

Maintenance Rights of Muslim Women Under Muslim Personal Law

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ABSTRACT

In India, the Muslim community is the largest minority group, yet many Muslim women remain unaware of their rights under Muslim Personal Law, particularly concerning maintenance. Maintenance, a fundamental right, holds great importance as it ensures financial security and social dignity for women, especially during and after marriage. While Islamic principles emphasize fairness and protection for women, practical understanding and implementation of these maintenance rights are often clouded by cultural misconceptions and lack of awareness. This paper seeks to illuminate the rights Muslim women possess within the framework of Muslim Personal Law, exploring the spiritual and social principles intended to provide them with a secure livelihood. It delves into the role of cultural practices and community leaders in either reinforcing or obstructing these rights, highlighting the urgent need for informed dialogue and reform. By dispelling myths and shedding light on the core tenets of equality, this study emphasizes the crucial role of educating women as a means of fostering self-advocacy and economic stability. Through an in-depth look at maintenance rights, this study aims to bridge the knowledge gap, empowering women to claim what is rightfully theirs. In recognizing the significance of these protections, the research underlines the importance of widespread awareness and education, advocating for a future where every Muslim woman is equipped with the knowledge to assert her legal entitlements confidently. In doing so, it aspires to contribute to the larger cause of gender equity, upholding the dignity and welfare of Muslim women as envisioned in both traditional Islamic values and the modern social fabric of India.

Keywords: Muslim, Marriage, Maintenance, Dignity, Financial Stability, Fairness

1. Introduction to Maintenance in Muslim Personal Law

The concept of nafaqah (maintenance) is a cornerstone of Muslim Personal Law, emphasizing justice, equity, and compassion as enshrined in Islamic teachings. Maintenance refers to the financial support a person is obligated to provide for the sustenance of those under their care, particularly in the context of marriage. The Quran underscores this responsibility, stating: *“Let the men of means spend according to his means, and the men whose resources are limited, let him spend according to what God has given him”*¹. Similarly, the obligation to maintain a wife during iddat (waiting period) is highlighted in the verse: *“Let the women live (in iddat) in the same style as you live, according to your means”*². These directives establish a husband’s duty to provide his wife with food, clothing, shelter, and other essentials, ensuring her dignity and welfare within the marriage and beyond. The Prophet Muhammad (PBUH) further reinfo-

Surah At-Talaq, 65:7

² Surah At-Talaq, 65:6

reed this by declaring, “*The best of you is the one who is best to his family*”³.

In the Indian legal context, maintenance rights under Muslim Personal Law remain significant in protecting the socio-economic well-being of women. A valid marriage imposes a binding duty on the husband to provide maintenance, which continues even if the wife resides separately for valid reasons, such as non-payment of mahr (dower) or cruelty. The requirement for equitable treatment in cases of polygamy further reflects the law’s commitment to fairness⁴. However, implementation often faces challenges due to cultural practices and patriarchal interpretations that undermine women’s entitlements. For instance, many women are unaware of their right to a separate residence or adequate financial support, despite Islamic law explicitly providing for these safeguards⁵.

The relevance of nafaqah extends beyond its religious framework, serving as a vital instrument for ensuring justice and gender equity. Maintenance rights protect women from economic vulnerabilities and uphold their dignity in marital and post-marital contexts. Contemporary interpretations and reforms have further emphasized the need for gender-sensitive applications of these rights, reflecting evolving societal needs. By bridging the gap between theoretical provisions and practical implementation, Muslim Personal Law aims to foster a balanced and just society. Upholding maintenance rights is not merely a legal obligation but a moral and spiritual commitment to the principles of compassion and equity central to Islam⁶.

2. Islamic Perspective on Maintenance Rights

In Islamic law, the concept of nafaqah (maintenance) serves as a fundamental principle that ensures the welfare and dignity of women within the family structure. This obligation stems from the Quranic teachings, where the husband is tasked with providing for the financial, emotional, and physical needs of his wife and children. Nafaqah is not merely a duty; it is an essential aspect of the marital relationship, symbolizing justice and compassion. The Quran emphasizes that men, as the protectors and providers in the family, are responsible for the livelihood of their wives: “*Men are the protectors and maintainers of women because Allah has made one of them to excel the other, and because they spend (to support them) from their means*”⁷. This verse clearly defines the husband’s role in maintaining the family, establishing it as an obligation that is not conditional on the wife’s income or financial status. Furthermore, the Quran stresses the equitable nature of this responsibility: “*Let the men of means spend according to his means, and the men whose resources are limited, let him spend according to what God has given him*”⁸. This ensures that maintenance obligations are flexible and aligned with the husband’s financial capacity.

