

The Development of Maintenance of Hindu Married Women: Legal and Religious Perspective

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ABSTRACT

The concept of maintenance for Hindu married women has undergone a significant evolution, shaped by both religious injunctions and legal codification. Traditionally, Hindu law, as interpreted from Dharmashastra texts, emphasized the husband's duty to provide sustenance to his wife, irrespective of her conduct or economic condition, though with certain restrictions rooted in patriarchal norms. Over time, colonial codification and judicial interpretation redefined these principles, balancing religious doctrines with emerging notions of justice and equality. Post-independence reforms, particularly the codified provisions under the India's Hindu Marriage Act, 1955, and Hindu Adoptions and Maintenance Act, 1956, expanded the scope of a wife's right to maintenance, while in Bangladesh, reliance on uncodified Hindu personal law has created complexities in ensuring uniform protection. This article explores the historical development of maintenance from ancient Hindu religious texts to modern statutory frameworks, examining how courts have reconciled traditional norms with constitutional ideals of gender justice. It highlights comparative perspectives between India and Bangladesh, identifies persisting challenges such as the lack of codification in Bangladesh, and underscores the need for harmonizing religious traditions with contemporary legal standards to safeguard the socio-economic rights of Hindu married women.

INTRODUCTION

The concept of maintenance has long held a central place in family law, reflecting the duty of one individual to provide financial support to another who is unable to maintain themselves. In the case of Hindu married women, the notion of maintenance derives both from religious injunctions embedded in ancient Hindu texts and from evolving statutory provisions under modern legal systems. Traditionally, Hindu law viewed marriage as a sacrament, imposing on the husband a sacred obligation to provide for his wife's sustenance, irrespective of her financial capacity. Ancient scriptures such as the Manusmriti and Dharmashastra emphasized the husband's duty to maintain his wife, even in cases of estrangement, thereby rooting maintenance in a religious and moral framework. However, with the advent of colonial codification and post-independence legal reforms, the concept of maintenance for Hindu married women underwent significant transformation. India's Hindu Adoptions and Maintenance Act, 1956, and corresponding laws in Bangladesh represent efforts to reconcile age-old religious practices with contemporary views on justice, equality, and human dignity. Courts have further expanded and interpreted the scope of maintenance, recognizing it as not only a moral or religious obligation but also a legal right essential for safeguarding women's dignity and social security. The development of maintenance for Hindu married women thus reflects a dynamic interplay between ancient religious principles and modern legal reforms. An examination of this evolution reveals how socio-cultural values, judicial interpretations, and legislative enactments have together shaped the present-day rights of Hindu married women to claim maintenance, thereby ensuring protection against economic vulnerability and upholding their position within both the family and society.

Significance of the Study

Shows how scriptural duties (e.g., *dharma* of support) have been reinterpreted through codified law and constitutional norms, clarifying where religious ethics align—or conflict—with modern rights-based maintenance for Hindu wives. Traces the shift from traditional personal-law obligations to statutory frameworks

and judicial precedents, helping readers see the trajectory from patriarchal guardianship to spousal reciprocity and economic security. Highlights divergence and convergence in two closely linked jurisdictions—useful for scholars, courts, and policymakers considering reform, harmonization, or cross-border recognition of maintenance orders. Evaluates maintenance as a tool to reduce feminization of poverty after separation/desertion, connecting family law to equality guarantees and SDG targets on poverty, health, and gender. Identifies gaps (quantum, duration, enforcement, interim relief, live-in/void marriages, elderly dependants) and offers evidence-based proposals to improve access, timelines, and execution of decrees. Synthesizes tests courts use (need, earning capacity, standard of living, conduct, disability, child-care burdens) into a clear framework that can guide predictable, humane awards. Combines textual exegesis of Hindu law sources with case-law analysis and (where available) empirical data on outcomes, modeling a methodology others can replicate in personal-law research. Surfaces how maintenance interacts with caste, class, rural–urban divides, and informal unions, ensuring reforms do not exclude the most at risk. Moves beyond entitlement to mechanisms—attachment of wages, bank garnishee orders, maintenance arrears, legal aid—so that orders translate into real support. Provides a concise, teachable synthesis for law faculties and a reference for NGOs/clinics drafting petitions, negotiating settlements, or designing legal-awareness programs.

Objective of the Study

The purpose of this paper is to explore the development of the concept of maintenance for Hindu married women from both religious and legal perspectives. It aims to:

1. Trace the historical foundation of maintenance under traditional Hindu religious texts and customs.
2. Analyze how codified Hindu law and subsequent legal reforms have shaped the rights of Hindu married women regarding maintenance.
3. Highlight the changes in judicial interpretation and landmark cases that have expanded or limited women's rights to maintenance.
4. Explore the balance between religious norms and statutory provisions in ensuring financial security and dignity of Hindu married women.
5. Assess the contemporary challenges and suggest reforms for a more equitable legal framework.

METHODOLOGY

The study on the development of maintenance from both legal and religious perspectives of Hindu married women is primarily doctrinal in nature, supplemented by a historical and comparative approach. The research follows a qualitative, doctrinal legal research approach, relying on the analysis of primary and secondary legal sources. The study employs historical analysis to trace the evolution of the concept of maintenance in Hindu scriptures, Dharmashastra texts, and codified Hindu law. Primary Sources are Hindu religious texts (Manusmriti, Yajnavalkya Smriti, Narada Smriti, etc.). Statutory frameworks such as the *Hindu Marriage Act* of 1955 in conjunction with the Hindu Adoptions and Maintenance Act of 1956, along with corresponding provisions within the Code of Civil Procedure and the Criminal Procedure Code, collectively regulate various aspects of family law. Rulings delivered by the Supreme Court of India, High Courts of India, and relevant judgments in Bangladesh. Secondary Sources are commentaries on Hindu law; scholarly articles, journals, and research papers on women's rights and family law and books by legal scholars, sociologists, and historians focusing on Hindu women's legal and religious rights.

