

# **ALIMONY AND EQUALITY: THE FORGOTTEN STRUGGLES OF MEN IN INDIA'S MAINTENANCE LAWS**

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## **Abstract:**

The discourse on maintenance and alimony in India has historically revolved around protecting the rights of women, rooted in a socio-legal context that presumed women to be financially dependent and socially disadvantaged. However, the evolving paradigms of gender roles, economic participation, and equality before the law demand a more inclusive analysis that also addresses the overlooked struggles of men in maintenance-related matters. This article critically examines the asymmetrical nature of India's maintenance laws that often leave men—particularly those who are economically weaker or abandoned—without adequate legal or social recourse.

The article begins by tracing the Introduction of alimony laws in India, originally framed to safeguard women post-separation, and how the narrative has remained largely one-sided. In the section on the Emerging Discourse on Gender-Neutrality, the paper explores the increasing calls for reform in family laws to reflect constitutional values of equality and non-discrimination. This shift necessitates re-evaluating the position of men, particularly in matrimonial disputes involving maintenance claims.

The paper further explores the Dilemmas Faced by Men in the Evolving Scenario, including the psychological, legal, and social challenges they encounter. Under the heading Legal Frameworks, the article analyzes key statutes like Section 125 CrPC, Hindu Marriage Act, and the Protection of Women from Domestic Violence Act, 2005, and examines their gender-specific biases. The section on Conditions for Husbands to Claim Alimony highlights the rare but significant instances when men are eligible for maintenance and the evidentiary burdens placed upon them.

Beyond the legalities, the paper discusses Practical and Social Barriers for Men, such as societal ridicule, lack of awareness, and institutional apathy, which compound their struggles. In response, the article offers Practical Solutions including legal reforms, sensitization of judiciary and legal practitioners, and the establishment of support structures for men. The Challenges and Impacts section assesses the societal resistance to acknowledging male vulnerability and the broader implications of ignoring such issues. A Comparative Analysis of Maintenance Structures in other jurisdictions provides a global perspective, highlighting more gender-neutral approaches adopted in countries like the UK, USA, and Canada.

The article concludes by asserting that true equality cannot be achieved without acknowledging and addressing the legitimate concerns of men, and that alimony laws must be revisited to ensure fairness, justice, and gender-neutrality in practice as well as in principle.

**Keywords:** Alimony, Equality, Gender-neutrality, Maintenance, Men's Rights.

## INTRODUCTION

- Original Intent of Alimony Laws

India's alimony and maintenance legislation, including Section 125 of the Criminal Procedure Code, 1973 (S. 144 BNSS, 2023) and Section 24 of the Hindu Marriage Act, 1955, was established as social welfare law to prevent the impoverishment of women and children who have traditionally been marginalised in financial matters. The measures aimed to uphold the fundamental guarantees of equality, as stated in Article 14, and non-discrimination, as outlined in Article 15 of the Constitution of India, ensuring women the right to live with dignity throughout marital disputes. Section 125 of the CrPC, 1973 (S. 144 BNSS, 2023) explicitly mandates maintenance for women who cannot sustain themselves, illustrating the judiciary's commitment to rectifying gendered economic disparities.

## THE GENDER-NEUTRAL SHIFT: EMERGING NARRATIVES IN LAW, LANGUAGE, AND SOCIETY

Recent judicial interpretations, including *Rajnish v. Neha*<sup>1</sup> and *Chanda Rathod v. Prakash Singh Rathod*<sup>2</sup>, have underscored the gender-neutral application of maintenance provisions under Section 24 of The Hindu Marriage Act, 1955 (hereinafter referred to as HMA), whereby both spouses qualify for maintenance. This transition aligns with the critique of laws such as Section 125 of the CrPC, 1973 (S. 144 BNSS, 2023), which, while crucial for women's welfare, have been purportedly misused, prompting demands for equitable initiatives. The Hindu Succession (Amendment) Act, 2005, which conferred equal coparcenary rights to daughters, underscores the evolving legal culture in India towards equality.<sup>3</sup>