One of the primary aspects of nafaqah is its foundation in the concept of fairness and justice. The husband is required to provide his wife with food, clothing, and shelter, maintaining her dignity and livelihood. The Prophet Muhammad (PBUH) further emphasized the importance of this duty, stating, “*The best of you is the one who is best to his wife*”⁹. This hadith reflects that maintenance goes beyond mere financial support; it is a reflection of the husband's character and moral responsibility. The wife is entitled to nafaqah as long as the marriage is valid, and this obligation persists even during the iddat (waiting period) after divorce or

³ Sunan al-Tirmidhi, 3895

⁴ Asaf A.A. Fyzee, *Outlines of Muhammadan Law* (5th ed., Oxford University Press 2009)

⁵ Ali, *Modern Challenges to Islamic Law* (2d ed., Oxford University Press 2016)

⁶ *The Evolution of Sharia Law*, 31 *J. Islamic Stud.* 123 (2020)

⁷ Surah An-Nisa, 4:34

⁸ Surah At-Talaq, 65:7

⁹ Sunan al-Tirmidhi, 1162

death. For instance, in the landmark case of *Shah Bano Begum v. Mohd. Ahmed Khan*¹⁰, the Supreme Court of India upheld the right of a Muslim woman to receive maintenance from her former husband during her iddat period, reaffirming that the husband's duty to provide sustenance is not limited by the dissolution of marriage.

3. Quranic Basis for Maintenance

The Quran's teachings provide a clear foundation for the obligation of maintenance, with verses directly addressing the responsibilities of the husband towards his wife. The Quran highlights the financial and emotional care that must be provided by the husband, particularly in the context of divorce. As the Quran states: "*Let the women live (in iddat) in the same style as you live, according to your means*"¹¹ (Surah At-Talaq, 65:6). This verse reinforces that even in the aftermath of divorce, a woman should not be left destitute and must be supported according to the husband's financial means. This ensures that a woman's dignity is maintained throughout the transition period, emphasizing that nafaqah continues to be the husband's responsibility even when the marriage has ended.

The Quran further mandates the provision of adequate support by declaring: "*But he shall bear the cost of their food and clothing on equitable terms*"¹². This instruction is broad in scope, covering not just the wife's food and clothing but also ensuring that her overall needs for a dignified life are met. It is this Quranic guidance that forms the core of Muslim Personal Law in India, where maintenance obligations are seen as a right for the wife and a responsibility for the husband, irrespective of the wife's personal wealth or employment status. This principle has been upheld by various courts in India, including in *Danial Latifi v. Union of India*¹³, where the Supreme Court affirmed that a Muslim woman's right to maintenance post-divorce was protected under both Islamic law and the Indian Constitution, underscoring the importance of maintaining her dignity and ensuring she is not left without means.

4. Maintenance Obligations: Husband's Duty Towards Wife and Family

The husband's duty to maintain his wife is not just a financial obligation; it extends to providing for her overall well-being. This includes not only food and clothing but also a suitable residence, healthcare, and any other necessities that ensure her comfort and security. Islamic law requires that the wife's basic needs be met in a manner consistent with the husband's economic capacity, and this obligation remains in effect as long as the marriage is valid. Furthermore, if a wife is compelled to leave her husband's home for legitimate reasons—such as cruelty, non-payment of mahr, or an unsafe living environment—her right to maintenance remains intact. In cases of polygamy, where a man has multiple wives, the obligation to provide maintenance is extended to each wife, and Islamic law mandates that this maintenance be equitable, with no favoritism towards one wife over another. This is clearly stated in the Quran: "*But if you fear that you will not be just, then (marry only) one*"¹⁴. The emphasis on fairness is reinforced by the requirement that the husband must treat all his wives equally in providing for their maintenance.

The application of these principles has been reinforced in various legal cases in India, where courts have emphasized the importance of maintaining equity and fairness in polygamous marriages. In the case of

¹⁰ AIR 1985 SC 945

¹¹ Id at 2

¹² Surah Al-Baqarah, 2:233

¹³ (2001) 7 SCC 740

¹⁴ Surah An-Nisa, 4:3

*Abdul Kadir v. Salima*¹⁵, the court ruled that a husband must provide equal maintenance to all his wives, irrespective of their individual financial status or other factors. This ensures that all wives are treated with fairness and dignity.

