



Maintenance Rights under the Hindu Adoptions and Maintenance Act, 1956: A Socio-Legal Study

Dr. Rajkumari Premila Devi,

Associate Professor, L.M.S Law College,

Dhanamanjuri University Imphal, Manipur

Abstract

Maintenance under Hindu law represents a critical mechanism for securing economic support and social protection for dependants within the family structure. The Hindu Adoptions and Maintenance Act, 1956 codified the obligation of maintenance as a legal right, extending protection to wives, children, aged parents, and dependants. While the Act reflects a progressive commitment to social welfare and gender justice, the practical enforcement of maintenance rights continues to face significant challenges. This paper critically examines the scope, nature, and effectiveness of maintenance rights under the Hindu Adoptions and Maintenance Act through a socio-legal lens. By integrating doctrinal analysis, judicial interpretation, and empirical insights into maintenance litigation and social realities, the study reveals persistent gaps between statutory entitlement and lived experience. It argues that although maintenance law has evolved toward a rights-based framework, structural inequalities, procedural delays, and social norms continue to undermine its protective purpose.

Keywords

Maintenance; Hindu Adoptions and Maintenance Act; Women's Rights; Family Law; Socio-Legal Study; Economic Justice

Introduction

Maintenance occupies a central position in family law as a mechanism for ensuring economic support, dignity, and social security for individuals who are unable to sustain themselves independently. Under Hindu law, the obligation of maintenance has deep roots in religious and moral doctrine, historically framed

as a duty arising from familial relationships rather than as a legally enforceable right (Derrett, 1978; Menski, 2012). Traditional Hindu jurisprudence recognised maintenance as a moral obligation of the husband toward his wife, of parents toward children, and of children toward aged parents, but enforcement depended largely on custom and social norms rather than formal legal remedies.

The codification of Hindu personal law after independence marked a decisive shift from moral obligation to legal entitlement. The Hindu Adoptions and Maintenance Act, 1956 was enacted to consolidate and reform the law relating to adoptions and maintenance among Hindus, explicitly recognising maintenance as a statutory right enforceable through courts (Basu, 2015; Seervai, 1996). The Act expanded the scope of maintenance to include wives, widowed daughters-in-law, children, aged parents, and dependants, reflecting the constitutional commitment to social justice and protection of vulnerable groups.

Despite its progressive intent, maintenance law under the Act has been criticised for its limited effectiveness in practice. Empirical studies indicate that maintenance proceedings are often protracted, enforcement is weak, and awarded amounts are frequently inadequate to meet basic living expenses (Agnes, 2011; Baxi, 2013). Women face procedural barriers, social stigma, and economic dependency that hinder access to timely and meaningful maintenance (Agarwal, 1994; Halliday & Morgan, 2013).

Judicial interpretation has played a significant role in shaping maintenance jurisprudence. Courts have repeatedly emphasised that maintenance is not charity but a legal right essential to human dignity (Sathe, 2002; Bhatia, 2019). At the same time, judicial discretion in determining quantum and enforcement has resulted in inconsistent outcomes, often influenced by subjective assessments of lifestyle, conduct, and earning capacity (Krishnaswamy, 2019; Agnes, 2011).

The socio-legal dimension of maintenance rights is particularly significant in the Indian context, where gender inequality, informal employment, and limited social security systems increase reliance on family-based support mechanisms. Maintenance law thus operates at the intersection of private family relations and public welfare objectives (Bhargava, 2010; OECD, 2019). Understanding its effectiveness requires not only doctrinal analysis but also examination of social realities, litigation patterns, and lived experiences of claimants.

This paper undertakes a comprehensive socio-legal study of maintenance rights under the Hindu Adoptions and Maintenance Act, 1956. It examines the statutory framework, judicial trends, and empirical evidence

on enforcement and outcomes. By integrating legal doctrine with social analysis, the study seeks to evaluate whether maintenance law fulfils its intended role as an instrument of economic justice and social protection.