## REDEFINING MASCULINITY: MODERN DILEMMAS IN A CHANGING WORLD

Despite progress, men encounter systemic challenges, including the exploitation of gender-specific laws such as Section 498A of the IPC, 1860 (anti-dowry) (S. 85 of BNS, 2023) and Section 125 of the CrPC, 1973 (S. 144 BNSS, 2023), which can lead to false allegations resulting in financial and reputational damage. Judicial precedents, including Sub-Section 4 of Section 125 CrPC, 1973 (S. 144 BNSS, 2023), deny maintenance to spouses engaged in adultery while imposing the responsibility on husbands, so complicating the pursuit of relief. Moreover, family courts automatically assume maternal custody and paternal maintenance, so marginalising men's rights in divorce proceedings, despite the existence of gender-neutral statutes such as Section 24 HMA. These challenges highlight the tension between protective measures for women and the growing demands for equitable procedural safeguards.

## BEYOND THE BLACK LETTER: EVOLVING LEGAL FRAMEWORKS IN A CHANGING WORLD

A monetary payment from one spouse to the other upon divorce or separation is termed alimony, spousal support, or maintenance. The Hindu Marriage Act of 1955 is a significant legislation that regulates alimony law in India, alongside other personal regulations. Alimony has conventionally been understood as spousal maintenance post-divorce, predominantly benefiting women. The patriarchal family structure established by Indian law has historically conferred exclusive authority to men regarding inheritance and guardianship, hence constraining women's rights. However, this is evolving due to legal changes and landmark judicial rulings, such as *Vineeta Sharma v. Rakesh Sharma*<sup>4</sup>, in which the Supreme Court granted daughters equal coparcenary rights in joint family property under Hindu law, marking a significant advancement in gender equality within family law. Furthermore, the legal system now recognises that husbands may be entitled to alimony under specific circumstances.

<sup>1</sup> *Rajnish v. Neha*, MANU/SC/0833/2020.

<sup>2</sup> *Chanda v. Prakash Singh*, MANU/MH/3303/2022

<sup>3</sup> Law Crust Legal Consulting Services, Can Husband Get Alimony in India? A Complete Guide to Alimony Laws in India, Law Crust (Feb. 10, 2025), <https://lawcrust.com/husband-alimony-in-india/>.

<sup>4</sup> *Vineeta Sharma v. Rakesh Sharma*, MANU/SC/0582/2020

Sections 24 and 25 of the Hindu Marriage Act, 1955, address alimony and maintenance claims, including stipulations for both interim and permanent alimony. Section 24 permits either spouse to request support throughout the divorce proceedings, while Section 25 provides for permanent alimony following the divorce. Despite Section 25 of the HMA being gender-neutral, the perception persists that women are inherently the primary claimants. The Special Marriage Act is progressive in that both spouses are entitled to alimony, although it is seldom requested by men. What, then, pertains to the other personal laws?

Law/Act	Who Can Claim Maintenance ?	Gender-Neutral?	Key Features & Trends
<b>Hindu Marriage Act, 1955</b> <sup>5</sup>	Husband or Wife	Yes (Sec. 24, 25)	Section 25 is gender-neutral, but women are usually claimants; courts now recognize husbands' rights in rare cases.
<b>Muslim Law</b> <sup>6</sup>	Wife (Husband cannot claim)	No	Husband must maintain wife during marriage and iddat; after iddat, only if she cannot maintain herself, from relatives or Waqf Board. <i>Danial Latifi v. Union of India</i> upheld maintenance beyond iddat in certain circumstances.
<b>Indian Divorce Act, 1869</b> (Christian) <sup>7</sup>	Wife (Sec. 36, 37)	No	Maintenance for wife during and after divorce, based on husband's capacity and wife's needs.
<b>Special Marriage Act, 1954</b> <sup>8</sup>	Husband or Wife	Yes (Sec. 36, 37)	Either spouse can claim, but men rarely do in practice.

## WHEN HE SEEKS SUPPORT: LEGAL GROUNDS FOR HUSBANDS CLAIMING ALIMONY

Husbands pursuing alimony in India must demonstrate specific criteria, such as. If the wife possesses a significantly greater earning potential than the husband, he may pursue maintenance. In *Rajnish v. Neha*<sup>9</sup>, the Supreme Court ruled that maintenance is not determined by gender, and both spouses must disclose their income and assets. The earning and financial capacities of both parties are crucial in determining maintenance obligations. The Court affirmed that the dependent spouse must not be relegated to a state of poverty, and that the applicant's needs, the respondent's income, and the marital quality of living must all be taken into account.