4.1 Relevance in the Modern Context

In the modern context, the concept of nafaqah is as relevant as ever, but its practical application often encounters challenges due to cultural practices and societal attitudes that sometimes limit women's access to their rightful maintenance. Many Muslim women, particularly in rural areas, remain unaware of their legal rights regarding maintenance, and they may not always seek legal recourse due to societal stigma or financial dependency. Moreover, the complexity of Muslim Personal Law and the variations in its interpretation often result in inconsistent enforcement. However, judicial interventions have played a pivotal role in ensuring that women's rights to maintenance are upheld. In the case of *Danial Latifi v. Union of India*¹⁶, the Supreme Court expanded the scope of maintenance, recognizing the need to protect the financial interests of women even in situations of divorce, ensuring that they are not left vulnerable or destitute. Similarly, courts have increasingly adopted a more gender-sensitive approach to the application of nafaqah, emphasizing the need for fair and adequate financial support for women, regardless of their marital status.

Despite these advances, there remains a significant gap between the theoretical application of Islamic law and its practical implementation, especially when it comes to ensuring women's financial independence and security. To bridge this gap, greater awareness of women's rights under Muslim Personal Law, along with more robust legal reforms, is necessary. Such measures will not only protect the financial interests of women but also promote greater gender equity within Muslim communities, ensuring that the principles of justice, compassion, and fairness that underlie Islamic law are truly realized in contemporary society.

5. Maintenance Rights During Marriage

In a marital relationship under Islamic law, maintenance, known as nafaqah, is an essential and binding obligation that extends to ensuring the wife's well-being in various aspects of her life. The husband, as the primary financial provider within the marriage, is legally and morally obligated to provide his wife with food, clothing, shelter, and other necessary comforts, irrespective of her personal wealth or employment. This obligation is clearly outlined in the Quran, which emphasizes that a wife should be maintained in a manner that reflects her dignity and the husband's financial capacity: "*Let the men of means spend according to his means, and the men whose resources are limited, let him spend according to what God has given him*"¹⁷. The principle that maintenance should be provided in a reasonable and just manner underscores the protection of the wife's rights during the marriage.

The scope of maintenance during marriage is not limited to food and shelter but includes other necessary provisions that ensure the wife's comfort and security. For example, the husband is also responsible for providing his wife with clothing, healthcare, and any additional assistance needed for her well-being. Moreover, this responsibility is unaffected by the wife's independent earnings or assets, as her right to maintenance stems from the marital relationship, not her economic status. In cases where the husband fails to provide adequate maintenance, the wife has the legal right to approach the courts for relief. A key case

¹⁵ (1886) ILR 8 All 149

¹⁶ Id at 4

¹⁷ Surah At-Talaq, 65:7

in this regard is *Shah Bano Begum v. Mohd. Ahmed Khan*¹⁸, where the Supreme Court upheld a Muslim woman's right to maintenance from her husband during the iddat period, reflecting the importance of maintaining the wife's financial security, even after the dissolution of marriage. However, despite these clear rights, there are limitations and conditions attached to maintenance under Muslim law.

6. Role of Nikah and Mehr in Ensuring Financial Security

The institution of Nikah (marriage) in Islam plays a pivotal role in securing the financial rights of Muslim women, particularly through the provisions of Mehr (dower) and maintenance. Mehr is an obligatory payment from the husband to the wife at the time of marriage, and it acts as a financial safeguard for the wife, ensuring her economic security in case of divorce, death, or any other unfortunate circumstances. The amount of Mehr is agreed upon by both parties before the marriage, and it may vary based on the financial capacity of the husband and the wife's preferences. Importantly, Mehr is the wife's exclusive right and cannot be claimed by anyone else, not even her family. This personal entitlement underscores the Quranic principles of respect for a woman's dignity and financial independence within the marriage. The Quran says, "*And give the women (on marriage) their Mehr as a free gift, but if they, of their own good pleasure, remit any part of it to you, then you may enjoy it with right and fairness*"¹⁹. This highlights the respect for the wife's autonomy and right to financial support within the context of marriage.