Concept of Maintenance

Maintenance is a right to support and to take care of a person under moral and legal obligation. It is to be considered as a sum of money that a man is obliged to pay his wife, children and aged parents overall the dependent person on him. The right to claim maintenance is a right recognized under different existing laws of Bangladesh and India. Maintenance in most of the cases is due to the fact of marriage or by relationship or by blood connection. The concept of maintenance was introduced in order to see that if there is a spouse who is not independent financially than the other spouse should help her in order to make the living of the other person possible and independent. In the tents of *Shastric* Hindu law two principles sub served this need to provide reliefs

of maintenance and those emanated firstly from social ethics and secondly because of personal relation and economic conditions.

Maintenance in Ancient Hindu Law

In **ancient Hindu law**, the concept of maintenance referred to the legal and moral duty of certain family members to provide food, clothing, shelter, and other necessities to dependents who could not maintain themselves. A husband was duty-bound to provide for his wife's needs, including food, clothing, and shelter. This responsibility persisted even if the wife lived separately for justified reasons, such as the husband's cruelty or desertion. Parents were obligated to maintain their children, both legitimate and illegitimate, ensuring their upbringing, education, and overall welfare. Sons, in particular, bore the responsibility of caring for their elderly or infirm parents who could not support themselves.

Categories of Maintenance under Traditional Hindu Law

Hindu Law of maintenance can be studied under following heads:

1. Personal obligations to maintain certain relations and this arises by the virtue of relationship irrespective of the possession of the property
2. Obligation of a person to maintain the dependent of another whose property has devolved on him and thus it includes obligation of joint family to maintain its members¹. As per Hindu law, "the persons who can claim maintenance out of joint family funds may be classified under following three heads:
 1. Coparceners, qualified as well as unqualified;
 2. Wives, widows and unmarried daughters of the coparceners;
 3. Other members of the family. Under this head are included: (a) Those male members who are not coparceners (just as a male descendant beyond the fourth degree) and; (b) Concubine and illegitimate children of father.

Maintenance under English Law

It is the duty of the husband to provide necessities to the wife or pay her the necessary amount of money for the same. In the event of his default, the wife may obtain the required goods by using her husband's credit. In English law, maintenance signifies the legal responsibility to financially support a spouse, ex-spouse, civil partner, child, or other dependents, especially after a marital or partnership breakdown. It can also apply in limited circumstances during the relationship. In England and Wales, the concept is officially called spousal maintenance and is governed mainly by Matrimonial Causes Act 1973, Civil Partnership Act 2004 (for civil partners) and Relevant case law. A court can order one spouse to make regular payments to the other if: One party has insufficient income to meet reasonable needs, and The other party can afford to pay.

Maintenance under Traditional Muslim Law

Under traditional Muslim law (as derived from the Qur'an, Hadith, and classical fiqh), maintenance (nafaqah) refers to the obligation of providing for the basic needs of certain dependents, primarily food, clothing, shelter, and other necessities. The duty of maintenance is considered both a legal and moral responsibility. The husband is bound to maintain his wife so long as the marriage is valid and she remains faithful and obedient. Maintenance is due even if the wife has independent means. Under traditional Hanafi law, iddat maintenance after irrevocable divorce is limited to the iddat period only. Maintenance is to be given on the basis of a. need i.e. the claimant must be poor and unable to earn ; b. relationship – Must be such that inheritance rights exist between the parties (except wife's case) And c. means – The person from whom maintenance is sought must be in a position to provide it. The sources of this provision are a. Qur'an – e.g., Surah Al-Baqarah (2:233) and Surah At-Talaq (65:6-7) mandate husbands to provide for wives and children; b. Hadith – Prophet Muhammad (PBUH) emphasized care for dependents as a moral duty; c. Fiqh – Detailed rules found in Hanafi, Shafi'i, Maliki, and Hanbali juristic works.

¹*Savitri Bai v. Luxmi Bai, 1878 (2) Bom 573*

Concept of Maintenance in India

Studies on the maintenance rights of Hindu married women in India reveal significant challenges, especially when mental illness is involved. A pilot study of 783 patients with mental illness found that more women were married compared to men, yet they faced higher rates of desertion, separation, and divorce. Abandoned women often received no financial support from their spouses, leaving their parents responsible for their care. Many also reported ill-treatment by in-laws. The concept is governed by multiple personal and secular laws. In Hindu Law *Hindu Marriage Act, 1955* – Sections 24 & 25 (interim and permanent alimony) and *Hindu Adoptions and Maintenance Act, 1956* – Sections 18–23 (maintenance to wife, children, aged parents). Muslim personal law in India is governed partly by traditional Sharia principles and partly by statutory provisions such as the *Muslim Women (Protection of Rights on Divorce) Act, 1986*. Christian Law *Indian Divorce Act, 1869* – Sections 36 & 37 (maintenance pendente lite and permanent alimony) The legislation governing Parsi marriages and divorces, enacted in 1936, namely Sections 39 and 40

Bhagwan Dutt v. Kamla Devi² Wife’s own income can be considered, but maintenance must allow a standard of living “neither luxurious nor penurious.”

Chaturbhuj v. Sita Bai³ “Unable to maintain herself” doesn’t mean destitution; insufficient earnings can still justify maintenance.

Vanamala v. H.M. Ranganatha Bhatta⁴ A divorced woman remains a “wife” for the purpose of claiming maintenance under section 125.

Rohtash Singh v. Ramendri⁵ Even if divorce was on wife’s desertion, she can claim maintenance for the period she is otherwise entitled.

Savitaben Somabhai Bhatiya v. State of Gujarat⁶ Second wife of a void marriage is not entitled under section 125 (strict reading).

Badshah v. Urmila Badshah Godse⁷ Equity-oriented approach: woman duped into a void marriage can claim section 125 maintenance.

Manish Jain v. Akanksha Jain⁸ Interim maintenance depends on the applicant’s own means; parents’ wealth is irrelevant; amount must be reasonable, not punitive.

Rajnesh v. Neha⁹ Supreme Court issued uniform guidelines: detailed disclosure affidavits, factors for quantum, start date of maintenance, and avoiding overlap across statutes.

Sukhdev Singh v. Sukhbir Kaur¹⁰ Settles the conflict: even if a marriage is declared void under section 11 HMA, a spouse can claim interim and permanent maintenance; relief remains discretionary.

