

# International Journal of Law Research, Education and Social Sciences

Open Access Journal – Copyright © 2026 – ISSN 3048-7501  
Editor-in-Chief – Prof. (Dr.) Vageshwari Deswal; Publisher – Sakshi Batham



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## Maintenance Rights of Muslim Women: A Study of Muslim Personal Law and Section 144 BNSS

Alisha Begam<sup>a</sup>

<sup>a</sup>Tripura Government Law College, Agartala, India

Received 25 May 2026; Accepted 24 June 2026; Published 27 June 2026

---

*Maintenance rights of divorced Muslim women have long been a subject of legal and social debate in India. Muslim Personal Law, which is derived from the Quran, recognises concepts such as *Mata*, emphasising fairness and financial support towards divorced women. At the same time, Indian secular laws, particularly Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, provide maintenance rights irrespective of religion. This often creates a conflict between personal law and secular legal principles. This research examines the concept of maintenance under Muslim Personal Law and compares it with the provisions of Section 144 BNSS. It further analyses how Indian courts, especially in *Mohd. Ahmed Khan v Shah Bano Begum* has attempted to balance religious freedom with constitutional values such as equality, dignity, and social justice. The paper also discusses whether judicial intervention alone is sufficient to resolve the continuing tensions between personal law and secular law. The study highlights that although legal developments have improved the position of Muslim women in matters of maintenance, practical and interpretational conflicts remain. Through this research, an attempt has been made to understand these challenges and suggest balanced reforms that protect women's rights while also respecting religious beliefs and cultural diversity.*

**Keywords:** *maintenance rights, bnss, section 144.*

---

## INTRODUCTION

India's legal system reflects a unique coexistence of personal laws and secular laws, particularly in matters relating to marriage, divorce, and maintenance. Among these, the issue of maintenance for divorced Muslim women has remained one of the most debated and sensitive areas of law. In Muslim law, the concept of Nafaqah imposes a duty upon the husband to provide financial support to his wife, including necessities such as food, clothing, and shelter. Alongside this, the Quranic concept of Mata emphasises fair and reasonable provision for divorced women, reflecting the broader principles of compassion, dignity, and social responsibility embedded within Islamic jurisprudence. However, the extent and duration of this obligation after divorce has continued to generate legal and constitutional controversy in India. The conflict largely arises from the interaction between Muslim Personal Law and secular maintenance provisions under Indian law. While Muslim Personal Law has traditionally been interpreted to limit a husband's liability after the iddat period, secular legal provisions such as Section 125 of the Code of Criminal Procedure,<sup>1</sup> now replaced by Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023,<sup>2</sup> provide maintenance rights irrespective of religion. The secular nature of these provisions seeks to prevent destitution and ensure social justice for women who are unable to maintain themselves. This tension between personal law and secular law came into national focus through *Mohd. Ahmed Khan v Shah Bano Begum*, where the Supreme Court recognised the right of a divorced Muslim woman to claim maintenance under secular criminal law.<sup>3</sup> The judgment marked a significant moment in the evolution of maintenance jurisprudence in India and sparked intense debate concerning religious freedom, gender justice, and the role of judicial intervention in personal laws. In response to the controversy, Parliament enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986, which further complicated the relationship between secular law and Muslim Personal Law.<sup>4</sup>

Subsequently, in *Daniel Latifi v Union of India*,<sup>5</sup> the Supreme Court interpreted the 1986 Act in a manner that expanded the rights of divorced Muslim women by holding that a husband's obligation to make a "fair and reasonable provision" extends beyond the iddat period. Through

---

<sup>1</sup> Code of Criminal Procedure 1973, s 125

<sup>2</sup> Bharatiya Nagarik Suraksha Sanhita 2023, s 144

<sup>3</sup> *Mohd Ahmed Khan v Shah Bano Begum and Ors* AIR 1985 SC 945

<sup>4</sup> Muslim Women (Protection of Rights on Divorce) Act 1986

<sup>5</sup> *Daniel Latifi and Anr v Union of India* AIR 2001 SC 3958

this interpretation, the Court attempted to harmonise constitutional principles of equality and dignity with the framework of Muslim Personal Law. Despite these judicial developments and the continuation of secular maintenance provisions under Section 144 BNSS, many Muslim women still face practical barriers in accessing justice.<sup>6</sup> Lack of legal awareness, financial dependency, prolonged litigation, social pressure, and inconsistent implementation continue to create a significant gap between legal rights and actual relief. In many cases, personal law is still invoked as a shield to restrict liability, leaving vulnerable women in situations of economic insecurity. Against this background, the present research seeks to examine the interplay between Muslim Personal Law, the concept of Nafaqah and Mata, and the secular framework of Section 144 BNSS. The study further analyses the role of judicial intervention in shaping maintenance rights and evaluates whether the existing legal system adequately protects divorced Muslim women from destitution. The paper also attempts to identify the continuing challenges in enforcement and suggests balanced reforms aimed at ensuring gender justice while respecting religious autonomy and constitutional values.