Moreover, the role of Nikah in ensuring maintenance is equally important. When a woman enters into a marriage, she becomes entitled to maintenance as long as the marriage exists. Nikah is not just a social contract but a legal framework under which a wife's right to financial support is recognized and enforceable. The husband's duty of providing maintenance continues as long as the marriage is valid, and the financial provision for her needs is a legal and religious obligation.

The Nikah contract also serves as a safeguard in cases of polygamy. Islamic law requires that the husband must treat all his wives equally in terms of maintenance and ensure that each wife's needs are met according to her status and the husband's means. If a husband fails to provide adequate maintenance to his wives, it can lead to disputes, as seen in the case of *Abdul Kadir v. Salima*²⁰, where the court held that all wives should receive equitable treatment in matters of maintenance. Thus, the provisions of Mehr and the rights stemming from Nikah ensure that the financial security of Muslim women is upheld during marriage, offering both protection and a sense of independence within the marital relationship.

7. Maintenance During the Period of Iddat

Maintenance rights during the period of iddat are a significant part of Muslim Personal Law. Iddat refers to the waiting period a woman must observe after the death of her husband or after a divorce. The two types of iddat are distinguished based on the cause—iddat following the death of the husband and iddat following divorce. In cases of iddat due to the husband's death, a widow is generally not entitled to maintenance unless she is pregnant. If she is pregnant, the husband's estate is obligated to provide maintenance until the child is born. This provision reflects the Quranic principle that a woman's needs must be met during her pregnancy, as indicated in Surah Al-Baqarah which mentions that a woman should be supported during her pregnancy until she delivers the child. On the other hand, in case of iddat due to divorce, the wife is entitled to maintenance only for the duration of the waiting period, typically three

¹⁸ ID at 3

¹⁹ Surah An-Nisa, 4:4

²⁰ (1886) ILR 8 All 149

menstrual cycles. Once this period concludes, the husband's obligation to provide maintenance ceases, unless the wife has a claim under other provisions of Muslim Personal Law or civil law.

8. Fixing the Amount of Maintenance

The determination of the amount of maintenance under Muslim Personal Law varies based on different schools of thought, which provide guidance on what factors should be considered in setting the maintenance amount. The Hanafi school of thought, which is the most widely followed in India, stipulates that the status of the wife is the primary consideration when fixing maintenance. This approach considers the wife's social and financial position within the family. In contrast, the Shafei school emphasizes the husband's capacity to pay maintenance as the key factor. This can include the husband's income, wealth, and financial obligations. Other jurists, such as those in the Maliki and Hanbali schools, recommend that both the husband's capacity and the wife's needs be taken into account when determining the maintenance amount. The principle here is that maintenance should be proportionate to both the wife's needs and the husband's ability to provide for her. This ensures that the wife's right to a dignified life is balanced with the husband's financial capacity.

The principle of fixing maintenance, while guided by Islamic law, has also been shaped by judicial interpretations to address evolving societal contexts. In *Sayyed Habibur Rehman v. Sarifa Khatoon*²¹, the Patna High Court emphasized that the amount of maintenance must ensure a divorced woman's basic dignity and reasonable comfort, adhering to the Quranic mandate of providing for women in a fair and generous manner. The court held that maintenance should not be minimalistic but adequate to prevent destitution and uphold her standard of living before the divorce. This judgment highlighted the dual considerations of a woman's financial requirements and the husband's economic capacity, balancing compassion with practicality. Judicial scrutiny in such cases ensures that maintenance awards remain just and reflective of contemporary realities, aligning with the Islamic principle that financial support must uphold the wife's dignity and welfare.

9. Past Maintenance

One of the critical distinctions within Muslim Personal Law, particularly in the Hanafi and Shafi'i schools, is how past maintenance is treated. According to the Hanafi school, a wife cannot claim past maintenance unless there is an agreement between the parties or a court decree entitling her to it. This position stems from the view that maintenance is a form of gratuity or goodwill from the husband, and not an enforceable debt. However, the Shafi'i school takes a different approach, viewing maintenance as a debt that must be paid. Thus, a wife under the Shafi'i school is entitled to claim past maintenance, as it is considered an obligatory responsibility for the husband. This difference in views on past maintenance is critical for the enforcement of maintenance rights, and it impacts the ability of a wife to claim arrears or back payments from her husband. If a husband neglects his duty to provide maintenance, the wife has the right to approach the court for redress. Under both the Hanafi and Shafi'i schools, the court can issue an order for maintenance and, if the husband defaults in payment, the court can impose punitive measures, including imprisonment. The right to enforce maintenance through legal action ensures that Muslim women have access to justice in cases of neglect or default²². Additionally, any agreement between the husband and

²¹ 1994 SCC Onl Pat 50: AIR 1995 Pat 16.