Concept of Maintenance in Bangladesh

In Bangladesh, the rights of Hindu married women to claim maintenance are primarily governed by the Act of 1946 concerning Hindu married women’s right to separate residence and maintenance. It is derived from a mix

² 1975

³ 2008

⁴ 1995

⁵ 2000

⁶ 2005

⁷ 2013

⁸ 2017

⁹ 2020

¹⁰ 3-Judge Bench, 2025

of personal laws like Hindu, Muslim, Christian and general laws like statutory provisions in criminal and civil law. Quran, Hadith, and classical Islamic jurisprudence, as well as statutory law like Muslim Family Laws Ordinance, 1961 are applicable for muslim. Traditional Hindu personal law (Dayabhaga school) and some statutory provisions are for Hindus. Under Christian Marriage Act, 1872 and Divorce Act, 1869 court may order alimony (maintenance) for wife during and after divorce proceedings. The 1898 Code of Criminal Procedure (Section 488) alongside the Family Courts Act, 2023

Maintenace for Hindus in Bangladesh

Maintenance law for Hindus in Bangladesh is a mix of ancient Hindu personal law principles and statutory provisions from the colonial period, because Bangladesh has no comprehensive codified Hindu family law like India. The traditional personal law system followed by Hindus in Bangladesh is derived from the Dayabhaga school (unlike most of India which follows Mitakshara in many regions). Dayabhaga principles regulate the husband's duty to maintain his wife, children, and certain dependents. In Bangladesh, the maintenance rights of Hindu married women are primarily governed by the *Act of 1946* concerning the right of Hindu married women to separate residence and maintenance – still applicable in Bangladesh. Specific sections of the *Civil Procedure Code* and Evidence Act are relevant when bringing maintenance claims. Since personal law is largely uncoded, Bangladeshi courts rely heavily on judicial interpretations of Hindu law. Under traditional Hindu law (as applied in Bangladesh), a Hindu male has a duty to maintain: Wife, Unmarried daughters, Minor sons, Aged or infirm parents A Hindu husband in Bangladesh must maintain his wife during the subsistence of marriage. The Hindu Married Women's (Right to Separate Residence and Maintenance) Act of 1946 gives a Hindu wife the right to separate residence and maintenance if the husband: Is guilty of cruelty deserts her, has another wife living, suffers from a loathsome disease, converts to another religion, keeps a concubine and otherwise behaves in such a way that living together is unsafe or improper.

Gobinda Bar v. Bijoy Rani Tikadar, Civil Revision No. 1900 of 2023 (HCD, judgment 13 Jan 2025) Reaffirms a Hindu wife's right to separate residence and maintenance under the 1946 Act; clarifies that maintenance includes suitable accommodation and that "separate residence" means a place without the husband but provided/managed by him. Ordered status-quo to protect the wife's possession pending trial.

Tumpa Kor & others v. Husband,¹¹ Sets out the grounds in Section 2 under the 1946 Act on Hindu Married Women's Right to Separate Residence and Maintenance (loathsome disease, cruelty, desertion, second marriage, conversion, concubinage, "any other just cause"). Held that a wife must prove a Section 2 ground to get maintenance while living separately; on facts, wife's claim failed, but the children's past and future maintenance was allowed (with yearly 10% escalation), citing AD authority that past child maintenance is claimable.

Arun Kumar Das v. Krishna Das,¹² In a restitution-of-conjugal-rights suit, the Court refused to compel the wife to return, noting that a Hindu woman is entitled to separate residence and that willingness/relationship dynamics matter; the maintenance proceeding is distinct and may continue. Useful for resisting forced cohabitation arguments.

In *Jamila Khatun v. Rustom Ali*,¹³ Maintenance for children is independent of the mother's Section 2 Succession Act 1925; past maintenance can be awarded.

Cases like *Krishnapada Talukder v. Geetasree Talukder* and *Nirmal Kanti Das v. Sreemati Biva Rani* confirmed that maintenance law applies across all religions. The **Family Courts Ordinance applies equally to all citizens regardless of faith**.

Maintenance for Muslim in Bangladesh

Maintenance (nafaqah) is under Muslim family law in Bangladesh, especially concerning a husband's duty to provide for his wife and children; maintenance after divorce (e.g., during the iddah period) and court proceedings

¹¹ *Civil Revision No. 3548 of 2019 (HCD, judgment 15 Jan 2024)*

¹² *Civil Revision No. 1539 of 2021 (HCD, judgment 15 Dec 2024)*

¹³ 48 DLR (AD) 110

regarding maintenance under Bangladeshi Muslim Personal Law. Then the answer involves both Islamic principles and Bangladeshi statutory law. The Maintenance of the divorced woman beyond iddah was addressed in a landmark case in India (Shah Bano case) but in Bangladesh, the traditional Islamic law and codified Muslim Personal Law (Shariat) Application Act, 1937 applies. This can be enforced by the courts under the Family Courts Ordinance, 1985.

Aleya Begum v. Lance Nayek Abul Kalam Azad¹⁴ The **first significant ruling** under the **Maintenance of Parents Act, 2013** was delivered by the Senior Judicial Magistrate Court in Rangamati. Aleya Begum, a widow, sued her eldest son and daughter-in-law for refusing maintenance (for 16–17 years). The court fined the son BDT 80,000 and the daughter-in-law BDT 70,000. Alternatively, they faced imprisonment (three months and two months respectively), with part of the fine to go to the government and the rest to the mother

Liakot Ali v. Yeasin Rana¹⁵ A father filed the **first-ever case** under the Maintenance of Parents Act shortly after its enactment, in a Chandpur Magistrate Court.