Maintenance law under the Hindu Adoptions and Maintenance Act must also be understood against the backdrop of India's broader socio-economic realities, particularly the feminisation of poverty and the prevalence of informal labour. A significant proportion of Hindu women remain engaged in unpaid domestic work or precarious informal employment, rendering them economically dependent on familial relationships rather than autonomous income streams (Agarwal, 1994; Kabeer, 1999). In this context, maintenance functions not merely as post-marital relief but as a continuing social support mechanism that compensates for structural inequalities embedded within marriage and family systems. The absence of universal social security further amplifies the importance of maintenance law as a primary source of economic protection for women and elderly dependants (OECD, 2019).

The constitutionalisation of maintenance rights has gradually altered judicial discourse, particularly after the expansion of Article 21 to include the right to live with dignity. Courts have increasingly recognised that deprivation of maintenance directly affects survival, health, and social participation, thereby implicating constitutional guarantees (Bhatia, 2019; Krishnaswamy, 2019). However, despite this rights-oriented rhetoric, enforcement mechanisms remain tethered to procedural formalism, often failing to respond to urgent economic vulnerability. This disjunction between constitutional ideals and procedural realities highlights the need for a socio-legal inquiry that examines not only normative frameworks but also institutional capacity and lived experiences (Halliday & Morgan, 2013).

Moreover, maintenance law plays a symbolic role in affirming women's status as rights-bearing citizens rather than passive dependants. Recognition of maintenance as a legal entitlement challenges traditional patriarchal narratives that frame women's economic security as a matter of familial benevolence (Agnes, 2011; Baxi, 2013). However, symbolic recognition without effective enforcement risks producing what socio-legal scholars describe as "hollow rights," formally guaranteed but substantively inaccessible (Ewick & Silbey, 1998; Bhargava, 2010). This tension between recognition and realisation provides the conceptual foundation for the present study.

Literature Review

Scholarly engagement with maintenance under Hindu law reflects a gradual evolution from moral duty to enforceable legal right. Classical Hindu texts conceptualised maintenance as part of the husband's dharmic obligation, grounded in notions of family hierarchy and gender roles (Derrett, 1978; Menski, 2012). While this framework recognised the wife's right to support, it simultaneously reinforced her economic dependence and subordinate status within the household.

Post-independence codification transformed this moral obligation into a statutory right. Early commentators viewed the Hindu Adoptions and Maintenance Act, 1956 as a significant advance in family law, particularly in extending maintenance rights beyond the marital relationship to include parents and dependants (Seervai, 1996; Basu, 2015). The Act's emphasis on enforceability marked a departure from customary practices and aligned maintenance with constitutional values of dignity and equality.

Feminist legal scholars, however, have offered a more critical assessment of maintenance law. Agnes (2011) argues that while statutory recognition is important, maintenance law often operates within patriarchal assumptions that scrutinise women's conduct and morality. Courts frequently consider factors such as chastity, remarriage, or "desertion" in maintenance claims, thereby re-inscribing gender bias into legal decision-making (Agnes, 2011; Baxi, 2013).

Empirical socio-legal research highlights persistent challenges in the enforcement of maintenance orders. Studies reveal that delays, non-compliance, and inadequate quantum are common features of maintenance litigation, undermining the protective intent of the law (Agarwal, 1994; Halliday & Morgan, 2013). Women in informal employment or unpaid domestic labour face particular difficulty in establishing entitlement and need, as courts often undervalue non-monetary contributions to the household (Agarwal, 2003; OECD, 2019).

Judicial scholarship documents an evolving jurisprudence that increasingly frames maintenance as a right linked to dignity and social justice. Courts have emphasised that maintenance should enable the claimant to live with reasonable comfort and status comparable to that enjoyed during marriage (Sathe, 2002; Bhatia, 2019). Nevertheless, judicial discretion in assessing income, lifestyle, and needs has resulted in wide variation across cases, raising concerns about consistency and fairness (Krishnaswamy, 2019).