**Spousal Property Ownership:** Comparable examples suggest that if a wife possesses substantial property and her husband lacks the financial capacity to manage it, he may seek alimony.

If a physical or mental impairment exists, and the husband has a condition that impedes his ability to produce income, he may qualify for alimony from his wife. In *Rafeeq v. Summayya*<sup>10</sup>, it was determined that a physically disabled husband cannot be absolved of his statutory obligation to provide maintenance to

<sup>5</sup> The Hindu Marriage Act, 1955, No. 25, Acts of Parliament, 1955 (India).

<sup>6</sup> Muslim Personal Law (Shariat) Application Act, 1937, No. 26, Acts of Parliament, 1937 (India).

<sup>7</sup> Indian Divorce Act, 1869, No. 4, Acts of Parliament, 1869 (India).

<sup>8</sup> Special Marriage Act, 1954, No. 43, Acts of Parliament, 1954 (India).

<sup>9</sup> *Rajnish v. Neha*, MANU/SC/0833/2020.

<sup>10</sup> *Rafeeq v. Summayya*, MANU/KE/2202/2015

his wife and children under Section 125 of the CrPC, 1973 (S. 144 BNSS, 2023) unless it is demonstrated that he became entirely incapable of performing any form of work or business for their sustenance after marriage.

**Mutual Consent Divorce with Defined conditions:** In a mutual consent divorce, both parties can independently negotiate the alimony payment conditions.

### **BREAKING THE SILENCE: UNSEEN PRACTICAL AND SOCIAL BARRIERS FACED BY MEN**

Men encounter entrenched societal biases that associate seeking assistance with frailty or an incapacity to fulfil conventional "breadwinner" responsibilities. This reputation deters males from pursuing legal action, even when justified.

In *Nivya V.M. v. Shivaprasad N.K.*<sup>11</sup>, it has been determined that a husband cannot be freed from paying maintenance to his wife unless he demonstrates persistent incapacity to earn income. The identical logic should be implemented when a spouse seeks maintenance from his wife. A husband's claim for maintenance from his wife should be considered an extraordinary circumstance, given that it is typically his obligation to provide for her, whereas the reverse situation is seen unusual.

Gender discrimination against males seeking maintenance is seen in precedents requiring them to demonstrate complete disability to be excused from maintenance payments. Gender roles and societal expectations predominantly favour women, resulting in minimal consideration for men receiving maintenance. Ultimately, the question is whether the spouse would be absolved from the obligation to provide maintenance, which is a significant concern for gender equality.

In the context of the Indian legal framework for maintenance recovery, it is essential to note that Section 125 of the CrPC, 1973 (S. 144 BNSS, 2023) mandates that a man is obligated to provide maintenance for his wife, children, and parents who are unable of self-support. Consequently, even if the wife makes little income, the husband remains obligated to provide her with financial support.

### **TURNING IDEAS INTO ACTION**

To accomplish this and outline the steps needed, one should-

1. **Consult a Qualified Family Lawyer:** Obtain professional advice from a competent family attorney to understand your legal rights and entitlements about alimony.
2. **Collect Evidence:** It is imperative to provide evidence that substantiates your financial reliance. This may involve medical data, financial information, or further corroborative documentation.
3. **Initiate Legal Proceedings:** Upon obtaining adequate evidence, it is imperative to file for alimony by submitting the requisite documents to the court.

During divorce litigation, it is important that there be complete transparency regarding the financial conditions of both parties. Financial affidavits, notarized statements containing information on income, assets, expenses, and debts, are an essential tool in family law cases since they allow the court to make just decisions regarding alimony, property division, and support. Adequate financial disclosure, accompanied with supporting documents such as tax returns and bank statements, ensures that both spouses are dealt with fairly and maintenance is decided by the actual financial condition of both parties.