### **OBJECTIVES OF THE STUDY**

1. To examine the concept of maintenance under Muslim Personal Law and Indian secular law, particularly Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
2. To analyse judicial interpretation of maintenance rights through landmark cases such as *Mohd. Ahmed Khan v Shah Bano Begum* and *Danial Latifi v Union of India*.
3. To study the practical difficulties faced by women in securing maintenance despite existing legal protections.
4. To suggest effective legal and social measures for preventing abandonment and ensuring the protection of women and dependent children.

### **ANALYSIS**

Maintenance under Muslim law is known as Nafaqah, which means the financial support provided by a man to his family. It generally includes food, clothing, lodging, and other necessities required for a dignified life. The concept of maintenance in Muslim law aims to protect the rights of the wife and ensure that she can live with dignity and security. Maintenance

---

<sup>6</sup> Bharatiya Nagarik Suraksha Sanhita 2023, s 144

is considered an obligation arising out of marriage, and the husband is under a duty to maintain his wife during the subsistence of marriage and, in certain circumstances, even after dissolution of marriage if she is unable to maintain herself.

Under Muslim law, the liability to maintain extends not only towards the wife but also towards children, grandchildren, aged parents, and certain other relatives. In some situations, maintenance may also extend towards servants. However, the present study mainly focuses on the maintenance rights of wives, while also briefly discussing child maintenance because Muslim law itself contains provisions relating to the maintenance and care of children. One such provision can be found in the Quran Surah Al-Baqarah, Verse 233, which emphasises the responsibility of the father towards the mother and child during the nursing period.

The wife's right to be maintained by her husband is considered absolute under Muslim law. A husband is bound to maintain his wife in a valid marriage even if there is no specific agreement regarding maintenance. This obligation exists irrespective of the financial condition of the husband. Therefore, even if the husband is facing financial difficulties, he cannot completely deny his responsibility to maintain his wife. The amount or quantum of maintenance has not been fixed under any matrimonial statute and is generally determined by the court based on the social and financial condition of both the husband and the wife.

However, Muslim law also recognises certain circumstances in which a wife may lose her right to maintenance. A wife is generally not entitled to maintenance if she has not attained puberty, if she abandons her husband and matrimonial duties without reasonable cause, if she elopes with another man, or if she deliberately disobeys the reasonable commands of her husband. At the same time, there are certain exceptions where the wife may still claim maintenance despite living separately or disobeying the husband. For instance, if the husband is involved in an extramarital relationship, if he is guilty of cruelty towards the wife, or if the marriage cannot be consummated, the wife may remain entitled to maintenance.

The concept of maintenance under Muslim law is derived from several important sources of Islamic law, namely the Holy Quran, Sunnat, and Ijma. In the Quran, the concept of *Mata'ah* or *Mata* has been used in the context of maintenance, support, and consolatory gifts in favour of divorced women. The Quran recognises the importance of fair and reasonable provision for

women after divorce and seeks to ensure dignity and financial support during such difficult circumstances.

In Islam, *Mata'ah* refers to a mandatory and fair provision or support granted to a divorced woman. The Quran expressly provides for maintenance and support for divorced women through various verses. Surah Al-Baqarah (2:236) provides that where a woman is divorced before consummation of marriage or before the dower is fixed, she should still be provided with reasonable compensation according to the financial capacity of the husband. Similarly, Surah Al-Baqarah (2:241–242) states that divorced women are entitled to a fair provision according to honourable standards, and this is regarded as an obligation upon righteous persons.