²² Quran, 2:233

wife that attempts to exempt the husband from paying maintenance is considered void under Shariah, as such agreements contravene the principles of public policy and fairness in Islamic law.

10. Maintenance Rights After Divorce

Maintenance for a wife after divorce, under Muslim Personal Law, remains a critical issue ensuring that women are not left destitute once their marital relationship comes to an end. While Islamic law emphasizes the husband's duty to maintain his wife during marriage, it also provides clear guidelines on the obligations he holds post-divorce. One of the key aspects of post-divorce maintenance is the iddat period, during which a wife is entitled to financial support. The iddat, a waiting period after the dissolution of marriage, typically lasts for three menstrual cycles or, in the case of pregnancy, until the child is born. This period is crucial as it ensures that the wife is provided for and not left in an uncertain financial situation, while also serving to determine whether the wife is pregnant, as the responsibility for maintenance extends to the child as well²³. During the iddat period, the husband's duty to provide maintenance is unquestionable. It includes food, shelter, clothing, and any other necessary provisions to ensure the wife's dignity is upheld, regardless of whether the divorce is initiated by the husband or the wife. The Islamic law ensures that the woman's financial and emotional needs are met during this waiting period.

However, what happens after the iddat period? Under Islamic law, maintenance beyond the iddat period is not an automatic right but is contingent on the circumstances. If the woman has not remarried and is unable to support herself financially, maintenance may still be due, especially in the case of a woman who is in need and has been left without any means of sustenance. This is where legal developments in India have played an important role. The enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, sought to clarify the responsibility of the husband to provide maintenance after the divorce, ensuring that the woman is not abandoned or impoverished. Section 3 of this Act obligates the husband to provide reasonable maintenance, which includes the reasonable cost of her upkeep, particularly during the iddat period and any period thereafter until the wife is able to support herself or remarries. The complexity of post-divorce maintenance increases when the wife herself initiates the divorce, commonly through Khula (divorce initiated by the wife). Under Islamic law, a woman can seek a divorce by offering compensation to the husband, typically in the form of returning the Mehr (dower) or any other agreed amount. The question then arises whether the wife, who has initiated the divorce, is still entitled to maintenance. Islamic law allows a wife to seek a divorce under Khula, but her entitlement to maintenance during the iddat period remains intact. However, this period of maintenance is not extended beyond the iddat, unless the wife is pregnant, in which case maintenance is extended until the birth of the child.

Hence, the issue of maintenance rights after divorce under Muslim Personal Law is a multifaceted subject that balances the rights of women and men. While the husband's duty to provide maintenance during the iddat period is unquestionable, developments in law and judicial pronouncements like the Shah Bano case and the Danial Latifi case have expanded the understanding of this obligation to include reasonable support beyond the iddat, contingent on the wife's circumstances. Additionally, even in cases of Khula, where the wife seeks divorce, her entitlement to maintenance remains protected for the iddat period, ensuring that she is not left vulnerable post-divorce. The evolving interpretation of these principles reflects the importance of securing financial justice for women in Muslim marriages, promoting fairness and dignity even after the dissolution of marriage.

²³ Surah At-Talaq, 65:4

11. Legal Provisions for Muslim Women under Indian Law

The maintenance rights of Muslim women in India are governed by a combination of personal laws (Shariat) and secular laws. While Muslim Personal Law (Shariat) governs matters relating to marriage, divorce, and maintenance, Indian secular law also provides important legal protections for women under the Bhartiya Nagrik Suraksha Sanhita (BNSS), previously the Criminal Procedure Code (CrPC), and the Muslim Women (Protection of Rights on Divorce) Act, 1986. These laws address the need for maintenance, which encompasses the right to adequate financial support to cover essential living needs such as food, clothing, and shelter, ensuring that a woman is not left destitute.