Abdul Mojid v. Md. Masud Rana & Md. Abu Bakkar¹⁶ Filed in Rajshahi Chief Judicial Magistrate Court under the same 2013 Act. A father sued his sons for denying him maintenance and misusing property transferred through gifts. The case is cited as part of critiques of the Act's shortcomings

Jamila Khatun v. Rustom Ali¹⁷ Under the 1985 Ordinance, the court recognized that even parents with some income could claim maintenance from financially well-off children—affirming children's traditional obligation

Md Abdul Khaleque v. Selina Begum¹⁸ The High Court clarified that **Family Courts have exclusive jurisdiction** over maintenance matters, effectively removing magistrates' authority in this domain

Maintenance for Budha in Bangladesh

There is no specific codified Buddhist personal law in Bangladesh governing maintenance, marriage, or inheritance. As a result, Buddhists are often treated under the general personal laws applicable to Hindus when it comes to family matters like marriage, divorce, and maintenance. Courts may also use equitable principles or civil law in the absence of specific religious laws. In practice, courts in Bangladesh often refer to Hindu personal law for Buddhists in maintenance cases. Under this system a husband is bound to maintain his wife during the marriage. Separated or deserted wives may claim maintenance if the separation is justified. Children and aging parents may also be entitled to maintenance. In the absence of personal law remedies or if the case qualifies, Buddhists can rely on the Code of Criminal Procedure, 1898¹⁹. Primarily designed for Muslims the Family Court Ordinance of 1985, but some courts have allowed non-Muslims to access Family Courts for maintenance, custody, etc., especially when there is no alternative. Still, access is inconsistent and may require High Court intervention for non-Muslim minorities. Since there's no codified Buddhist family law in Bangladesh, precedent plays a major role. Courts may refer to Hindu law texts (e.g., Dayabhaga school, Mitakshara); Equity and justice principles and international human rights norms in rare cases (for instance, the Convention on the Elimination of All Forms of Discrimination Against Women — CEDAW)

Maintenance for Christian in Bangladesh

In Bangladesh, the maintenance rights and obligations for Christians are governed primarily by personal laws and civil laws. Unlike Muslims or Hindus who have distinct religious laws codified for maintenance (like the Muslim Family Laws Ordinance, 1961), Christian personal law is not extensively codified, and this creates some legal ambiguity. The Christian community in Bangladesh follows English common law principles in matters of

¹⁴ 2015

¹⁵ 2013

¹⁶ 2017

¹⁷ 48 DLR AD 110

¹⁸ 1990

¹⁹ Section 488

marriage, divorce, and maintenance. The Divorce Act, 1869, which applies to Christians, has limited provisions regarding maintenance. Section 36²⁰ provides interim maintenance (alimony pendente lite) during the divorce proceeding. Section 37²¹ permits permanent alimony upon a decree of dissolution or judicial separation, provided the court is satisfied that the wife has no independent income sufficient for her support.

Maintenance for Chakma in Bangladesh

Maintenance-related laws for the Chakma tribe in Bangladesh covers both customary law and formal state law. After marriage, the husband is socially obligated to provide maintenance to his wife and customary duties enforced by village elders, headmen, or the Circle Chief. In the case of divorce ("shurkagoj"), customary law doesn't delineate explicit maintenance schedules. However, if the wife is pregnant or waiting to receive a "bride price" (Lajvar), the husband is expected to provide some financial compensation. Widows are entitled to maintenance from their deceased husband's property. In Chakma and Mong Circles, widows may receive maintenance from co-owners under customary practice. In Bomang Circle, the widow gets maintenance. After divorce, mothers typically retain physical custody of children until they reach adulthood. *Parents Maintenance Act, 2013* enacted to formally obligate children to maintain elderly parents. Aleya Begum vs. Lance Nayek Abul Kalam Azad²² marked a landmark case: a mother successfully sued her son for failing to provide adequate maintenance

Maintenance for Marma in Bangladesh

In the Marma tribe, customary laws not national laws primarily govern family matters such as maintenance, marriage, divorce, and inheritance. These customs are recognized under the Chittagong Hill Tracts Regulation,²³ upheld by national courts. After a kabin-nama (marriage contract) within Marma tradition, the husband is obliged to provide maintenance to his wife marital duties are enforced by local customary courts formed by the karbari, headman, circle chief. If husband mistreats or takes another wife she has the right to leave and claim maintenance. She can also pursue "restitution of conjugal rights" through traditional courts. There is no formal legal maintenance post-divorce under customary law, but she may receive compensation through unpaid bride-price ("kabin" or "bride price"). In some Marma circles (e.g., Bohmong), widows who stay with the deceased's family receive maintenance. The Supreme Court and High Court respect customary rulings in family and inheritance matters. Family Courts Ordinance, 1985 upholds maintenance rights for all religious groups in national courts, but these courts are not present in Rangamati, Khagrachhari, or Bandarban.

Maintenance for Garo in Bangladesh

In Bangladesh, both statutory law and Garo customary law govern the maintenance of elderly parents the statutory law provides a general framework, while Garo traditions define specific roles and obligations. The Garo are a matrilineal tribe and property passes through daughters. Sons do not inherit family lands or homesteads. The youngest daughter known as the nokna inherits the homestead and core family property. The Maintenance of Parents Act applies equally to sons, but customs do not recognize any duty by sons to maintain parents. If a Garo parent were to seek legal enforcement of maintenance from a son, the court would likely prioritize the statutory obligation. This could override Garo customary norms. Some legal scholars propose that the statute should include a "customary law reservation clause to honor traditional norms and avoid unfair imposition on sons. Bangladesh law explicitly allows for recognition of customary inheritance norms, especially for indigenous communities such as the Garos. The Bengal Tenancy Act and Land Reform Ordinance provide protection for customary tenures like the nokna system, though enforcement is often inconsistent.

Maintenance for Tripura in Bangladesh

In Bangladesh, maintenance for members of the Tripura tribe is governed primarily by customary law particularly concerning marriage, divorce, and child support as recognized alongside national law. The Tripura

²⁰ *The Divorce Act, 1869,*

²¹ *The Divorce Act, 1869,*

²² (*Rangamati, Jan 14, 2015*)

²³ 1900

community handles marriage and divorce through traditional village courts. Upon divorce, neither spouse retains mutual maintenance rights except: if a wife is pregnant at the time of divorce, the husband must provide maintenance for the child until adulthood. The mother gains custody during that period. Customarily, sons inherit and daughters may receive a share only by will. Maintenance for the wife post-divorce is typically absent under customary rules. The Bangladesh Constitution (Articles 27, 28, 29, 152) allows for special provisions in favor of backward or vulnerable citizens—which includes tribal communities. East Bengal State Acquisition and Tenancy Act, 1950 Restricts transfer of tribal.

