financial literacy programs, to allow the women to become long-term economically independent, instead of financially dependent. More co-ordination needs to be done between courts, legal aid authorities and social welfare institutions to enable maintenance orders to be impactfully implemented.

Such steps will help in ensuring that maintenance laws are more effective in enhancing the dignity of women, their financial stability, gender equality, and empowerment in a sustainable

²⁴ Paras Diwan, *Modern Hindu Law* 365–382 (Allahabad Law Agency, 26th ed., 2023).

²⁵ *Ibid.*

economy.

10. Conclusion

The law on maintenance is crucial in ensuring that women are not faced with economic insecurity and that they have a right to live and maintain a dignified life. They have transformed beyond being simply welfare-based provisions to significant tools of gender justice, social protection and economic empowerment. As they support financially those women, who cannot sustain themselves, these laws encourage equality, social justice, and financial stability and lessen economic reliance. They also identify the economic worth of the unpaid domestic work and care giving roles and this ascertains the role of the woman as an equal partner in the family and society.

There is a developed legal system in place in India, to maintain the system of the Bharatiya Nagarik Suraksha Sanhita, 2023, personal laws, and other welfare act. The rights have been enhanced further by judicial decisions that have adopted a rights-based approach in their consideration of cases that focus on dignity, fairness, and access to justice. Non-mettedness, however in litigation, variation in maintenance awards, insufficient enforcement of court orders, non-disclosure of income by those who are responding, and legal but poor knowledge have continued to maim the effectiveness of such laws. These real-life crises usually expose the deserving women to not getting the right and opportunity to support them financially in a timely manner which undermines the intent of maintenance provision.

The multidisciplinary approach shows that the concept of maintenance is not the sole legal solution, yet also one of many economic, social, and public policy strategies that works wonders in the economic security of women and their well-being. It is significant in poverty reduction, financial inclusion, gender equality, and empowering women to engage more in their social and economic lives. The maintenance laws can also be effective to mitigate the vulnerability of women after a separation, divorce or domestic violence by providing them with a reasonable standard of living and financial independence.

The enforcement of laws, effective enforcement systems, digital technology, financial literacy, higher legal awareness” and institutional concertation of laws can all be employed to strengthen its implementation that can help ensure that maintenance laws serve their purpose of empowering women. The application of uniform rules on the occurrence of maintenance,

timely disposition of cases and strict implementation of orders on maintenance are also critical towards enhancing the current legal framework. Finally, a good and gender responsive maintenance regime will add to the constitutional dream of equality dignity and social justice and inclusive socio-economic growth. A framework like this will make women capable of living their own lives, engaging readily in economic pursuits and making a significant contribution to the overall growth and a sustainable development of society.