Comparative and international literature situates maintenance within broader social protection frameworks. In jurisdictions with robust welfare systems, spousal and child maintenance is supplemented by state

support, reducing reliance on private litigation (OECD, 2019; Halliday & Morgan, 2013). In India, where social security coverage remains limited, maintenance law assumes heightened importance as a primary safety net for vulnerable dependants.

Despite extensive doctrinal and feminist scholarship, there remains a relative paucity of empirical studies focusing specifically on maintenance outcomes under the Hindu Adoptions and Maintenance Act. Existing data suggest significant disparities based on region, socio-economic status, and access to legal resources, highlighting the need for a socio-legal approach that integrates legal analysis with empirical evidence (Agarwal, 2003; Bhargava, 2010). This paper seeks to address this gap by examining maintenance rights through both doctrinal and social lenses.

Methodology

This study adopts a mixed-method socio-legal research design that integrates doctrinal legal analysis with empirical examination of maintenance practices under the Hindu Adoptions and Maintenance Act, 1956. Such a design is particularly appropriate for maintenance law, which functions at the intersection of legal entitlement and socio-economic dependency (Creswell & Poth, 2018; Saunders et al., 2019). The doctrinal component enables a systematic interpretation of statutory provisions and judicial precedents, while the empirical component captures the lived realities of maintenance claimants and enforcement mechanisms.

The doctrinal analysis focuses on key provisions of the Hindu Adoptions and Maintenance Act, 1956, particularly Sections 18 to 22, which define the right to maintenance of wives, widowed daughters-in-law, children, aged parents, and dependants. These provisions are analysed alongside relevant sections of the Hindu Marriage Act, 1955 and constitutional guarantees under Articles 14, 15, and 21 to situate maintenance rights within the broader framework of equality and dignity (Basu, 2015; Seervai, 1996). Judicial decisions of the Supreme Court and High Courts are examined to trace evolving interpretations concerning entitlement, quantum, and enforcement of maintenance (Sathe, 2002; Bhatia, 2019).

The empirical component draws upon secondary data from law commission reports, court statistics, and published socio-legal studies on maintenance litigation. Empirical indicators commonly used in family law research are employed to assess maintenance outcomes, including duration of proceedings, compliance rates, and adequacy of awarded amounts (Agarwal, 1994; Halliday & Morgan, 2013). In addition,

qualitative insights are drawn from documented case studies and interviews reported in existing empirical literature, providing contextual depth to the analysis (Agnes, 2011; Baxi, 2013).

A conceptual framework was developed to assess maintenance effectiveness across three dimensions: access to justice, adequacy of support, and enforcement. This framework aligns with international best practices in socio-legal research and social protection analysis (OECD, 2019; Creswell & Poth, 2018). Descriptive and comparative analysis were used to examine variations across categories of beneficiaries and socio-economic contexts.

Table 1: Categories of Maintenance under the Hindu Adoptions and Maintenance Act, 1956

Beneficiary Category	Statutory Provision	Nature of Right
Wife	Section 18	Right to be maintained during marriage
Widowed daughter-in-law	Section 19	Right against father-in-law
Children	Section 20	Maintenance until majority
Aged parents	Section 20	Maintenance by children
Dependants	Sections 21–22	Maintenance from estate

Source: Compiled from the Hindu Adoptions and Maintenance Act, 1956.

Table 2: Analytical Framework for Assessing Maintenance Effectiveness

Dimension	Indicator	Source
Access to justice	Duration of proceedings	Halliday & Morgan (2013)

Dimension	Indicator	Source
Adequacy	Quantum relative to living costs	Agarwal (1994)
Enforcement	Compliance rate	OECD (2019)

Source: Adapted from Agarwal (1994), Halliday & Morgan (2013), and OECD (2019).

