
UNIFORMITY IN MAINTENANCE: AN ANALYSIS OF PERSONAL LAWS, CIVIL LAWS AND THE NEW LEGAL FRAMEWORK UNDER BNSS

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ABSTRACT

This paper explores India's multi-layered legal framework on maintenance, where religion specific personal laws operate alongside a common, secular procedural system. It traces the statutory foundations under Hindu law, the Hindu Marriage Act, 1955, and the Hindu Adoptions and Maintenance Act, 1956 and the provisions under Muslim personal law, particularly the Muslim Women (Protection of Rights on Divorce) Act, 1986. The study also undertakes a comparative evaluation of Section 125 of the Code of Criminal Procedure, 1973 and its successor, Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, with special emphasis on reforms such as mandatory time-bound disposal of applications. A key focus is the harmonizing effect of the Supreme Court's judgment in *Rajnesh v. Neha* (2020), which attempted to streamline procedures, address jurisdictional overlaps, and introduce uniformity in maintenance determinations. The paper further critiques the gendered nature of the current system, analyzes the broadened protections available under the Protection of Women from Domestic Violence Act, 2005, and assesses the persistent enforcement hurdles, especially in cases involving transnational parties.

Introduction

Maintenance of women, children, and parents is a subject of great concern for all. Maintenance, within the framework of Indian jurisprudence, is fundamentally defined as the financial support one person is legally obligated to provide to another, ensuring their well-being and established standard of living. This obligation extends beyond mere subsistence, encompassing necessities such as food, clothing, shelter, medical care, and, where applicable, education. The legal recognition of maintenance statutes is rooted deeply in constitutional values, primarily serving the objective of preventing destitution and vagrancy among vulnerable dependents. By compelling individuals with "sufficient means" to financially support those unable to maintain themselves, the law guarantees that the claimant's right to live with dignity, enshrined under Article 21 of the Constitution, is protected. This establishes maintenance not merely because of a broken marriage or familial dispute, but as a mandatory social obligation enforced by the state.

In the case of *Vimala v. Veeraswamy*¹. The Supreme Court noted that the provision, which aims to provide basic, quick, but restricted relief, aims to prevent the neglected wife and children from becoming impoverished and being forced to turn to a life of prostitution, immorality, or criminality to survive.

In *Chaturbhuj v. Sitabaji*,² the Court articulated the purpose of maintenance provisions with notable clarity. It emphasized that the aim of maintenance proceedings is not to punish an individual for past neglect, but to prevent destitution and vagrancy by ensuring that those capable of providing support do so for dependents who have a legitimate moral and legal claim. The judgment highlighted that maintenance laws are designed to offer a swift and effective remedy, securing essential necessities such as food, clothing, and shelter for a deserted wife. Importantly, the Court underscored that these provisions reflect both fundamental rights and the natural obligation of an individual to maintain their spouse, children, and parents when they are unable to support themselves.

Overview of India's Legal Pluralism

India's maintenance framework functions within a deeply pluralistic legal system, shaped by

¹ *Vimala (K) v. Veeraswamy (K)* [(1991) 2 SCC 375,

² (2008) 2 SCC 316; AIR 2008 SC 530; 2007 (12) SCR 577.

multiple sources of law that operate simultaneously. Broadly, the regime can be understood through three overlapping categories of legislation. The first consists of personal laws, which offer religion-specific civil remedies and define substantive rights and duties arising out of marriage and familial relationships. Statutes such as the Hindu Marriage Act, 1955, Muslim Women (Protection of Rights on Divorce) Act, 1986, Special marriage Act, 1954, and the Hindu Adoptions and Maintenance Act, 1956, illustrate this category.

The second category is formed by secular procedural laws, which provide a uniform, summary, and welfare-oriented mechanism for securing maintenance, irrespective of religious identity. Historically governed by Section 125 of the Code of Criminal Procedure, this remedy has now transitioned to Section 144 of the Bharatiya Nagarik Suraksha Sanhita, continuing its focus on preventing poverty, neglect, and destitution.

The third branch comprises special protective legislation, enacted to counter specific social harms such as domestic violence. The Protection of Women from Domestic Violence Act, 2005, is the most prominent example, incorporating monetary relief as an essential element of protection, rehabilitation, and empowerment.