### **BARRIERS AND BREAKTHROUGHS**

#### **1. Statutory Gaps**

Indian personal laws have historically been based on the presumption that only women need economic support when divorced, leaving wide gaps for men who wish to seek maintenance.

**Muslim Law:** Traditional Muslim law and the Muslim Women (Protection of Rights on Divorce) Act, 1986

<sup>11</sup> *Nivya V.M. v. Shivaprasad N.K.*, MANU/KE/0701/2017

provide maintenance only to wives and usually for the period of the iddat. Secondly, no provision exists under which a Muslim husband, even in economic hardship, can seek maintenance from his wife. Recent Supreme Court judgments have upheld the stance that divorced Muslim women are entitled to recovery of maintenance under Section 125 of the CrPC, 1973 (S. 144 BNSS, 2023) but not men.

Christian Divorce Act, 1869: The Indian Divorce Act permits wives, but not husbands, to seek maintenance. The Special Marriage Act of 1954 includes Sections 36 and 37, which are gender-neutral and theoretically permit either spouse to petition for alimony; nonetheless, in practice, men's cases are extremely uncommon. The lack of a single code of civil law means that the laws regarding maintenance are dispersed and non-uniform and are biased towards upholding gendered presumptions and excluding men from relief under most personal laws.

## **2. Judicial Hesitance**

Even in gender-neutral legislation (e.g., Section 24 and 25 of the Hindu Marriage Act and the Special Marriage Act), courts are slow to direct maintenance to men. Courts also insist on men establishing absolute inability to earn, e.g., disability or involuntary unemployment, and subject such claims to more searching scrutiny than women's claims. The Supreme Court and High Courts, as a general rule, have made a point of upholding the expectation of men as providers, not claimants.

## **3. Societal Backlash**

Men who come for maintenance are socially stigmatized.

Stigmatization: Traditionally, men are expected to be breadwinners; males who ask for maintenance are normally stigmatized as weak or incompetent, ridiculed by society and, in some instances, by the justice system as well. Because of fear of social stigma and loss of social status, very few males ever seek their legal entitlement to maintenance, even when they are legally entitled. Estimates of men being awarded alimony are usually presented as surprising or rare, further reinforcing the idea that spousal support is only for women.

## **A COMPARATIVE ANALYSIS OF MAINTENANCE STRUCTURES**

- United Kingdom: Matrimonial Causes Act 1973

UK statutory law under Matrimonial Causes Act 1973 §25 mandates courts to consider:

1. Earning capacity of both parties
2. Financial obligations/needs
3. Standard of living during marriage
4. Age and marriage duration
5. Physical/mental disabilities
6. Contributions to social welfare

That is consistent with India's *Rajnish v. Neha*<sup>12</sup> rules requiring disclosure of assets/liabilities, but UK courts favorably consider future earning capacity by way of retraining programs.

- California Family Code §4330 -

California's gender-neutral policy under §4330 centres on

1. transition benefits during the "self-sufficiency transition period."
2. Marketable skills assessment
3. Time taken for training/education

This contradicts India's Section 24 HMA need-based policy. But California's 50% marriage- duration support limit (in the case of marriages of less than 10 years) has Indian Section 13B HMA mutual consent divorce counterparts.

## **CONCLUSION**

Although the Indian legal system already allows men to seek alimony and maintenance in specific

<sup>12</sup> *Rajnish v. Neha*, MANU/SC/0833/2020.



circumstances, substantial practical and societal obstacles remain. The evidentiary burden on males remains substantial, and inherent gender biases—both in legal frameworks and societal views—continue to obstruct equitable access to remedy for deserving husbands. Legal reforms have been fragmented and inconsistent, with personal laws exhibiting significant disparities in approach, and many still completely denying remedy to men. Consequently, while gender neutrality in family law is articulated in many statutes, it remains largely aspirational rather than actualised. To advance towards genuine equality, it is essential to cultivate awareness of men's rights, pursue comprehensive legislative reform, and establish a legal culture that evaluates each case based on its unique circumstances rather than outdated prejudices. Support groups, transparent financial disclosure, and gender-sensitive judicial orientation are essential advancements. Justice, akin to a river, must circulate unimpeded and equitably for all; when obstructed by prejudice, society as a whole endures a deficiency of equality.