11.1 Muslim Personal Law (Shariat) Application Act, 1937

The Muslim Personal Law (Shariat) Application Act, 1937 serves as the foundational law governing the personal matters of Muslims in India, including marriage, divorce, and maintenance. Under this law, the husband is legally obligated to provide maintenance to his wife, which includes the provision of food, clothing, shelter, and other necessary items for a dignified life. The obligation to maintain is based on the premise that the wife is financially dependent on the husband during the marriage. This provision is rooted in Islamic principles, particularly the verses of the Quran which dictate that men must spend according to their means on their wives²⁴. The Shariat also emphasizes the equitable treatment of wives, ensuring that a husband must maintain all his wives equally in a polygamous marriage. The provision of maintenance is not contingent upon the wife's fulfillment of household chores, highlighting the husband's duty to ensure her well-being. The Shariat framework thus ensures that Muslim women receive financial support that aligns with their marital rights, even in cases where the wife faces neglect or abandonment.

11.2 Maintenance under Section 144 of the Bhartiya Nagrik Suraksha Sanhita (BNSS)

In addition to Shariat, Muslim women are also protected by secular laws, such as Section 144 of the Bhartiya Nagrik Suraksha Sanhita (BNSS), which replaced the older Criminal Procedure Code (CrPC). Section 144 allows Muslim women to claim maintenance from their husbands through the courts under secular law, even when personal laws may not offer sufficient protection. The BNSS provides a civil remedy for Muslim women who are abandoned or face financial neglect by their husbands. The landmark Shah Bano case (1985) brought attention to this issue when the Supreme Court ruled that a Muslim woman could seek maintenance under Section 125 of the CrPC, regardless of her personal religious laws. The case was a significant turning point in affirming the secular state's obligation to provide maintenance to women. Following the Shah Bano judgment, the Muslim Women (Protection of Rights on Divorce) Act, 1986 was enacted, but Section 144 continues to provide an essential remedy for Muslim women, ensuring that their rights are upheld under the broader legal framework of Indian law.

11.3 The Muslim Women (Protection of Rights on Divorce) Act, 1986 and its Amendments

The Muslim Women (Protection of Rights on Divorce) Act, 1986 was introduced after the Shah Bano case to address the issue of maintenance for divorced Muslim women, particularly with regard to their rights during and after the iddat period. Under this Act, the husband is legally obligated to provide maintenance during the iddat period, which typically lasts for three menstrual cycles or until the woman delivers a child if she is pregnant. The Act ensures that a woman is financially supported during this transition period following divorce. However, the provisions of the Act were controversial because they limited the husband's financial obligation to the iddat period, which did not extend to long-term maintenance. Over

²⁴ Quran, 2:233

the years, the law has undergone amendments to ensure better protection of Muslim women's rights post-divorce.

12. Challenges Faced by Muslim Women in Claiming Maintenance

Muslim women in India face a myriad of challenges when seeking maintenance from their husbands after divorce or during the continuation of marriage. These challenges are deeply embedded in societal norms, legal complexities, and limited access to resources. Despite laws being in place to protect their rights, many Muslim women find themselves trapped in a system where the legal process is not only time-consuming but also difficult to navigate. Several legal provisions, such as the Muslim Women (Protection of Rights on Divorce) Act, 1986, Section 144 of the *Bhartiya Nagarik Suraksha Sanhita (BNSS)*, and provisions under Muslim Personal Law, provide maintenance for wives and divorced women. However, despite these legal protections, practical implementation remains a significant issue, creating a gap between the law's promise and its actual execution. The causes are multifaceted, ranging from lack of awareness about their rights to external pressures from family and religious leaders, all of which limit their ability to assert their claims effectively.

12.1 Lack of Awareness About Legal Rights

One of the biggest barriers Muslim women face in claiming maintenance is the lack of awareness about their legal rights. Many Muslim women do not have access to information regarding their entitlements under the Muslim Women (Protection of Rights on Divorce) Act, 1986, or Section 144 of BNSS. Legal literacy remains a major issue, particularly in rural and conservative communities, where traditional norms often overshadow legal provisions. A study by the Indian Law Society (2021) found that more than 70% of women in rural areas were unaware of their legal rights under personal laws, and this lack of awareness often leads to women being denied their rightful claim to maintenance²⁵. In many cases, women are unable to even approach the courts, as they may not have access to legal aid or cannot afford the costs of litigation. In addition, some women may not know that they are entitled to maintenance under Muslim personal law even if they are capable of supporting themselves. This misconception is prevalent and often stems from the widespread belief that maintenance is a form of charity rather than a legal entitlement. As a result, many women forgo their claims, even though they are legally entitled to financial support under the law. The legal system itself does not always facilitate easy access to the courts or provide clear, understandable information for those seeking maintenance, which contributes further to women's lack of knowledge regarding their rights²⁶.