The simultaneous operation of these diverse statutes has often produced overlapping jurisdictions, parallel proceedings, and occasionally conflicting orders. This structural complexity has posed persistent systemic challenges, prompting the Supreme Court to intervene repeatedly to harmonize principles, reduce inconsistencies, and streamline the functioning of the maintenance regime.

Historical Background and Evolution

Historically, maintenance obligations in India were dictated by customary and religious principles, viewing financial support as an inherent moral duty rather than a strict legal right. In Hindu customary law, the duty of a man to maintain his wife, minor children, and aged or infirm parents was considered an integral part of the patriarchal family structure. In Muslim law, the concept of Nafqah prescribed financial provision for food, clothing, and housing, primarily centered on the husband's obligation during the subsistence of the marriage and the immediate post-divorce period known as iddat. Similarly, in early Hindu society, the duty to maintain dependents particularly wives, children, and aged parents was recognized as both a sacred and moral obligation. Texts like the Manusmriti and Dharmashastra emphasized the

responsibility of the family's earning male member to support those unable to sustain themselves.

During the colonial period, the British administration began codifying personal laws, leading to clearer statutory recognition of maintenance across communities. However, disparities persisted because each personal law evolved within its own religious framework. To address widespread destitution and social neglect, the colonial government introduced a uniform criminal remedy under Section 488 of the Code of Criminal Procedure, 1898, which later evolved into Section 125 of the CrPC, 1973. This secular provision marked a major shift, ensuring that the right to claim basic maintenance was independent of religious affiliation.

Post-independence, the constitutional commitment to social justice and dignity further shaped the maintenance regime. Legislations like the Hindu Marriage Act, 1955, the Hindu Adoptions and Maintenance Act, 1956, the Indian Divorce Act, 1869 (as amended), and the Muslim Women (Protection of Rights on Divorce) Act, 1986 expanded and clarified maintenance rights within personal laws. The Protection of Women from Domestic Violence Act, 2005 added another layer by recognizing maintenance as part of a wider framework of protection and rehabilitation for women facing abuse.

Over time, the judiciary has played a crucial role in harmonizing this pluralistic system, emphasizing that maintenance is not merely a personal law remedy, but a constitutional entitlement linked to the right to live with dignity under Article 21. Landmark judgments, culminating in *Rajnish v. Neha* (2020), have attempted to streamline procedures and reduce conflicts arising from multiple forums.

Maintenance under Different laws

1. Maintenance under Personal Laws

A. Hindu Laws

(I) Hindu Marriage Act, 1955

The Hindu Marriage Act, 1955 (HMA) provides a comprehensive statutory framework for granting maintenance to spouses during matrimonial disputes. Unlike the Hindu Adoptions and Maintenance Act, 1956, which recognizes broader familial obligations, HMA deals

specifically with the rights arising out of marital relationships. Its focus is on ensuring financial support to a spouse who is unable to maintain themselves during ongoing proceedings or after the dissolution of marriage.

1. Section 24 – Temporary (Interim) Maintenance and Expenses of Proceedings

Section 24 empowers the court to grant interim maintenance to either spouse, husband or wife during the pendency of matrimonial proceedings.

Key elements include:

- Applicable when either spouse has no independent income sufficient for their support.
- The court may order the other spouse to pay monthly maintenance pendente lite and litigation expenses.
- The provision is gender-neutral, reflecting the principle of financial fairness during litigation.
- The purpose is to prevent economic disadvantages from impairing access to justice.

2. Section 25 – Permanent Alimony and Maintenance

Section 25 provides for permanent alimony, which may be granted:

- At the time of passing the decree, or
- At any time after the decree.

3. Key Principles Shaping Maintenance under HMA

- **Gender-neutrality:** Both husband and wife can seek maintenance, though claims by husbands require strong proof of lack of income.
- **Standard of living:** The aim is to help the claimant maintain a lifestyle reasonably similar to what they enjoyed during marriage.
- **Conduct and fault:** Although the Act is largely reformatory, courts may consider

marital misconduct when fixing permanent alimony.

- **Supplementary nature:** Remedies under HMA can coexist with claims under HAMA, CrPC/BNSS, or PWDVA, although courts now try to avoid duplicity following the Rajnesh v. Neha guidelines.

4. Judicial Approach

Courts have consistently emphasized that maintenance under HMA is not punitive but protective, ensuring financial stability for the dependent spouse. The Supreme Court has underscored that the objective is to prevent hardship and secure dignity of life, reinforcing the constitutional vision of social justice.