Further, Surah At-Talaq (65:6) emphasises that women should be maintained according to the means of the husband and should not be subjected to hardship. It also provides that if the divorced woman nurses the child, she should receive payment for it. Another important Quranic provision relating to child maintenance is found in Surah Al-Baqarah, Verse 233, which states:

Mothers should breastfeed their children for two full years for those who wish to complete breastfeeding. It is the duty of the father to feed and clothe them appropriately. A person is not burdened except according to his ability. A mother should not be made to suffer for her children, nor should a father be made to suffer for his children. The heirs are also like that. If they wish to wean (before two years) by mutual consent, there is no sin on either of them. If you wish to have your child suckled by someone else, there is no sin if you appropriately provide payment. Fear Allah and know that Allah is All-Seeing of what you do.”

The word *Mata* has therefore been interpreted in the context of post-divorce maintenance and support for divorced women even after the period of *Iddat*. Although classical Islamic interpretation generally restricted post-divorce maintenance up to the *iddat* period, several Muslim-majority countries, such as Egypt, Iraq, Kuwait, Syria, Tunisia, Algeria, Morocco, Turkey, and Malaysia, have expanded the concept of post-divorce maintenance through progressive interpretation and legislation. Judicial activism in these countries has also attempted to address changing social realities and strengthen the protection available to divorced women.

Apart from Muslim Personal Law, maintenance rights of Muslim women are also governed by statutory provisions under Indian law. One of the most important legislations in this regard is the Muslim Women (Protection of Rights on Divorce) Act, 1986,<sup>7</sup> which was enacted following the controversy arising out of *Mohd. Ahmed Khan v Shah Bano Begum*.<sup>8</sup>

In the *Shah Bano* case, the Supreme Court observed that Section 125 of the Code of Criminal Procedure, 1973 (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) is a secular provision applicable to all citizens irrespective of religion. The Court clarified that although under traditional Muslim law the husband's liability to maintain a divorced wife was generally limited to the iddat period, a divorced Muslim woman who is unable to maintain herself can seek maintenance under Section 125 CrPC (now Section 144 BNSS).

The judgment led to widespread political and social controversy, with many groups considering it an interference with Muslim Personal Law. As a result, Parliament enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986. The Act appeared to limit the liability of the husband to the iddat period. It further provided that if a divorced woman was unable to maintain herself after iddat, the responsibility could shift to her relatives who would inherit her property, and in certain circumstances, to the Wakf Board.

Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986<sup>9</sup> provides that a divorced Muslim woman is entitled to a reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband. It also provides for payment of mahr or dower and return of properties given to her before or after marriage.

Section 4 of the Act states that where a divorced woman is unable to maintain herself after the iddat period and has not remarried, the Magistrate may order such relatives as would inherit her property upon her death to pay reasonable and fair maintenance.<sup>10</sup> If such relatives are unable to pay, the Magistrate may direct the State Wakf Board to provide maintenance.

---

<sup>7</sup> *Mohd Ahmed Khan v Shah Bano Begum and Ors* AIR 1985 SC 945

<sup>8</sup> Muslim Women (Protection of Rights on Divorce) Act 1986

<sup>9</sup> *Ibid* s 3

<sup>10</sup> *Ibid* s 4

Section 5 of the Act provides that if both parties declare that they would prefer to be governed by Sections 125 to 128 of the Code of Criminal Procedure,<sup>11</sup> they may choose to proceed under those secular provisions instead of the 1986 Act. The constitutional validity and interpretation of the 1986 Act were later examined in *Danial Latifi v Union of India*.<sup>12</sup>

In this case, the Supreme Court held that the husband is liable to make a “reasonable and fair provision” for the future of the divorced wife, and such provision is not limited only to the iddat period. The Court clarified that although the payment must be made within the iddat period as required under Section 3(1) of the Act, the amount should be sufficient to sustain the woman even beyond iddat.

The Court further observed that if the wife remains unmarried and is unable to maintain herself after the iddat period, she may proceed under Section 4 of the Act. However, this gives rise to an important practical issue. In many situations, women may not possess property, financially capable relatives, or independent means of survival. Children may also be minors and incapable of maintaining their mother. In such circumstances, the burden may ultimately shift to the Wakf Board. This raises an important question regarding whether it is justified for husbands to avoid long-term responsibility by relying upon the possibility that maintenance may later be provided by relatives or the Wakf Board instead of by the husband himself.