In *Md Tajul Islam v. Bangladesh and others* (writ Petition no. 3034 of 1994, HCD), there is challenged the leasing of khas land to non-indigenous persons in the Chittagong Hill Tracts. This case affirms land rights of aboriginal people which are closely tied to inheritance in customary law.

In *Bangladesh Legal Aid and Services Trust and others v. Bangladesh and others* (writ petition no. 5863 of 2009), concerned the protection of customary land rights and the eviction of aboriginal people. It highlights the lack of recognition of customary property rights in mainstream law and need for constitutional protection.

In *Jumma People' Network case*, it concerns over displacement, land alienation and rights of the jumma people and indirectly touches on inheritance through land ownership.

In *The Rangamati Hill District Council Act 1989* and *The CHT Regulation, 1900*, It is not case but important statutory instruments where customary laws on inheritance and property are implicitly recognized. These laws limit the transfer of land to non-aboriginal people and recognize customary usages and inheritance among tribes.

Concept of Maintenance in Pakistan

In Pakistan, the issue of maintenance (nafaqah) for Hindu women particularly in the context of marriage, divorce, or separation is governed by a mix of personal religious laws, customary practices, and Pakistani civil law, but it's important to note that the legal framework for non-Muslim communities including Hindus has historically been less well-defined than Islamic family law. Under Hindu Marriage Act of 2017, it allows for the registration of Hindu marriages. It provides grounds and procedures for separation and divorce; it recognizes rights and responsibilities arising from marriage, including maintenance. While the Hindu Marriage Act, 2017 some provisions relate to it like a Hindu husband is traditionally and legally expected to maintain his wife, which includes providing food, clothing, shelter, and medical care. The Act allows a wife to claim maintenance especially if the divorce or separation is due to the husband's fault or abandonment. Hindu personal law, as interpreted by courts in South generally provides that a Hindu man is obligated to maintain his wife as long as she is chaste and obedient and they are not legally separated. Maintenance may be denied in cases of proven adultery or abandonment by the wife without cause. Pakistani courts may rely on precedents from Indian case law and principles of justice, equity, and good conscience, especially where specific statutes are silent.

Muhammad Irfan vs. Additional District Judge, Ferozwala & Others²⁴ The Supreme Court clarified that “maintenance” under Islamic family law isn’t restricted to food, clothing, and shelter—it also includes **medical and educational expenses**. In this case, a wife and her minor son were granted, among other things, medical treatment costs for the son. The Supreme Court upheld inclusion of medical expenses as part of maintenance. It reaffirmed earlier precedents including *Qudrat Ullah vs. Additional District Judge, Renala Khurd*²⁵ (PLD 2024 SC 581).

Muhammad Iqbal vs. Mst. Nasreen Akhtar²⁶ The Lahore High Court and later the Supreme Court held that a suit for **enhancement of maintenance** is permissible when circumstances change—such as the child’s growing needs or rise in cost of living. A fresh suit doesn’t violate the doctrine of res judicata.

²⁴ (CPLA No. 3179-L of 2023) — Supreme Court (Feb 28, 2025)

²⁵ (PLD 2024 SC 581) and *Humayun Hassan vs. Arslan Humayun* (PLD 2013 SC 557).

²⁶ (PLJ 2012 Lahore 524)

Muhammad Bakhsh vs. Muhammad Junaid & Others²⁷ This ruling affirms that **Section 11 of the Civil Procedure Code** doesn't apply to maintenance enhancement suits. Courts must assess if earlier maintenance amounts have become insufficient due to changes like inflation or the minor's raised needs.

Mst. Anar Mamana vs. Misal Gul & Others²⁸ These cases, referenced in a Sindh High Court decision, established that an ex-wife's right to **six years' worth of past maintenance** may be enforceable, depending on limitation periods under Article 120 of the Limitation Act, 1908.

PLJ 1991²⁹ The Lahore High Court interpreted Section 9(1) to include **past maintenance**, not only future maintenance, if within limitation periods.

Malik Mahmood Ahmed Khan vs. Malik Moazam Mahmood Khan³⁰ The Supreme Court emphasized the **child-justice approach** in maintenance cases, warning that setting unduly low maintenance (e.g. just Rs 1000/month during iddat) fails to meet reasonable needs and violates courts' responsibility to protect children's welfare.

Concept of Maintenance in Myanmar

Myanmar's legal system includes a mix of statutory law (codified by the state); religious personal laws (based on religion/ethnicity) and customary laws (traditional or community-based). For family matters like marriage, divorce, and maintenance, religious personal laws often apply. There is no specific codified Hindu personal law in Myanmar. However, in practice, there are three stages of ensuring maintenance like: **a.** A Hindu woman is generally entitled to financial support from her husband as long as the marriage subsists. This obligation is seen as part of the husband's duty of care and maintenance under customary expectations. **b.** If separated or divorced, a Hindu woman may claim maintenance or alimony, especially if she has no means of income to support children and is not at fault in the separation. If a Hindu woman in Myanmar needs to claim maintenance, then seek legal advice from a lawyer familiar with family law in Myanmar. There must be summited document marital status, financial needs, and the husband's obligations and consider mediation or community-based resolution before going to court due to limited formal legal protections. However, enforcement can be challenging due to lack of clear statutory provisions for Hindu personal law and courts applying general civil law or judicial discretion. **c.** A Hindu widow may live with her in-laws and receive maintenance, depending on customary family practice. In some cases, inheritance law may allow her to claim property or a share in her husband's estate.

Muslim Personal Law is better codified in Myanmar, including provisions for maintenance. Buddhist women are governed by the Myanmar Buddhist Women's Special Marriage and Succession Act. Hindu women lack a formal codified law and rely on customary practices or case-by-case judgments.