(II) Hindu Adoption and Maintenance Act, 1956

The Hindu Adoptions and Maintenance Act, 1956 (HAMA) codifies the traditional Hindu duty to maintain dependents and places it within a statutory framework. HAMA provides a broader and substantive right of maintenance to various categories of dependents, including wives, children, elderly parents, and other relatives who are unable to sustain themselves.

1. Section 18 – Maintenance of Wife

HAMA recognizes the right of a Hindu wife to be maintained by her husband during her lifetime.

It says,

- She is entitled to reside separately and still claim maintenance if the husband:
 - o Is guilty of cruelty, o Deserts her, o Has another wife living, o Keeps a concubine, o Converts to another religion, or o Behaves in any manner that makes cohabitation unsafe or unreasonable.

NOTE: She loses the right only if she is unchaste or ceases to be Hindu.

This provision affirms the wife's substantive right to financial support independent of litigation.

2. Section 19 – Maintenance of Widowed Daughter-in-Law

- A Hindu widowed daughter-in-law can claim maintenance from her father-in-law if she cannot maintain herself.
- This right applies only if:
 - o She has no independent income, o No share in her husband's estate, and o The father-in-law has adequate means.

3. Section 20 – Maintenance of Children and Aged Parents One of the most important provisions in HAMA:

- A Hindu father and mother are entitled to maintenance from their children.
- Minor children must be maintained whether legitimate, illegitimate, married, or unmarried.
- A child can claim maintenance even after majority if he or she is unable to maintain themselves due to physical or mental abnormalities.

HAMA therefore formally recognizes the duty of children to support elderly parents.

4. Section 21 – "Dependents" Entitled to Maintenance

HAMA expands the circle of dependents who can seek maintenance. These include:

- widows of sons and grandsons,
- unmarried daughters,
- aged widowed mothers,
- illegitimate children,
- and another relative's dependent on the deceased Hindu.

This reflects the traditional ethos of joint family responsibility.

5. Section 22 – Obligation of Heirs to Maintain Dependents

- After a Hindu's death, his heirs inherit not only property but also the obligation to maintain dependents.
- The liability is proportionate to the share of property inherited.
- This ensures that vulnerable dependents are not left destitute due to the death of the primary breadwinner.

6. Section 23 – Criteria for Fixing Maintenance

Courts consider:

- Position and status of the parties,
- Reasonable wants of the claimant,
- Income and property of both parties,
- Number of dependents, and any special circumstances.

7. Section 24–28 – Special Provisions - These sections address:

- claims of dependents against joint family property,
- rights of claimants against transferees of property,
- and procedural aspects relating to enforcement.

Together, they ensure that maintenance obligations follow the property even when transferred.

B. Muslim Law

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

The Muslim Women (Protection of Rights on Divorce) Act, 1986 (MWPRD Act) was enacted in response to the Supreme Court's landmark judgment in *Mohd. Ahmed Khan v. Shah Bano*³

³ AIR 945, (1985) SCR (3) 844, (1985) SCC (2) 556, and 1985 SC 945

Begum (1985). While originally intended to limit the application of secular maintenance under Section 125 CrPC to divorced Muslim women, judicial interpretation has since expanded the Act's scope, ensuring greater financial protection.

The Act outlines the financial entitlements of a Muslim woman **after divorce**, focusing on a combination of mehr, iddat period maintenance, and reasonable future provision.

1. Section 3(1)(a) – Iddat Period Maintenance A divorced Muslim woman is entitled to:

- Reasonable and fair maintenance during the iddat period
- (which generally lasts three menstrual cycles or until childbirth).

This was initially interpreted as limiting the husband's liability to the short iddat period.

2. Section 3(1)(c) – “Reasonable and Fair Provision”

This is the most crucial provision, requiring the husband to make:

- A “reasonable and fair provision” for the future of the divorced woman,
- To be paid within the iddat period.

In *Danial Latifi v. Union of India* (2001), the Supreme Court held that:

- The provision is not confined to the iddat period.
- The husband must make a lump-sum or consolidated settlement sufficient to maintain the woman for her entire future, but it must be paid during iddat.

This interpretation ensures long-term financial security.