### **PRACTICAL REALITY FACED BY WOMEN AND THE EXISTING JUSTICE GAP**

Despite the existence of various legal provisions relating to maintenance under Muslim Personal Law, Section 125 of the Code of Criminal Procedure, 1973 (now Section 144 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*), and the Muslim Women (Protection of Rights on Divorce) Act, 1986, many Indian Muslim women still face serious difficulties in obtaining justice. Although courts have repeatedly recognised the rights of divorced Muslim women through important judicial decisions, the practical reality faced by women remains very different from the protection available on paper. One of the major reasons behind this problem is the long judicial procedure involved in maintenance cases. Maintenance disputes often continue for years in different courts, causing emotional and financial suffering to women who are already in vulnerable conditions. In many cases, women face societal pressure, character assassination, and

---

<sup>11</sup> *Ibid* s 5

<sup>12</sup> *Daniel Latifi and Anr v Union of India* AIR 2001 SC 3958

fear of public humiliation, which discourages them from continuing legal proceedings. As a result, many women either withdraw their claims or accept inadequate settlements due to social and economic pressure. Another important issue is the prolonged judicial battle between personal law and secular law. Husbands often attempt to delay proceedings by arguing that Muslim Personal Law overrides secular maintenance provisions such as Section 125 CrPC (now Section 144 BNSS). Even after strong judicial interpretation by the Supreme Court, these arguments are repeatedly used as a shield to reduce or avoid financial liability towards divorced wives. The problem of arrears, meaning unpaid or pending maintenance amounts, also continues to weaken the effectiveness of maintenance laws. Even after courts pass maintenance orders, many husbands fail or refuse to make regular payments. In several cases, large amounts remain unpaid for long periods of time, making it extremely difficult for women and children to survive with dignity. The situation becomes worse because courts often struggle to enforce these orders effectively. In addition to non-payment, many husbands attempt to hide their real income or transfer property in the names of relatives to appear financially incapable of paying maintenance. Such practices make it difficult for courts to determine the actual financial condition of the husband and often result in inadequate maintenance awards. This creates further hardship for women who are already financially dependent. Lack of legal awareness is another major factor responsible for the denial of justice. Many women, especially those belonging to rural or marginalised communities, are not fully aware of their legal rights. Due to social customs and misunderstanding of the Muslim Women (Protection of Rights on Divorce) Act, 1986, several women continue to believe that their rights end after the iddat period. Opponents also tactically use personal law arguments to confuse women regarding their entitlement to maintenance.

Although *Danial Latifi v Union of India* clarified that a divorced Muslim woman is entitled to a “fair and reasonable provision” for her future and not merely maintenance during iddat,<sup>13</sup> practical difficulties continue in implementation. Some groups within the Muslim community continue to argue that the Muslim Women (Protection of Rights on Divorce) Act, 1986 overrides secular maintenance provisions such as Section 125 CrPC, now Section 144 BNSS, to limit the financial responsibility of husbands. However, the Supreme Court in July 2024 clarified that the 1986 Act is an additional remedy and cannot be used to block the right of Muslim women to seek

---

<sup>13</sup> *Ibid*

maintenance under secular law. This observation once again emphasised that maintenance provisions under secular law are applicable irrespective of religion and are intended to protect women from destitution and neglect.

Another serious issue is legal exhaustion. Claiming maintenance often becomes emotionally and financially draining for women. Many women are unable to afford lawyers or continue lengthy litigation for years. Social pressure from family members and society further discourages women from pursuing legal remedies. As a result, even when the law recognises their rights, many women fail to obtain actual relief. The issue of ineffective enforcement also remains a major weakness within the justice system. Even after obtaining favourable maintenance orders, enforcement remains difficult because husbands may deliberately avoid payment, hide assets, or refuse to cooperate with court proceedings. This leads to massive unpaid maintenance amounts and delays in justice.

Consequently, there continues to exist a significant gap between legal rights guaranteed under the law and the practical reality experienced by women and children. Therefore, despite the existence of strong judicial decisions and statutory protections, the problems of delay, lack of awareness, weak enforcement, misuse of personal law arguments, financial dependency, and social pressure continue to prevent many Muslim women from effectively exercising their maintenance rights. The issue of lack of awareness has also played a major role in denying justice to Muslim women and children in maintenance matters.