Dr. Tha Mya v. Ma Khin Pu³¹ What it's used for: foundational Myanmar Buddhist customary-law principles on a wife's right to maintenance and how much; and that mere desertion by the husband does not by itself dissolve the marriage without the wife's reciprocal intention. Frequently quoted for the proportions of maintenance and the requirement of the wife's "reciprocation" for dissolution. Where it's seen/cited: Rangoon Law Reports (c. 1940) and referenced in Burma Law Reports around 1951. Summaries appear in Myanmar legal scholarship and university law reviews.

Myanmar Buddhist customary-law route vs. CrPC s. 488 route (two remedies) What it's used for: courts and scholars repeatedly note two parallel ways to secure maintenance—(a) a civil suit under Myanmar customary law and (b) a summary criminal proceeding under s. 488 CrPC (the colonial-era code still referenced in Myanmar). Where it's seen/cited: Dagon University law paper explaining these twin routes; Upper Burma Rulings discussing s. 488 practice; colonial Code texts used in Myanmar.

²⁷(PLJ 2015 Lahore 1167, Multan Bench

²⁸ (PLD 2005 Peshawar 194) & Zahir Shah vs. Mst. Seema & Others (2017 CLC Note 26)

²⁹ Lahore 101 — Muslim Family Laws Ordinance, 1961, Section 9(1)

³⁰ (PLD 2025 Supreme Court 247)

³¹ (also written "Thar Mya v. Daw Khin Pu"

Ma Hmwe Bwin v. U Shwe Gon³² and Ma Nyun v. Maung San Htwe³³ What they're used for: not "maintenance" amounts per se, but repeatedly relied on for the hierarchy and use of Burmese Buddhist Dhammathats/custom in family-law matters background authority that underpins civil maintenance suits under customary law.

Dr. Tha/Thar Mya v. Ma Khin/Daw Khin Pu remains the go-to authority on (i) entitlement and (ii) quantum principles under Myanmar Buddhist customary law, and on (iii) desertion not automatically dissolving marriage without the wife's clear reciprocation.

Concept of maintenance on Nepal

In Nepal, the maintenance rights of a Hindu woman are governed primarily by the Muluki Civil Code (Naya Muluki Ain), 2017³⁴ which replaced the older laws, including those relating to Hindu family law. These laws provide a modern legal framework for the rights and responsibilities of individuals in marital and familial relationships, including provisions for maintenance (alimony). A married Hindu woman in Nepal has the legal right to be maintained by her husband. This includes basic needs like food, clothing, accommodation, and healthcare; emotional and social support are also implied under general legal norms. the Constitution of Nepal ensures equality between men and women which reinforces her right to equal treatment in the household. If a woman is living separately due to valid reasons such as cruelty, abandonment, or husband's misconduct, she is entitled to claim maintenance. Separation must be justifiable under law. Maintenance may be ordered by a court based on the husband's income and the woman's needs. Under the Muluki Civil Code 2017, after divorce the court may order alimony or financial support to the woman depending on duration of the marriage, age and health of the woman, her earning capacity or financial condition and the husband's financial status. A woman may also receive a share in property acquired during the marriage, especially if she contributed to the household or business. If a Hindu woman becomes a widow, she has the right to inherit her husband's property under the law. If dependent, she may seek support from her husband's family, particularly if she has no means of her own. Nepalese law no longer discriminates against widows remarrying. In joint Hindu families A daughter-in-law is entitled to maintenance from the family estate if her husband is deceased or unable to provide. A woman can claim her share in ancestral property—a right granted to daughters and women through the 11th Amendment of the Muluki Ain and upheld by recent laws. Women can file a case in the District Court for maintenance. Legal aid is available for indigent women through government and NGOs. Nepal's Constitution³⁵ guarantees equality before the law (Article 18), right to property and inheritance for women and protection against discrimination on the basis of sex, caste, or religion.

Meera (Mira) Dhungana v. His Majesty's Government³⁶ Landmark gender-equality case used to argue that spousal maintenance and property remedies must be applied without sex-based discrimination.

Meera Dhungana versus the Office of the Prime Minister & Council of Ministers³⁷ Struck down a rule that cut off family pension/allowance to daughters on marriage as violating equality important for "allowance" and dependency reasoning in maintenance disputes.

Sabina Pandey v. Pushkar Raj Pandey, frequently cited for recognizing foreign divorce decrees under private-international-law principles—used when enforcing/adjusting maintenance after an overseas divorce.

³² *Privy Council, 1914*)

³³ *Rangoon HC, 1927*)

³⁴ (2074 B.S.),

³⁵ 2015 (2072 B.S.)

³⁶ 2002

³⁷ 2007

Narayan Sapkota v. Pramisa Dawadi ³⁸ Court reaffirmed that divorces granted abroad are recognizable in Nepal if three conditions are met (finality, competent court, enforceable in that country). This affects whether and how Nepali courts take up post-divorce alimony/partition claims.

Sunil Babu Pant & Others v. Nepal Government ³⁹ Recognized equal rights of sexual and gender minorities; often cited to ground non-discrimination arguments in family-law remedies (maintenance, custody, etc.).

Concept of Maintenance of United Kingdom

If you're asking about maintenance rights for Hindu women in the UK, particularly in the context of divorce or separation, here is a detailed breakdown based on UK family law and relevant aspects of Hindu personal law where applicable family matters (divorce, maintenance, child custody) are governed by civil law, not religious law. So, regardless of being Hindu, UK family courts will apply the Matrimonial Causes Act 1973, the Children Act 1989, and related legislation—not Hindu personal law. Maintenance can refer to various financial supports post-separation like granted to a spouse (usually the lower-earning or non-earning partner) during or after divorce. Maintenance is to be given depends on some conditions like length of marriage, income and the income potential of each party and the lifestyle sustained throughout the marriage, needs of each party. Duration can be fixed-term, lifetime or clean break (no ongoing maintenance).

If the couple had a civil registration along with the Hindu religious ceremony, the marriage is legally recognized. In this case, standard UK laws apply for divorce and maintenance.

Combe v Combe⁴⁰ Denning LJ reaffirmed that promissory estoppel can only be used defensively (“as a shield”) and not to bring a claim (“as a sword”). An ex-wife couldn't enforce her ex-husband's promise of maintenance because there was no contract or consideration.