3. Section 3(1)(b) – Mehr (Dower)

The husband is also obligated to pay:

- All unpaid mehr agreed at the time of marriage.

Mehr is considered the woman's absolute right and becomes due immediately upon divorce.

4. Section 3(1)(d) – Return of Gifts and Properties

A divorced woman is entitled to the:

- Return of all properties,
- Jewellery,
- Money,
- Or other valuable items given to her during marriage by her relatives or the husband.

This protects the financial assets of the woman acquired before or during marriage.

5. Section 4 – Maintenance by Relatives and Wakf Board

If the woman cannot maintain herself after divorce and the husband has fulfilled his obligations, she may claim maintenance from:

- Her relatives who would inherit her property under Muslim law, and only if they have sufficient means.
- If they cannot support her, the State Wakf Board is obligated to provide financial assistance.

This creates a multi-layered safety net, though it is rarely invoked in practice.

6. Purposive Interpretation in *Danial Latifi v. Union of India* (2001)⁴

In *Danial Latifi*, the Supreme Court upheld the Muslim Women Act, 1986 but interpreted it purposively to protect divorced Muslim women from destitution. The Court held that “reasonable and fair provision” means the husband must provide a lump-sum settlement covering the woman's future needs, not just maintenance limited to the iddat period. Although the payment must be made within iddat, it must be sufficient for her long-term livelihood or

⁴ 2001 7 SCC 740

until she remarries. This interpretation ensured that the Act aligns with Articles 14 and 21, safeguarding a divorced Muslim woman's right to dignity and financial security.

C. Christian law

(I) Divorce Act, 1869.

The Divorce Act of 1869 governs the person who professes the Christian religion, and it provides for the maintenance of the wife by the husband. The Act recognizes the right of the wife to claim maintenance from her husband if she is unable to maintain herself, and the husband having sufficient means refuses or neglects to maintain her. The amount of maintenance depends on the financial position of the person who is bound to provide it. The court may order the husband to pay alimony to the wife, either as a lump sum or as a monthly allowance. The court may also order the husband to pay for the medical expenses of the wife. In certain circumstances, the court may grant permanent alimony to the wife.

Section 36 – Alimony Pendente Lite:

The wife can claim reasonable expenses and maintenance during the pendency of the divorce or judicial separation proceedings. The court considers the husband's income and the wife's needs.

Section 37 – Permanent Alimony:

After a decree of divorce, dissolution, or judicial separation, the court may grant the wife (and in some cases the husband) a monthly or lump-sum permanent alimony.

The amount depends on:

- Their incomes and properties
- Conduct of the parties
- Circumstances of the case

Duration:

Permanent alimony continues for life, unless the spouse receiving it remarries or the court

modifies the order.

Maintenance under Secular/Civil Law/Criminal Law:

A. Special Marriage Act, 1954.

The Special Marriage Act, 1954 (SMA) is a secular legislation allowing inter-faith and civil marriages in India. Along with matrimonial remedies, the Act contains provisions relating to maintenance for spouses during and after litigation. The scheme of maintenance under SMA is primarily found in Sections 36 and 37, which deal with interim alimony and permanent alimony respectively.

1. Section 36 -Alimony Pendente Lite (Interim Maintenance)

Section 36 empowers the wife to seek interim maintenance and litigation expenses during the pendency of proceedings under the Act.

This ensures that a financially dependent spouse is not disadvantaged during litigation.

- Only the wife can claim interim maintenance (unlike personal laws where husbands may sometimes claim).
- She must show no sufficient independent income to support herself or pay for litigation.
- The court awards an amount it considers **reasonable** based on:
 - o Husband's income
 - o Wife's needs
 - o Social status of the parties

Important Case Law:

- **Savitri v. Govind Singh Rawat, (1986) 4 SCC 337⁵**

⁵ Savitri v. Govind Singh Rawat, (1986) 4 SCC 337

The Supreme Court held that even if a statute is silent on interim maintenance, courts have inherent power to grant it to ensure justice.

Although this case arose under CrPC Section 125, it strengthened the idea that interim maintenance is a necessary relief, influencing courts interpreting Section 36 SMA.

2. Section 37 -Permanent Alimony and Maintenance

Section 37 deals with permanent alimony, which can be granted after the court passes a decree of:

- Divorce
- Judicial Separation
- Nullity of Marriage

The court may award maintenance in monthly payments or as a lump sum.