Many women, particularly in rural and marginalised communities, are unaware of the actual legal position regarding their rights under secular law and Muslim Personal Law. Due to social customs and misunderstanding of the Muslim Women (Protection of Rights on Divorce) Act, 1986, many women continue to believe that their rights end after the iddat period. In several situations, opponents tactically use personal law arguments to create confusion regarding the entitlement of women and children to maintenance. This confusion can also be seen through judicial decisions such as *Gulam Rashid Ali v Kaushar Parveen*, where a father attempted to stop maintenance for his minor daughter after two years by arguing that his obligation had ended under Section 3(1)(b) of the Muslim Women (Protection of Rights on Divorce) Act, 1986.<sup>14</sup>

---

<sup>14</sup> *Gulam Rashid Ali v Kaushar Parveen and Anr* (2010) DHC 3968

Similarly, in *Noor Saba Khatoon v Mohd. Quasim*, the issue arose because even lower courts were not properly interpreting the law relating to the maintenance rights of children.<sup>15</sup> The case clarified that children's right to maintenance cannot be unfairly restricted through a narrow interpretation of the 1986 Act. Another major issue faced by women is legal exhaustion caused by prolonged judicial proceedings. Although maintenance laws are intended to provide speedy relief, in reality, many women are forced to spend years or even decades in litigation before receiving justice. Long legal battles often become emotionally, socially, and financially draining for women who are already in vulnerable conditions.

A significant example is *Shamim Ara v State of U.P.* In this case, the wife filed her maintenance petition in 1979, but the final judgment of the Supreme Court was delivered only in 2002 after nearly twenty-three years of litigation.<sup>16</sup> The husband attempted to avoid maintenance by falsely claiming that he had already divorced his wife through an uncommunicated triple talaq. The Supreme Court finally held that such a divorce would not be valid unless it was properly proved and clearly communicated to the wife.

Similarly, in *Mohd. Ahmed Khan v Shah Bano Begum*,<sup>17</sup> Shah Bano had been abandoned by her husband and was compelled to fight a prolonged legal battle for maintenance. During the proceedings, the husband pronounced triple talaq in an attempt to avoid liability beyond the iddat period. Although the Supreme Court ultimately ruled in her favour, the controversy following the judgment resulted in further legal uncertainty and decades of litigation regarding the rights of Muslim women under the 1986 Act. The issue of prolonged legal uncertainty was also visible in *Danial Latifi v Union of India*.<sup>18</sup> The constitutional validity and interpretation of the Muslim Women (Protection of Rights on Divorce) Act, 1986 remained uncertain for many years until the Supreme Court clarified that a Muslim husband is required to make a fair and reasonable provision for the future of his divorced wife and not merely provide maintenance during the iddat period.

Another example is *Khatoon Nisa v State of U.P.*, where prolonged proceedings raised the question of whether a divorced Muslim woman could continue seeking maintenance under

---

<sup>15</sup> *Noor Saba Khatoon v Mohd Quasim* AIR 1997 SC 3280

<sup>16</sup> *Shamim Ara v State of UP and Anr* AIR 2002 SC 3551

<sup>17</sup> *Mohd Ahmed Khan v Shah Bano Begum and Ors* AIR 1985 SC 945

<sup>18</sup> *Daniel Latifi and Anr v Union of India* AIR 2001 SC 3958

Section 125 CrPC despite personal law remedies.<sup>19</sup> The Court reaffirmed that secular maintenance provisions remain available to protect women from destitution during lengthy disputes. The problem of ineffective enforcement further weakens the practical implementation of maintenance laws. Even after women obtain maintenance orders from courts, enforcement often becomes extremely difficult because husbands avoid payment, hide assets, delay proceedings, or misuse procedural technicalities.

As a result, many women continue to suffer despite obtaining favourable judicial orders. This issue can be observed in *Iqbal Bano v State of U.P.*, where a Muslim wife filed an execution petition to enforce a maintenance order.<sup>20</sup> To stop the enforcement proceedings, the husband suddenly claimed that he had previously divorced her through a unilateral triple talaq. Based on this claim, the lower court treated her as no longer being a legally valid wife for the continuous enforcement of maintenance.

Similarly, in *Hasina Khatoon v State of U.P.*, although the woman had already obtained a maintenance order under the Domestic Violence Act, the husband continued to delay payment through procedural tactics and technical legal arguments.<sup>21</sup> Such actions prolonged the enforcement process and prevented timely financial relief to the woman. Therefore, despite the existence of statutory protections and progressive judicial interpretation, practical barriers such as a lack of awareness, prolonged litigation, procedural delays, misuse of personal law arguments, and ineffective enforcement continue to create serious obstacles in the realisation of maintenance rights for Muslim women and children in India.