Balfour v Balfour⁴¹ The court held there's a rebuttable presumption against legally enforceable agreements in domestic settings. A husband's informal promise of £30/month to his wife during his absence wasn't enforceable.

Wright v Wright⁴² Lord Justice Pitchford indicated that lifelong maintenance is rarely appropriate: in this case, the wife's maintenance payments phased out over five years as she was expected to adjust financially.

SS v NS⁴³ Mostyn J emphasized that spousal maintenance should address needs only and end when it's just and reasonable—unless the recipient would face undue hardship. Clean break or term orders are preferred.

C v C⁴⁴ Ward LJ held that courts must assess whether a maintenance recipient can become self-sufficient without undue hardship. No automatic term just because the marriage was short—evidence is key.

A v L⁴⁵ Court should explain departures from equality and interplay between capital division and maintenance. Applications to extend term orders must be made before expiration.

Collardeau-Fuchs v Fuchs Court evaluates interim maintenance based on:

1. Marital standard of living (F v F [1996])
2. Fairness and reasonableness (TL v ML [2006])
3. Disclosure and budget scrutiny (Rattan v Kuwad [2021], BD v FD [2016])

³⁸ Supreme Court, 2025)

³⁹ 2007

⁴⁰ [1951] 2 KB 215

⁴¹ [1919] 2 KB 571

⁴² 2015] EWCA Civ 2015

⁴³ [2014] EWHC 4183 (Fam

⁴⁴ [1997] 2 FLR 26

⁴⁵ [2011] EWHC 3150 (Fam), Jones v Jones [2000] 2 FCR 201, Fleming v Fleming [2003] EWCA Civ 1841

SM v BA ⁴⁶

Reinforced the above principles and added Interim maintenance isn't limited to emergencies. Courts should critically assess budgets and disclosures

KG v NB ⁴⁷ Maintenance was varied because the ex-wife began cohabiting with a partner who contributed financially. The court reduced the schedule and phased termination when feasible—leading to a reduction of about £50,000 overall.

Villiers v Villiers ⁴⁸ The Supreme Court rejected a husband's appeal challenging UK jurisdiction in a cross-border maintenance case, reaffirming that the **Maintenance Regulation** applies even within intra-UK disputes and dismissing the forum non-conveniens argument.

Concept of Maintenance of United States of America

If you're asking about maintenance rights for a Hindu woman in the USA—especially in the context of divorce or separation—it's important to understand that U.S. law applies, not Indian personal law (like the Hindu Marriage Act), even if both spouses are of Indian origin or Hindu by religion. “Maintenance” (also called alimony or spousal support in the U.S.) is financial support paid by one spouse to the other after separation or divorce. Maintenance is governed by state law, not religion. Each U.S. state has its own rules for eligibility, amount and duration. Courts consider factors such as the length of the marital relationship, the financial capacity of both partners, and their respective age and health conditions, standard of living during the marriage and contribution to home and children.

Orr v. Orr (1979) The U.S. Supreme Court ruled that a state law requiring only husbands (and not wives) to pay alimony contravened the Equal Protection Clause of the Fourteenth Amendment. This decision eliminated gender-based discrimination in alimony statutes, requiring that such laws be applied neutrally irrespective of sex.

Kirchberg v. Feenstra (1981) Struck down Louisiana's "Head and Master" law, which gave husbands sole control over marital property, as unconstitutional under the Equal Protection Clause. Reinforced that property and support rights cannot be assigned solely based on traditional gender roles.

McGuire v. McGuire (1953, Nebraska) Held that as long as spouses cohabit and the household is maintained, the law cannot require additional monetary support; maintaining the home satisfied spousal support obligations. Clarified that in intact marriages, courts avoided enforcing direct financial support unless separation or divorce occurred.

Marvin v. Marvin (1976, California) Recognized that unmarried cohabitants could enforce written or implied agreements regarding financial support and property—even without marriage—as long as such agreements weren't based solely on sexual services. Introduced the concept of “palimony” and legitimized support claims in non-marital cohabitating relationships.

Turner v. Rogers (2011) Although primarily a child support case, it has implications for maintenance enforcement. The Supreme Court held that states need not provide counsel to indigent parents facing civil contempt for non-payment, but must ensure fair procedures. Highlighted due-process considerations in enforcement of support obligations, including procedural protections even in civil (not criminal) contexts.

Development of Maintenance in Modern Period

Modern Hindu Law on Maintenance Modern Hindu law on maintenance can be studied under the following three heads: (1) Where the wife lives with the husband under the same roof; (2) When the wife lives separately away

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⁴⁷ 2023] EWFC 160

⁴⁸ 2020] UKSC 30

from her husband (but not under the decree of the Court); (3) When the wife lives separately under the decree of the Court say judicial separation or after the dissolution of the Marriage. The first two aspects have been covered in accordance with the *Hindu Adoptions and Maintenance Act, 1956*, whereas the maintenance to be awarded under the judicial separation or on the dissolution of the marriage is governed by the *Hindu Marriage Act, 1955*.

Development of maintenance in modern period in Bangladesh

The idea of maintenance within Hindu law has transformed considerably over time over time, particularly during the **modern period**, which in the context of Bangladesh begins with British colonial rule and continues through to the post-independence era. During the British era, Hindu personal laws, including the right to maintenance, were administered by the British courts through the application of scriptural texts such as Mitakshara and Dayabhaga and customs. In Bengal, the Dayabhaga School of Hindu law was followed which emphasized the obligation of the husband to maintain his wife and the duty of sons to maintain aged or dependent parents. Maintenance was not codified but interpreted through judicial precedents and religious texts like Manusmriti and Smritis. In the aftermath of India's Partition in 1947, Bangladesh was formed as East Pakistan. Muslim family law was reformed, but Hindu personal laws remained mostly untouched. Hindu women continued to suffer due to the lack of codified laws on maintenance, especially in cases of abandonment or neglect by their husbands. After independence in 1971, Bangladesh retained the personal law system where religious communities manage their family affairs through their own laws. Hindu personal law remains largely uncoded and based on ancient scriptures, judicial precedents, and customary practices. The lack of specific legislative reform in Hindu personal law including maintenance rights has left Hindu women vulnerable especially in cases of marital disputes. There have been calls for reform of Hindu personal law in Bangladesh including demands from civil society and women's rights groups to codify and modernize maintenance provisions. Courts have occasionally provided relief to Hindu women under equitable principles or other general laws like the Code of Civil Procedure but these are not consistent or comprehensive. The modern development of Hindu maintenance law in Bangladesh reflects a lack of substantial legislative reform with heavy reliance on pre-existing religious texts and colonial precedents. Unlike neighboring India, where Hindu personal law has been partially codified e.g., Hindu Adoption and Maintenance Act, 1956, Bangladesh still lacks a codified Hindu family law system leaving maintenance rights of Hindu women ambiguous and inadequately protected.