Factors Considered by the Court:

- Income and property of both spouses
- Conduct of the parties
- Standard of living
- Circumstances of the case
- Whether the wife has remarried

Modification / Cancellation

- The court may alter the amount if circumstances change.
- Maintenance is cancelled if the wife remarries or engages in adultery (similar to provisions in other matrimonial laws).

- **B. P. Achala Anand v. S. Appi Reddy, 2005⁶**

The Supreme Court held that the purpose of alimony is to ensure that a spouse is not left destitute after divorce.

Even though this case was in the context of matrimonial law generally, courts often apply its reasoning to Section 37 SMA matters.

- **Manish Jain v. Akanksha Jain, 2017 15 SCC 801⁷**

The Supreme Court held that:

- Maintenance is not a method to punish the spouse.
- The court must examine the financial capacity of both parties.

This principle guides maintenance decisions under SMA as well.

- **Kusum Sharma v. Mahinder Kumar Sharma,⁸ (Delhi HC, 2015 & 2017)**

This case introduced financial disclosure guidelines. Courts deciding maintenance under SMA rely on these guidelines to assess actual income and expenses before fixing alimony.

3. Relationship Between SMA and CrPC Section 125

Even if a spouse seeks maintenance under SMA, they can also claim under **Section 125 CrPC**, because:

- CrPC is a secular remedy
- It prevents vagrancy and destitution
- Relief under CrPC is quick and summary

⁶ B.P. Achala Anand v. S. Appi Reddy & Anr., (2005) 3 SCC 313

⁷ Manish Jain v. Akanksha Jain, 2017 15 SCC 801

⁸ Kusum Sharma v. Mahinder Kumar Sharma, 225 DLT 4
Kusum Sharma v. Mahinder Kumar Sharma 241 DLT 647

- ⁶ B.P. Achala Anand v. S. Appi Reddy & Anr., (2005) 3 SCC 313
- ⁷ Manish Jain v. Akanksha Jain, 2017 15 SCC 801

In Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav, 1988.⁹

The Supreme Court confirmed that personal law maintenance and CrPC maintenance operate independently.

B. Protection of Women from Domestic Violence Act, 2005

Maintenance under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) represents one of the most progressive and expansive financial protections available to women in India. Unlike personal laws or BNSS Section 144 (formerly CrPC 125), which focus narrowly on subsistence, the PWDVA introduces a broader concept of economic security, embedded within a rights-based framework designed to safeguard women from economic abuse and financial deprivation.

1. Statutory Basis: Section 20 – Monetary Relief

Section 20 of PWDVA empowers the Magistrate to grant “monetary relief” to the aggrieved woman. This relief includes:

- Maintenance for herself
- Maintenance for her children
- Medical expenses
- Loss of earnings due to violence
- Damages for destruction of property
- Any additional financial costs caused by domestic violence

⁹ Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav (AIR 1988 SC 6440)

This makes maintenance under PWDVA substantially wider than traditional maintenance provisions.

2. Immediate and Interim Maintenance (Section 23)

PWDVA allows the Magistrate to give interim maintenance even at the first hearing if the woman is facing an urgent financial crisis.

This is significant because:

- Women often leave their homes without money
- Many faces sudden loss of financial support
- Quick relief is essential for survival

This makes PWDVA one of the fastest avenues for securing maintenance.

3. Right to Reside + Maintenance = Protection From Homelessness

Under Section 17, every woman has the right to stay in the shared household.

Maintenance and residence orders often go together, ensuring:

- The woman is not evicted
- She is financially stable enough to live with dignity
- Abusive husbands cannot use money as a tool of control.

In Satish Chander Ahuja v. Sneha Ahuja ,2020,¹⁰

It was said, Wife can claim residence rights even in the house of in-laws if it qualifies as a shared household. This fundamentally strengthens financial protection because residence itself is a **form of economic security**.

¹⁰ Satish Chander Ahuja v. Sneha Ahuja is (2021) 1 SCC 414 or AIR 2020 SC 2483.

MAINTENANCE UNDER LIVE-IN-RELATIONSHIP

There is no specific statutory provision exclusively governing maintenance in live-in relationships in India. However, the Indian judiciary has progressively recognized the rights of women in such relationships, especially to prevent exploitation and destitution. Courts have consistently held that a woman in a live-in relationship may claim maintenance if certain legal and factual conditions are satisfied.