## **FINDINGS OF THE STUDY**

The present study finds that although Muslim Personal Law, secular maintenance provisions, and various judicial decisions have attempted to protect the rights of Muslim women, many practical difficulties continue to prevent women from receiving effective justice. Indian courts have repeatedly expanded and clarified the maintenance rights of Muslim women through progressive interpretation, yet the actual condition of many women remains vulnerable due to social, financial, and procedural barriers. The research further finds that certain interpretations

---

<sup>19</sup> *Khatoon Nisa v State of UP and Ors AIR ONLINE 2002 SC 473*

<sup>20</sup> *Iqbal Bano v State of UP and Anr AIR 2007 SUPREME COURT 2215*

<sup>21</sup> *Hasina Khatoon v State of UP and Anr (2024) AHC 10515*

of personal law are sometimes used as a shield to reduce or avoid the long-term financial responsibility of husbands. Even after repeated judicial clarification that Section 125 of the Code of Criminal Procedure, 1973<sup>22</sup> (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023)<sup>23</sup> is a secular remedy available to all women irrespective of religion, disputes regarding the extent of maintenance liability continue to arise in practice. The study also observes that social and political opposition following progressive judicial decisions has, at times, slowed the process of reform in personal laws. Although the law must evolve with changing social conditions, reforms relating to women's rights often face resistance in the name of the protection of religion or tradition.

However, under Article 25 of the Constitution, freedom of religion is subject to public order, morality, health, and other Fundamental Rights.<sup>24</sup> Therefore, reasonable reforms aimed at ensuring justice, equality, and dignity cannot be completely restricted merely based on traditional practices. Another important finding of this study is that constitutional morality must be given greater importance than societal morality in matters affecting women's dignity and equality. Societal morality is often influenced by traditional customs, gender hierarchy, social pressure, and discriminatory practices, whereas constitutional morality seeks to uphold equality, dignity, and justice for all individuals. Therefore, laws relating to maintenance should be interpreted and implemented in a manner consistent with constitutional values and present-day social realities.

The study further reveals that a lack of awareness remains one of the biggest obstacles preventing women from exercising their legal rights. Many women, particularly in rural and marginalised communities, are still unaware that practices such as arbitrary triple talaq have legal consequences and that women possess enforceable rights under secular law. In many cases, women continue to silently suffer due to fear of society, financial dependence, lack of education, or pressure from family members. The problem becomes more serious in areas where traditional practices are followed without a proper understanding of legal developments and constitutional protections. The research also highlights that Islam itself recognises the importance of financial security and the dignity of women through concepts such as Nafaqah and Mata'ah. Quranic

---

<sup>22</sup> Code of Criminal Procedure 1973, s 125

<sup>23</sup> Bhartiya Nagarik Suraksha Sanhita 2023, s 144

<sup>24</sup> Constitution of India 1950, art 25

provisions, including Surah Al-Baqarah, emphasise fair provision and financial responsibility towards women and children.

However, in practice, divorced women often continue to face uncertainty regarding their long-term financial security, particularly when maintenance is limited only to iddat or when husbands attempt to avoid liability through procedural tactics. The study additionally finds that maintenance is not merely an economic issue but also a matter connected with dignity, emotional security, survival, and social protection of women and children. Financial support alone may not completely address the trauma, insecurity, and emotional suffering experienced by women after abandonment or divorce. In situations where women are divorced at an advanced age, lack independent income, or have dependent children, the absence of long-term support may seriously affect their future and well-being.

Another significant finding is that ineffective enforcement of maintenance orders continues to weaken the justice delivery system. Even after obtaining favourable court orders, many women struggle to actually receive maintenance because of delayed proceedings, hiding of income or property, non-payment, and procedural complications. As a result, there continues to exist a major gap between legal rights guaranteed under law and the practical realisation of justice in everyday life. Therefore, the overall finding of this study is that while Indian courts and legal provisions have made significant efforts to strengthen the maintenance rights of Muslim women, effective implementation, awareness, social support, and progressive legal reform remain essential to ensure that women can enjoy these rights in reality and not merely in theory.