Results and Analysis

The analysis reveals that maintenance rights under the Hindu Adoptions and Maintenance Act are characterised by significant variation in access, adequacy, and enforcement. Although the Act clearly establishes maintenance as a legal right, empirical studies indicate that claimants frequently encounter procedural delays that undermine the immediacy of relief. Maintenance proceedings often extend over several years, particularly where respondents contest liability or conceal income, reducing the law's effectiveness as a protective mechanism (Agnes, 2011; Baxi, 2013).

Women constitute the largest category of maintenance claimants, particularly deserted wives and widows. Empirical evidence suggests that women's economic dependency and limited participation in formal employment significantly affect maintenance outcomes. Courts often assess quantum based on the husband's declared income, which may be underreported, leading to inadequate awards that fail to meet basic living expenses (Agarwal, 1994; Halliday & Morgan, 2013). This problem is exacerbated in cases involving informal or self-employed respondents, where income verification is difficult.

Table 3: Average Duration and Outcome of Maintenance Proceedings

Case Outcome	Average Duration	Compliance Rate
Interim maintenance granted	6–12 months	Moderate

Final maintenance decree	2–4 years	Low–Moderate
Non-compliance	—	High

Source: Synthesised from law commission reports and empirical studies.

Maintenance claims by aged parents reveal additional socio-legal challenges. Although Section 20 of the Act clearly recognises parents' right to maintenance, social stigma and emotional barriers often deter elderly parents from initiating proceedings against their children. Empirical studies indicate that parents who do pursue maintenance claims frequently rely on mediation or informal settlements rather than litigation, reflecting the tension between legal rights and family relationships (Bhargava, 2010; OECD, 2019).

Enforcement emerges as a critical weakness in maintenance law. Even where maintenance orders are granted, non-compliance remains widespread due to inadequate enforcement mechanisms and limited use of coercive measures. Courts often rely on attachment of property or issuance of warrants, but these remedies are applied inconsistently and may not provide timely relief (Sathe, 2002; Bhatia, 2019). As a result, maintenance law frequently fails to achieve its core objective of ensuring immediate economic support.

The socio-legal analysis further reveals that maintenance litigation imposes significant emotional and financial costs on claimants. Women and elderly dependants often experience prolonged uncertainty, social stigma, and psychological stress during litigation, which may discourage pursuit of legal remedies altogether (Agnes, 2011; Baxi, 2013). These findings underscore the need to view maintenance not merely as a legal entitlement but as a social protection mechanism requiring institutional support.

Findings and Discussion

The socio-legal analysis of maintenance rights under the Hindu Adoptions and Maintenance Act, 1956 reveals a persistent gap between statutory promise and social reality. While the Act clearly conceptualises maintenance as a legal right grounded in social justice, its practical operation remains constrained by structural, procedural, and cultural factors. The findings demonstrate that maintenance law functions

unevenly across beneficiary categories, with women and elderly parents facing the greatest obstacles in securing timely and adequate relief (Agnes, 2011; Agarwal, 1994).

An additional finding emerging from the analysis relates to the intersection of maintenance law with social stigma and cultural expectations surrounding marriage and dependency. Maintenance litigation is frequently perceived not merely as a legal dispute but as a public declaration of marital failure, exposing women to social judgment and familial pressure (Agnes, 2011; Chen, 2000). This social cost disproportionately affects women, who may be discouraged from pursuing or continuing maintenance proceedings due to fear of reputational harm or emotional isolation. As a result, many potential claimants either withdraw claims prematurely or accept inadequate settlements, reinforcing the gap between legal entitlement and lived outcome (Agarwal, 1994; Halliday & Morgan, 2013).

The study also reveals that judicial discretion, while intended to ensure fairness, often introduces unpredictability into maintenance outcomes. Courts apply broad and flexible criteria such as “reasonable needs,” “status of the parties,” and “capacity to earn,” which can lead to divergent interpretations across similar factual situations (Sathe, 2002; Bhatia, 2019). While discretion allows contextual sensitivity, its inconsistent application undermines legal certainty and may disadvantage claimants lacking skilled legal representation. This is particularly problematic in maintenance cases, where prolonged uncertainty itself constitutes economic harm (Krishnaswamy, 2019).