In *Badri Prasad v. Dy. Director of Consolidation*,¹¹ the Supreme Court acknowledged a longstanding live-in relationship of over fifty years as a valid union in the nature of marriage. The Court held that when a woman has been cohabiting with a man as his wife for a substantial period and is accepted as such by society, she is entitled to claim maintenance. Importantly, the Court clarified that the *duration of the relationship* is not the sole determining factor. Elements such as the stability of the union, financial dependence of the woman, social recognition, and the presence of children may also influence the right to maintenance.

Further clarity was offered in *D. Velusamy v. D. Patchaiammal*¹², where the Supreme Court laid down essential criteria for identifying a “relationship in the nature of marriage.” According to the Court:

1. The couple must present themselves socially as spouses.
2. Both partners must be of legal marriageable age.
3. They must be otherwise eligible to marry, i.e., neither partner should have a subsisting marriage.
4. They must have voluntarily cohabited and held themselves out to society as spouses for a significant period.

Only when these conditions are fulfilled can the woman claim maintenance under provisions like Section 125 CrPC (now Section 144 BNSS). Courts have reiterated that the purpose of

¹¹ [1979] 1 SCR 1

¹² (2010) 10 SCC 469.

criminal maintenance law is social justice, and it applies irrespective of religious or personal laws.

In *Lalita Toppo v. State of Jharkhand*¹³, the Supreme Court expanded the legal protection available to women in live-in relationships by holding that they are entitled to seek relief under the Protection of Women from Domestic Violence Act, 2005. The Court affirmed that a woman in a live-in relationship that qualifies as a domestic relationship can claim not just maintenance but also other civil reliefs such as residence orders, protection orders, and monetary compensation. Since the DV Act is a welfare statute aimed at safeguarding women from domestic abuse, its provisions apply even when the couple is not formally married.

Thus, through judicial interpretation, Indian law has evolved to ensure that women in genuine live-in relationships are not left without protection. Maintenance rights, though not explicitly codified, are enforceable through Section 144 BNSS, the Domestic Violence Act, 2005, and various landmark judicial decisions that recognize such relationships as akin to marriage under specific conditions.

C. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 creates a statutory obligation on children and relatives to provide maintenance to parents and senior citizens who are unable to maintain themselves. Maintenance under this Act is broader than traditional relief under BNSS/CrPC because it covers not only basic needs but also food, clothing, residence, medical treatment, and healthcare.

Parents or senior citizens may file an application before the Maintenance Tribunal, which is required to dispose of the case within 90 days. The Tribunal can order maintenance up to ₹10,000 per month (though many states have increased this limit through amendments). The Act allows interim maintenance, ensuring quick financial support.

Importantly, children including biological, adopted, stepchildren, and grandchildren are liable. Relatives who stand to inherit property are also responsible. The Act also penalizes abandonment and elder neglect.

¹³ (2018) 13 SCC 796 or AIR 2019 SC 128.

Key Case Law:

- **S. Vanitha v. Deputy Commissioner ,2020¹⁴**– Supreme Court held that the rights of senior citizens under this Act must be balanced with women’s residence rights under PWDVA.
- **Sube Singh v. District Magistrate, ,2005,¹⁵**– Recognized the duty of children to maintain aged parents, shaping later jurisprudence.

Thus, the 2007 Act creates a quick, welfare-oriented, and enforceable framework for protecting elderly parents and senior citizens from financial and emotional neglect.

D. Code of Criminal Procedure (CrPC), 1973

Section 125 of the CrPC is a secular, summary, and welfare-oriented provision designed to prevent destitution and vagrancy by providing quick financial relief to dependents. It applies irrespective of religion, making it one of India’s most accessible maintenance mechanisms.

Who Can Claim?

Under Section 125(1), maintenance can be claimed by:

- **Wife** (including divorced wife)
- **Minor children** (legitimate or illegitimate)
- **Major disabled children**
- **Parents** (mother and father)

Conditions

The claimant must prove:

1. They are unable to maintain themselves, and
2. The respondent has sufficient means but neglects or refuses to maintain them.

Nature of Relief

- Provides monthly maintenance for basic needs (food, clothing, shelter).
- Proceedings are summary, designed for quick disposal.
- Courts can award interim maintenance for immediate support.