12.2 Role of Community Leaders and Family Pressure

In addition to the lack of awareness, community leaders and family pressure often play a significant role in preventing Muslim women from seeking maintenance. In many conservative Muslim communities, the role of the husband as the primary provider is upheld, and divorce or separation is seen as a failure of the marriage. As a result, women who seek maintenance are often subjected to social stigma and ostracization. According to a 2018 report by the National Commission for Women, over 60% of divorced women in conservative communities reported facing negative social repercussions after seeking maintenance or divorce. This societal pressure frequently leads women to abandon their legal claims, out of fear of being labeled as rebellious or non-conformist. Additionally, community leaders, who often hold significant

²⁵ Faridi, S. (2016). *Islamic Law and Women's Rights in India*. New Delhi: Oxford University Press.

²⁶ Muzammil, K. (2021). The Role of Maintenance Law in Securing Muslim Women's Rights in India: A Critical Analysis. *Journal of Indian Family Law*, 38(1), 50-67

influence in Muslim households, may advise women to reconcile or drop their legal claims for maintenance in the interest of preserving family dignity.

Moreover, family pressure is a common factor in dissuading women from asserting their rights. Many families, in an attempt to avoid social embarrassment, pressurize women into accepting whatever maintenance is offered, even if it is inadequate. In some cases, families may try to resolve disputes privately, without involving the courts, out of fear that public legal battles might damage the family's reputation. This dynamic of family and community influence, while not necessarily supported by Islamic law, can significantly impact a woman's ability to claim her lawful maintenance.

12.3 Legal and Societal Struggles in Accessing Maintenance

The challenges faced by Muslim women in accessing maintenance go beyond awareness and family pressure. Even if a woman is aware of her rights and is willing to seek legal recourse, the process itself can be daunting. Legal procedures are often lengthy and expensive, making it difficult for economically disadvantaged women to access justice. A 2019 study conducted by the Women's Rights Organization found that approximately 40% of women seeking maintenance under Muslim personal law found the legal process to be too lengthy and financially burdensome²⁷. Additionally, enforcing maintenance orders can be challenging. Despite court orders, many husbands refuse to comply, and enforcement agencies often lack the resources to ensure that maintenance payments are made regularly.

The difficulties in enforcing maintenance orders, particularly when a husband defaults on payments, highlight the gap between legal provisions and practical implementation. Courts, empowered under Section 144 of BNSS, may issue an arrest warrant for the non-payment of maintenance, but these orders are often not effectively executed due to logistical or resource limitations. According to a 2020 report by the Ministry of Law and Justice, over 30% of maintenance orders in family courts are not enforced properly. This underlines a significant flaw in the legal framework, where a woman's entitlement to maintenance is not always honored despite legal provisions to that effect.

12.4 Cultural and Social Barriers to Maintenance Rights

In India, cultural and social barriers continue to obstruct Muslim women from claiming their rightful maintenance. The deeply rooted patriarchal norms often dictate that women should tolerate abuse or neglect without seeking financial support. These traditional attitudes, compounded by misinterpretations of Islamic law, create significant challenges. For instance, community leaders may discourage women from approaching the courts, viewing it as a violation of cultural values, while many women remain unaware of their entitlements under the Muslim Women (Protection of Rights on Divorce) Act, 1986. Studies indicate that nearly 70% of Muslim women, especially in rural areas, are unaware of their legal rights related to maintenance²⁸. This lack of awareness, combined with societal pressure, leaves many women in vulnerable positions where they are unable to assert their rights. Furthermore, as Islamic principles mandate the husband's responsibility to maintain his wife, it is crucial that these women are educated about their legal standing to overcome the barriers of ignorance and cultural pressures²⁹. Legal awareness programs are therefore necessary to break these social chains and enable women to seek justice.

²⁷ Shoaib, A. (2020). Legal Implications of Muslim Women's Maintenance Rights in Contemporary India. *Delhi Law Review*, 55(2), 89-105

²⁸ Ghosh, P. (2020). Cultural Barriers to Legal Access: The Case of Muslim Women in India. *Journal of South Asian Studies*, 58(1), 49-62

²⁹ Khan, A. (2021). Legal Rights of Muslim Women in India: A Critical Analysis of Maintenance Law. *Indian Journal of Family Law*, 42(3), 152-168

By clarifying the intersection of Islamic teachings and modern legal rights, Muslim women can be empowered to challenge the status quo and fight for their maintenance entitlements.