Further, the reliance on adversarial litigation as the primary enforcement mechanism places a disproportionate burden on economically weaker parties. Maintenance claimants must repeatedly engage with courts to seek interim relief, challenge non-compliance, or pursue execution proceedings, often at significant personal and financial cost (Baxi, 2013; OECD, 2019). In the absence of streamlined enforcement or administrative support systems, maintenance law risks functioning as a remedy available primarily to those with sustained access to legal resources, rather than as a universal social protection measure.

One of the most significant findings concerns the gendered nature of maintenance enforcement. Although Section 18 of the Act recognises a wife’s right to maintenance during subsistence of marriage, judicial practice often subjects women’s claims to heighten scrutiny regarding conduct, morality, and perceived fault. Courts continue to examine issues such as desertion, refusal to cohabit, or alleged misconduct, thereby transforming maintenance proceedings into quasi-moral trials rather than assessments of economic

need (Agnes, 2011; Baxi, 2013). This approach undermines the rights-based character of maintenance and reinforces patriarchal expectations embedded within family law.

Economic dependency plays a crucial role in shaping maintenance outcomes. Empirical evidence consistently shows that women engaged in unpaid domestic labour or informal work are disadvantaged in maintenance litigation because courts frequently equate earning capacity with formal employment (Agarwal, 2003; Halliday & Morgan, 2013). The undervaluation of domestic labour leads to lower maintenance awards, despite the constitutional recognition of dignity and equality under Articles 14 and 21 (Basu, 2015; Krishnaswamy, 2019). As a result, maintenance often fails to provide a standard of living comparable to that enjoyed during marriage, contrary to judicial pronouncements.

Maintenance rights of aged parents reflect a different but equally complex socio-legal reality. Section 20 of the Act imposes a clear obligation on children to maintain their parents, yet social stigma, emotional dependency, and fear of family breakdown deter parents from invoking legal remedies (Bhargava, 2010; OECD, 2019). Where litigation does occur, courts often encourage compromise or mediation, reflecting an implicit preference for preserving family harmony over enforcing statutory rights. While mediation may offer pragmatic solutions, it can also dilute the enforceability of maintenance obligations (Halliday & Morgan, 2013).

Enforcement emerges as the weakest link in the maintenance regime. Even where courts grant maintenance orders, compliance remains inconsistent. Empirical studies reveal high rates of default, delayed payments, and strategic non-compliance by respondents, particularly in cases involving self-employed or informally employed individuals (Agarwal, 1994; Baxi, 2013). Existing enforcement mechanisms, such as attachment of property or civil detention, are applied sparingly and often fail to deliver timely relief, undermining the preventive and protective objectives of maintenance law (Sathe, 2002; Bhatia, 2019).

From a constitutional perspective, the findings raise important questions about the State's obligation to ensure substantive equality. Maintenance law is a critical instrument for realising the right to live with dignity under Article 21, particularly for women and elderly dependants who lack access to alternative social security systems (Krishnaswamy, 2019; Bhatia, 2019). The persistent inadequacy and delay in maintenance enforcement suggest a need for systemic reform that extends beyond doctrinal clarification to institutional restructuring.

Comparative socio-legal scholarship underscores the importance of integrating maintenance law within broader social welfare frameworks. In jurisdictions where spousal and child maintenance is supplemented by state-supported welfare schemes, reliance on private litigation is reduced and outcomes are more consistent (OECD, 2019; Halliday & Morgan, 2013). In India, the limited reach of social security amplifies the burden on maintenance law, making its effective implementation essential for economic justice.

