



Research Paper on Law relating to maintenance in India with special reference to Uniform Civil Code

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ABSTRACT

The humanistic approach to society and personal morality is at the foundation of the benevolent maintenance jurisprudence. The word "maintain" comes from the French word "maintenir," and in Latin, "main" is the same as "manus," which means "hand," and "tenir," which is the same as "tenco," which means "to hold," or to lend a hand to someone who needs it. Food, clothing, shelter, and medical attention are all included in the definition of maintenance. It refers to the provision of necessities for existence; a source of support.

In terms of marriage law, maintenance refers to the arrangements for necessities and comforts of life, such as clothing, housing, food, education, and medical care. It is the term used to refer to the weekly or monthly payments that may be mandated by a divorce or nullity decree in order to provide for the spouse's maintenance and support during the course of the couple's joint existence. Similar provisions for the benefit of the kids, such as maintenance, may be made in divorce, nullity, judicial separation, or restitution of conjugal rights proceedings. 2

The Hindu Adoption and Maintenance Act, 1956, defines "maintenance" as follows: "Maintenance" includes I in all circumstances, provisions for food, clothing, housing, education, and medical attendance and treatment; (ii) in the case of an unmarried daughter, also the reasonable costs of, and incident to, her marriage.

The maintenance of many parties is provided for by our Indian laws. This personal duty to pay maintenance results from the parties' relationship. The wife, children, and elderly parents are among the parties who are entitled to support.

The wife's claim to maintenance is a byproduct of her marital status. The wife has the right to be supported by her husband for the rest of her life under this private responsibility that results from the institution of marriage.

Keywords: Uniform Civil Code, Law

1. INTRODUCTION

The responsibility to raise one's children is a private obligation that develops from the intimacy of the relationship. Before, a parent only had this responsibility for his legally adopted children. According to the Hindu Adoptions and Maintenance Act of 1956, both sexes are required to support both legitimate and illegitimate children. 4 Only up until the age of majority is there a liability. However, unmarried daughters can get maintenance up until the point at which they can no longer support themselves. 6 In the case of an unmarried daughter, maintenance also covers any reasonable costs and consequences of her marriage. 7

Maintenance of elderly and infirm parents is a responsibility that arises from the parent-child connection and is quite independent of any property ownership, whether it is hereditary, ancestral, or self-gained. According to traditional Hindu law, only the son was required to care for one's aging parents; the daughter was exempt from this duty. Sons and daughters are both subject to this requirement under contemporary Hindu law. In popular usage, the

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word "parent" refers to only "common parents," that is, a father and mother who are blood relatives. Step-parents were not included in the definition under the previous Hindu legislation. Nevertheless, an explanatory clause is added to the Hindu Adoptions and Maintenance Act of 1956 to include "childless stepmother" in the definition of parent.

Other family members may be maintained under the 1956 Hindu Adoption and Maintenance Act. Hindu Adoptions and Maintenance Act, 1956 extends maintenance to additional classes of people in addition to wife, children, and parents. If the widowed daughter-in-law and certain dependents are unable to support themselves, maintenance is an alternative. The right is enforceable against the bereaved daughter-in-law's in this case. This is only possible if she has no other means of support. [14][15][16][17] [18].

2. METHODOLOGY

Apart from Hindu law, maintenance is covered by Muslim law, section 125 of the Criminal Procedure Code, and numerous other personal laws. Every Muslim is required by Islamic law to support his wife, his elderly parents, and his children⁹. More moral than legal, this duty. The commitment and duty to support one's wife is both private and comparatively absolute. A man has a responsibility to care for his child until the child reaches adulthood.

Maintenance is called as "nafqah" in Islamic law¹⁰. This covers housing, clothing, and food. Act of 1986 protecting the rights of Muslim women after divorce: The only people to whom this Act applies are divorced women. The provisions of Section 3 of the Act cover support, the payment of mahr, and the restoration of the divorced woman's property. According to the Act, a separated or divorced woman is eligible for a reasonable and fair arrangement, provision, and maintenance to be made and paid by her former husband for a period of two years from the specific dates of birth of such children, provided that she herself maintains the children destined to her previously or after her separation.

According to several court rulings, the Uniform Civil Code is the only way to completely close the gaps and ambiguities in the many personal laws. To close these gaps, these rules ought to be brought into alignment with one another and a uniform system of maintenance regulations ought to be established. The following reasons are listed as to why a Uniform Civil Code should be implemented for personal laws:

1) Inter-Religious Variations: Personal laws fluctuate greatly among religions and are not just unique to one religion over another. These variations rely on a number of variables, including the region of the country, regional usages and customs, sub-caste, sect or sub-sect, group, and many more. Because of this, no straight jacket formula can be chosen, not even by followers of one faith.

2) Inequality before the law: There is discrimination in many personal laws that favor men more than women when it comes to marriage, divorce, and child custody.

Wives, children, and other groups are more susceptible as a result of legal differences. India is an one country from Kashmir to Kanyakumari, but its own legal system differs for everybody, causing terrible injustice to all. However, women and children are the principal victims of this unfair, illogical, and uneven legal system. All civil law sectors, such as marriage, divorce, maintenance, adoption, inheritance, succession, etc., exhibit injustice toward women and children.

3) The location of the petition's filing is another gap in the law; neither the jurisdiction of the court nor the location of the petition's file are specified by law. Even while the CPC regulations apply in the absence of an explicit provision addressing this issue, a clause addressing this is nevertheless necessary to clear up this misunderstanding.

4) Defects in Islamic personal law The judiciary's propensity to enforce Section 125 of the Criminal Procedure Code regarding the maintenance for a divorced Muslim wife is upsetting the Islamic community. Only "divorced women" are covered by the Muslim Women (Protection of Rights on Divorce) Act of 1986. The act doesn't significantly affect the abandoned and alone Muslim couples.

3. RESULTS:

.When the children have the resources and means to support them, they will without a doubt care for their aging parents. The terms of The Indian Divorce Act, 1869 contain the Law of Maintenance for Christians in India. It offers both temporary and ongoing maintenance. The Parsi Marriage and Divorce Act of 1936 contains provisions that deal with the law of maintenance among Parsis. The provisions of the Special Marriage Act of 1954 and the Hindu Marriage Act of 1955 are very similar to the law [19] [20] [21] [22].

The provision of a right to maintenance under Section 125 of the Code of Criminal Procedure is an innovative and unique legal provision in India. It demonstrates a merging of the civil, criminal, and family law aspects of secular law but does not necessarily fit under any of these departments. In this way, Section 125 imposes on an individual a responsibility and duty to the community to support some of his close relatives. ¹¹ Regardless of their faith, community, or nationality, all neglected spouses, cast-off divorcees, abandoned children, and helpless parents have access to the remedy as a legal right.

4. CONCLUSION

The spread of Hindu personal laws to other communities is not implied by a standard civil code dealing to personal laws. It entails the creation of a fair framework that eliminates all inherent inequalities and injustices, especially toward women and children, and the replacement of all current personal laws with such a neutral framework. UCC is necessary to bring clarity, ease of use, and understandability to personal laws because the situation is still very ambiguous in this regard. UCC is also necessary to protect the unity and integrity of this nation, which is divided along lines of diverse personal laws. The Indian system of personal law would be replaced by the UCC.

UCC has evolved into a necessity to meet the current social demand. The foundation for creating and drafting the UCC should be the most advantageous provisions of current personal laws pertaining to maintenance.[13] [14] [15] [16] [17] [18] .

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