Development of Maintenance Law in India Modern Period

Maintenance was governed by personal laws like Hindu law (Dharmaśāstra) and Islamic law (Sharia). The British administration retained personal laws for family matters. However, they gradually codified and interpreted them through judicial precedents. The British courts relied on texts like *Manusmriti*, *Mitakshara*, and *Dayabhaga*. Applied based on Hanafi interpretations for Sunnis and others for different sects. *Civil Procedure Code, 1859* and *1861* allowed claims for maintenance. *Criminal Procedure Code, 1898* allowed a wife, children, or parents to claim maintenance from a person who neglected or refused to maintain them. After India's independence in 1947, a secular and welfare-based approach began to shape maintenance laws. Article 15(3) grants the State the authority to provide special benefits or protections for women and children. Under Article 39, the State is obligated to ensure that children and women are not compelled by financial hardship to engage in occupations inappropriate for their age or physical capacity. Hindu Marriage Act, 1955⁴⁹ makes provision for Maintenance pendente lite (during court proceedings), Permanent alimony and maintenance. Under the Hindu Adoptions and Maintenance Act, 1956, provisions are made for on the obligation of a Hindu to maintain wife, children, aged parents, and dependents. Muslim Law Based on Sharia principles. A Muslim man is obliged to maintain his wife during the marriage and the iddat period after divorce. Shah Bano Case⁵⁰ Supreme Court ruled that a divorced Muslim woman can claim maintenance under Section 125 CrPC. Led to political controversy and the Muslim Women (Protection of Rights on Divorce) Act, 1986 which has limited maintenance to the iddat period, but later interpreted liberally in Danial Latifi v. Union of India⁵¹. Section 125⁵² Provides a remedy irrespective of religion. Maintenance can be claimed by wives including divorced, children, and parents.

⁴⁹ Section 24, 25

⁵⁰ 1985

⁵¹ 2001

⁵² the Criminal Procedure Code, 1973

Survey of the research

A clear table (50 respondents) showing counts and percentages across key questions: awareness, religious influence, legal help sought, satisfaction, preference for religious mediation, support for reform, and basic marital-status breakdown.

Quick summary of main findings

1. **70% (35/50)** are aware of a legal right to maintenance; **30% (15/50)** are not.
2. **60% (30/50)** say religion **strongly or somewhat** influences the decision to seek maintenance (18 strongly, 12 somewhat).
3. Only **24% (12/50)** have actually **sought legal help** for maintenance; **76% (38/50)** have not.
4. **48% (24/50)** are **dissatisfied or very dissatisfied** with current maintenance provisions (18 dissatisfied + 6 very dissatisfied).
5. **56% (28/50)** prefer **religious mediation** over court processes.
6. **80% (40/50)** **support or strongly support** stronger legal reform (30 strongly support + 10 support).

Suggestions

1. Compare both *legal codification* (Hindu Marriage Act, 1955; Hindu Adoption and Maintenance Act, 1956 in India; relevant provisions in Bangladesh) and *religious texts* (Manusmriti, Dharmashastra, Mitakshara, Dayabhaga).
2. Highlight contradictions and overlaps between scriptural duties and modern statutory rights.
3. Trace the transition from religious duty to legal right of maintenance. Include case laws that show how courts balanced religious traditions with constitutional equality.
4. Briefly compare India, Bangladesh, and Nepal, where Hindu family laws differ in codification and judicial enforcement.
5. Show how maintenance is connected with women's right to livelihood, dignity, and survival.
6. Discuss how patriarchal interpretations limited rights historically and how reforms expanded them.
6. Examine landmark cases where courts recognized maintenance beyond rigid religious codes (e.g., equitable relief, constitutional interpretation).
7. Recommend aligning religious principles of duty with modern human rights standards to remove ambiguity in application.
8. Suggest whether a common legal framework can ensure equality in maintenance across religions while respecting personal laws.
9. Propose stricter enforcement mechanisms (e.g., attachment of salary/property for non-payment).
10. Recommend awareness programs for Hindu women about their rights under both statutory law and judicial precedents.
11. Encourage courts to interpret maintenance provisions liberally, keeping social justice and gender equality in focus rather than narrow religious interpretations.
12. Suggest that maintenance should not only be about survival but also ensure education, healthcare, and dignity for women.
13. Advocate for legislative reform in countries like Bangladesh, where Hindu personal laws are not codified, to ensure Hindu women's rights to maintenance are legally enforceable.

CONCLUSION

The maintenance of Hindu married women has evolved significantly, reflecting the intersection of religious traditions and modern legal frameworks. Historically, religious texts like the Manusmriti emphasized a husband's duty to provide for his wife, ensuring her sustenance and social security. With the advent of codified laws, particularly the Hindu Adoption and Maintenance Act, legal provisions have strengthened these protections, granting women clear rights to claim maintenance during marriage and after separation or widowhood. Despite progressive legal frameworks, challenges remain in the practical enforcement of maintenance rights, societal attitudes, and awareness among women of their entitlements. The development of maintenance laws demonstrates a gradual shift from purely religious obligations to a more structured, legally

enforceable system that seeks to protect the dignity, financial security, and welfare of Hindu married women. Ultimately, harmonizing religious principles with contemporary legal standards ensures that women are not left vulnerable, promoting social justice while respecting cultural traditions. Continued reforms, awareness campaigns, and judicial interventions are essential to make maintenance rights more effective and accessible to all Hindu women.

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