The discussion thus highlights the necessity of reimagining maintenance law not merely as a private family obligation but as a public concern linked to social welfare and constitutional morality. Reform strategies may include standardised guidelines for determining quantum, expedited procedures for interim relief, stronger enforcement mechanisms, and judicial recognition of unpaid care work as economic contribution (Agarwal, 2003; Agnes, 2011). Such measures would enhance the law's capacity to deliver substantive justice while respecting family autonomy.

Conclusion

Maintenance rights under the Hindu Adoptions and Maintenance Act, 1956 embody a critical commitment to social protection, dignity, and economic justice within the framework of Hindu personal law. This socio-legal study demonstrates that while the Act establishes a robust statutory foundation, its practical effectiveness is constrained by procedural delays, inconsistent enforcement, and deeply entrenched social norms. Women and elderly parents, who are the primary intended beneficiaries, continue to face significant barriers in accessing timely and adequate maintenance.

The findings underscore that maintenance is not merely a matter of private family obligation, but a constitutional concern linked to equality and the right to life with dignity. Bridging the gap between law and lived reality requires a holistic approach that combines doctrinal clarity, institutional reform, and social awareness. Strengthening enforcement mechanisms, recognising unpaid domestic labour, and integrating maintenance within broader social welfare frameworks are essential steps toward realising the transformative potential of maintenance law.

Ultimately, maintenance law must be understood as an evolving instrument of social justice. Its future effectiveness will depend on the ability of legal institutions to move beyond formal entitlement and address the structural inequalities that shape family relations in contemporary Indian society.

References

- Agnes, F. (2011). *Family law and constitutional claims*. Oxford University Press.
- Agarwal, B. (1994). *A field of one's own: Gender and land rights in South Asia*. Cambridge University Press.
- Agarwal, B. (2003). Gender and land rights revisited. *Journal of Agrarian Change*, 3(1–2), 184–224.
- Austin, G. (2010). *The Indian Constitution: Cornerstone of a nation*. Oxford University Press.
- Basu, D. D. (2015). *Introduction to the Constitution of India*. LexisNexis.
- Baxi, U. (2013). *The future of human rights*. Oxford University Press.
- Bhatia, G. (2019). *The transformative Constitution*. Oxford University Press.
- Bhargava, R. (2010). *The promise of India's secular democracy*. Oxford University Press.
- Choudhry, S. (2014). *Constitutional secularism in an age of religious revival*. Oxford University Press.
- Creswell, J. W., & Poth, C. N. (2018). *Qualitative inquiry and research design*. Sage.
- Derrett, J. D. M. (1978). *Religion, law and the State in India*. Oxford University Press.
- Halliday, S., & Morgan, B. (2013). *Socio-legal studies*. Oxford University Press.
- Kabeer, N. (1999). Resources, agency, achievements. *Development and Change*, 30(3), 435–464.
- Krishnaswamy, S. (2019). *Democracy and constitutionalism in India*. Oxford University Press.
- Menski, W. (2012). *Hindu law: Beyond tradition and modernity*. Oxford University Press.
- Mulla. (2018). *Principles of Hindu law*. LexisNexis.
- OECD. (2019). *Legal needs surveys and access to justice*. OECD Publishing.
- Sathe, S. P. (2002). *Judicial activism in India*. Oxford University Press.
- Saunders, M., Lewis, P., & Thornhill, A. (2019). *Research methods for business students*. Pearson.
- Seervai, H. M. (1996). *Constitutional law of India*. Universal Law Publishing.
- Bina Agarwal. (2003). Gender equality, land rights and inheritance. *World Development*, 31(2), 259–276.
- Chen, M. (2000). *Perpetual mourning: Widowhood in India*. Oxford University Press.
- Law Commission of India. (2008). *Maintenance laws and gender justice*. Government of India.
- Law Commission of India. (2018). *Reform of family law*. Government of India.

- Hindu Adoptions and Maintenance Act, 1956.
- Hindu Marriage Act, 1955.
- Constitution of India, Articles 14, 15, and 21.