Enforcement

If the husband/father disobeys the order:

- Court can issue a warrant, to
- Attach salary/property, or sentence from the defaulter to imprisonment (up to one month per default).

Key Case Laws

- **Mohd. Ahmed Khan v. Shah Bano Begum, 1985** – maintenance under criminal procedure is a **secular** remedy overriding personal law.
- **Shamima Farooqui v. Shahid Khan, 2015**¹⁴ – Maintenance must be realistic and consistent with the husband's actual income and status.
- **Rajnesh v. Neha ,2020**– Supreme Court laid down uniform guidelines: mandatory disclosure of income, avoidance of overlapping orders, and timely disposal.

Amendment

The 2001 amendment to the Code of Criminal Procedure (Amendment) Act, 2001, introduced several changes to the maintenance provisions under Section 125, 127, and 128 of the Code of Criminal Procedure of 1973. The major changes introduced by the 2001 amendment are as follows:

¹⁴ (2015) 5 SCC 705,

1. **Interim Maintenance:** The amendment introduced the provision of interim maintenance, allowing for the grant of maintenance during the pendency of the proceedings. This provision aimed to provide immediate financial support to the applicants who are unable to maintain themselves.
2. **Timeframe for disposing of applications:** The amendment made it mandatory for the Magistrate to dispose of the application for maintenance within sixty days from the date of service of notice on the respondent. This timeframe was introduced to ensure speedy justice for women and children who are victims of domestic violence and are unable to maintain themselves.
3. **Amendment to Section 125(2) CrPC:** The amendment to Section 125(2) CrPC removed the discretion about the time from which maintenance is to be granted, making it mandatory for the court to order maintenance from the date of the application. These changes were significant steps towards ensuring the financial security and welfare of women and children who are victims of domestic violence and are unable to maintain themselves.

Important Cases

- **Mohd. Ahmed Khan v. Shah Bano Begum (1985)** – maintenance under criminal procedure is a **secular** remedy overriding personal law.
- **Danial Latifi v. Union of India (2001)** – Muslim women are entitled to *reasonable and fair provision* and cannot be left destitute.

E. Bharatiya Nagarik Suraksha Sanhita, 2023

Section 144 BNSS corresponds to the old Section 125 CrPC, continuing the same social-welfare objective of preventing destitution. It provides a speedy, summary remedy for maintenance irrespective of personal laws.

Who Can Claim?

Under **Section 144 BNSS**, the following persons can claim maintenance:

1. **Wife** – including a woman who has been divorced or deserted, if she cannot maintain herself.

2. **Children** – legitimate or illegitimate; minors always, and major children only if due to physical/mental disability.
3. **Parents** – father or mother unable to maintain themselves.
4. **Live-in partners** – through judicial interpretation of “relationship in the nature of marriage” (continuity from CrPC jurisprudence).

Key Features

- Monthly allowance ordered by the Magistrate based on needs and the respondent’s income.
- Interim maintenance can be granted during proceedings.
- Non-payment allows for issuance of warrants, fines, or imprisonment.
- Remedy is independent of personal laws, meaning Hindu, Muslim, Christian, or other personal laws do not restrict this claim.

Conclusion

The law of maintenance in India reflects the country’s deep legal pluralism, where personal laws, secular civil remedies, criminal/quasi-criminal provisions, and special protective statutes operate together to prevent destitution and uphold human dignity. Despite the diversity of religious traditions. Hindu, Muslim, Christian and secular marriages under the Special Marriage Act, the common thread across all these systems is the recognition that support obligations within families are essential to social welfare.

This protection is strengthened by the secular remedy under Section 144 BNSS (formerly Section 125 CrPC), which guarantees maintenance irrespective of religion. The landmark Shah Bano (1985) judgment further affirmed that this secular right overrides personal law barriers, establishing that no woman, Muslim or otherwise can be denied financial protection.

Special statutes like the Domestic Violence Act, 2005 and the Senior Citizens Act, 2007 widen this safety net, while courts have extended maintenance rights to women in live-in relationships, ensuring no partner is left unprotected.

Despite India's plural legal structure, all these laws reflect a uniform principle: spouses, children, parents, senior citizens, and even live-in partners must receive financial support when vulnerable. Together, they uphold the constitutional guarantee of dignity under Article 21, forming a cohesive welfare-oriented maintenance system.