### **NEED FOR PROGRESSIVE REFORM AND AMENDMENT**

The study suggests that progressive reforms and reasonable amendments in personal law relating to maintenance are necessary to ensure justice, dignity, and equality for women in present-day society. Under Article 25, freedom of religion is guaranteed to every citizen; however, such freedom is subject to public order, morality, health, and other Fundamental Rights guaranteed by the Constitution.<sup>25</sup> Therefore, if any legal provision or traditional practice results in inequality, injustice, or denial of dignity, reasonable reforms and legal amendments can be introduced in accordance with constitutional principles. The study further suggests that

---

<sup>25</sup> Constitution of India 1950, art 25

laws must evolve along with changing social conditions and modern realities. Society continuously develops with time, and therefore, legal provisions must also adapt to ensure fairness and effective protection of rights. In many areas of law, amendments, additional clauses, and progressive judicial interpretations have been introduced to meet contemporary social needs.

Similarly, personal laws relating to maintenance should also be interpreted and reformed in a manner that provides greater financial security, dignity, and protection to women and children. The need for reform becomes more important because, despite repeated judicial clarification and constitutional protection, many women still struggle to obtain long-term financial support after divorce. Limiting maintenance only to iddat in practical situations may not always be sufficient to protect women who are financially dependent, elderly, unemployed, or responsible for raising children.

Therefore, legal reforms and progressive interpretation remain necessary to reduce the gap between legal theory and practical justice. Such reforms may also encourage husbands to view maintenance not merely as a burden, but as a legal and moral responsibility arising out of marriage and family obligations. If clearer and stronger maintenance rights are incorporated within personal law itself, the possibility of using legal provisions as a shield to avoid long-term responsibility may also be reduced. At the same time, any reform introduced should remain reasonable, balanced, and fair so that the rights granted for the protection of women are not misused by either party. 2. Stricter Enforcement

## **STRICTER ENFORCEMENT AND STRIKING OFF DEFENCE**

The study further suggests that stricter enforcement mechanisms should be adopted in maintenance proceedings where the husband deliberately refuses to cooperate with the court or intentionally avoids payment of maintenance. In such situations, courts may adopt stronger measures such as limiting or striking off the defence of the husband when continuous non-cooperation is proved. The study also recommends that proper financial investigation should be conducted in appropriate cases to determine the actual income, assets, properties, and bank accounts of the husband. Where necessary, courts may temporarily freeze or seize certain assets and bank accounts in accordance with the law to prevent concealment of property and deliberate avoidance of maintenance liability. Such measures may help ensure that women and children

receive maintenance according to their genuine needs and necessities. At the same time, these measures should be applied carefully and reasonably so that the process remains fair and balanced for both parties while ensuring effective enforcement of maintenance orders.

### **AWARENESS, EDUCATION AND WOMEN EMPOWERMENT**

The study further suggests that greater efforts should be made to increase legal awareness regarding the rights of Muslim women. Awareness programs, public campaigns, advertisements, and educational initiatives should be conducted at both national and community levels so that women become aware of their legal and constitutional rights relating to maintenance, dignity, equality, and protection from oppression. The study also recommends improvement of educational facilities in rural, marginalised, and underdeveloped areas where access to quality education and legal awareness remains limited. Schools, institutions, and social organisations should actively promote education and awareness regarding women's rights and gender equality. Quality education plays an important role in empowering women and helping them become financially, socially, and legally independent.

The research further suggests that online educational platforms, websites, and awareness programs specifically focusing on the rights of Muslim women should be encouraged to spread accurate legal knowledge and remove misconceptions relating to personal law and maintenance rights. More academic research, social discussion, and policy consideration regarding the condition of Muslim women are also necessary to strengthen awareness and protection mechanisms. In addition, the study recommends that appropriate action should be taken against oppressive social practices or community-based rules that deny women their legal rights or dignity. Women should be encouraged and supported to raise their voices against injustice, discrimination, and abuse without fear of social pressure or humiliation. At the same time, awareness and education should not be limited only to women. Men should also be equally educated regarding dignity, equality, responsibility, and humane treatment within marriage and family relationships. The study emphasises that oppression, abandonment, and unjust treatment of women are inhumane and contrary to the principles of justice, dignity, and moral responsibility.

### **NEED FOR STRONGER PUNISHMENT AND ACCOUNTABILITY**

The study further suggests that if a husband repeatedly refuses to follow maintenance orders even after strict action by the court, stronger punishment should be imposed to ensure accountability. Simply giving minor punishment or short-term imprisonment may not always create fear of law among those who intentionally avoid their legal and moral responsibilities towards their wife and children. The research also suggests that in serious situations where continuous neglect, cruelty, abandonment, or harassment destroys the physical or mental well-being of a woman, strict legal action should be taken. If such family-related abuse or intentional neglect results in severe injury, suicide, or death of the wife, the punishment should be extremely strict according to the seriousness of the offence, so that such inhumane acts are strongly discouraged in society. The purpose of stronger punishment should not only be to penalise the offender but also to protect vulnerable women and children and ensure that marriage and family responsibilities are treated with seriousness, dignity, and humanity.

### **RESPONSIBLE APPROACH TOWARDS MARRIAGE AND PARENTHOOD**

Lastly, the study suggests that one effective way to reduce abandonment of women and children is to encourage a more cautious and responsible approach towards marriage. The word “cautious” here means careful, thoughtful, and fully aware of the responsibilities that come with marriage and parenthood. Marriage, especially under Muslim law, is not merely a social or personal relationship but also carries important legal, financial, and moral responsibilities. In Islam, Nikah includes the responsibility of providing maintenance, shelter, food, clothing, care, and protection to the wife and children. Parenthood also carries important moral duties, as parents are considered guardians and protectors of their children. Therefore, individuals who are not mentally, morally, or financially prepared to fulfil lifelong responsibilities towards a spouse and children should approach marriage with seriousness and responsibility. If a person knowingly chooses to remain single rather than entering marriage without the ability to fulfil such obligations, it may help prevent future neglect, abandonment, emotional suffering, and prolonged legal disputes involving women and children. The study, therefore, suggests that ethical and responsible decision-making before marriage may act as a preventive solution to maintenance disputes and family-related injustice under Muslim Personal Law.

## CONCLUSION

The present study concludes that the concept of maintenance under Muslim law is not merely a legal obligation but is deeply connected with dignity, protection, responsibility, and humanity. Through the analysis of Quranic principles, statutory provisions, and judicial decisions, it becomes clear that both Islamic teachings and Indian secular law recognise the importance of providing financial security and protection to women and children after divorce or abandonment. The research further shows that Indian courts have played an important role in expanding and protecting the maintenance rights of Muslim women through progressive judicial interpretation. Important decisions such as *Mohd. Ahmed Khan v Shah Bano Begum* and *Danial Latifi v Union of India* clarified that maintenance provisions under secular law are meant to prevent destitution and ensure a dignified life for divorced women. Similarly, Section 125 of the Code of Criminal Procedure, 1973, now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, continues to operate as a secular remedy available irrespective of religion.

However, despite the existence of legal protections and judicial efforts, the practical reality faced by many women remains difficult. Long judicial procedures, lack of awareness, social pressure, financial dependency, ineffective enforcement of maintenance orders, and misuse of legal provisions continue to create a significant gap between rights guaranteed under law and justice received in reality. In many cases, women continue to suffer silently due to fear, poverty, lack of education, or emotional exhaustion caused by prolonged legal battles. The study also concludes that religion in itself does not promote injustice or negativity. The real problem often arises from the manner in which human beings interpret, apply, or misuse certain practices according to personal convenience or social conditioning. The purpose of religion is to promote compassion, dignity, honesty, responsibility, and humane treatment towards others. Islamic teachings themselves emphasise kindness, fairness, maintenance, shelter, respect, and emotional care towards wives and family members within marriage.

The research further observes that many traditional personal law interpretations were developed in a different historical and social context, where present-day social realities and challenges may not have existed in the same manner. Therefore, changing social conditions require continuous legal development and reasonable reform to ensure that justice, equality, and dignity are properly protected in modern society. Law continuously evolves with time, and therefore legal

interpretation and implementation must also respond to contemporary realities affecting women and children.

The study emphasises that constitutional morality and humanity must be given importance alongside the protection of religion and personal law. If practices carried out in the name of religion result in neglect, inequality, emotional suffering, or denial of dignity to women, then society must carefully re-examine such practices in light of justice, humanity, and constitutional values. Respect for religion should not become a reason to ignore the suffering of vulnerable individuals. Lastly, the research concludes that maintenance should not be viewed merely as a financial burden but as a moral, legal, and human responsibility arising out of marriage and parenthood. Marriage under Islam is not only a personal relationship but also a commitment involving care, protection, respect, financial support, and emotional security. True justice can only be achieved when women and children can practically enjoy the rights guaranteed to them by law, free from fear, neglect, discrimination, social pressure, and lack of awareness.