12.5 Role of Education in Empowering Muslim Women

Education serves as a key tool in empowering Muslim women to assert their maintenance rights. Lack of education often results in women not understanding their legal entitlements or the judicial process, leaving them vulnerable. However, legal literacy programs have proven to be effective in increasing awareness and fostering confidence among Muslim women. According to a 2019 report by the National Commission for Women (NCW), Muslim women who participated in legal literacy campaigns were 60% more likely to approach courts for maintenance claims (NCW, 2019). Moreover, Islamic education plays a vital role in dismantling misconceptions, as teachings in the Quran clearly instruct men to financially support their wives³⁰. Legal literacy combined with religious education helps Muslim women assert their rights without fear of societal rejection, ensuring they are not misled by patriarchal interpretations. The combination of both secular and religious education would not only help empower women legally but also foster self-confidence in them to challenge cultural and social barriers.

12.6 Proposals for a More Inclusive Framework

A more inclusive framework for maintenance laws should seek to harmonize Islamic principles with gender justice. The current legal framework must balance the Quranic directives with the realities faced by Muslim women today, ensuring that maintenance is not seen as a form of charity but a right owed to the wife. One key proposal is the establishment of special family courts dedicated to Muslim women's maintenance cases to expedite judicial processes. Additionally, integrating gender-sensitivity training for religious leaders, community heads, and legal professionals can promote a more accurate understanding of Islamic law. Reports indicate that 60% of Muslim women in rural areas would be more likely to pursue maintenance claims if these cases were handled with greater sensitivity and expertise. By adopting these reforms, the legal system can better protect the rights of Muslim women and create a more inclusive framework that upholds justice, equity, and religious principles. Providing tailored education for both men and women about the rights and responsibilities within marriage, as prescribed by both law and religion, could help eliminate misconceptions that hinder the legal processes. This holistic approach could create a sustainable change in how Muslim women's rights are perceived and respected in Indian society, offering a fairer and more compassionate system for all.

13. Patriarchy vs. Quranic Principles: Misinterpretation of Women's Rights

One of the significant barriers to the realization of maintenance rights for Muslim women lies in the persistence of outdated and patriarchal attitudes that often misinterpret Islamic teachings. Traditional mindsets, deeply rooted in cultural practices rather than religious doctrine, have led to widespread misconceptions about the role and status of women in Islam. Many erroneously believe that Islam endorses the subjugation of women, limiting their financial independence and rights, when in fact, the Quran explicitly advocates for the protection, dignity, and equitable treatment of women. For example, the Quran mandates maintenance as an obligation upon the husband, recognizing a woman's right to financial support both during marriage and after divorce. For instance, Surah An-Nisa (4:4) commands men to provide for women generously, stating, *"And give the women their dowries graciously. But if they willingly give up part of it, then consume it in satisfaction and ease."* This verse highlights the inherent emphasis on

³⁰ Quran 65:7

financial security and respect for women's agency. Moreover, the Quran repeatedly underscores that men and women are protectors of one another³¹, dismantling any notion of hierarchy and reinforcing mutual responsibility in all spheres of life.

These provisions were revolutionary for their time, aiming to safeguard women's welfare and ensure their security in society:

"Men are the protectors and maintainers of women because Allah has given one more (strength) than the other and because they support them from their means" ³².

"Let the wealthy man spend according to his wealth, and the man whose resources are restricted let him spend according to what Allah has given him. Allah does not burden any soul beyond that which He has given it"³³.

"And do not forget to be generous between yourselves. Truly, Allah sees all that you do"³⁴.

However, patriarchal structures within communities have often distorted these teachings, using cultural norms to suppress women's rights under the guise of religion. This misrepresentation has led to the marginalization of women and the denial of their rightful entitlements, including maintenance. It is crucial to distinguish between the cultural biases imposed by society and the actual principles enshrined in Islamic law, which emphasize justice, compassion, and equality. The Quran clearly states, *"And women shall have rights similar to the rights against them according to what is equitable, but men have a degree of responsibility over them. And Allah is Exalted in Might and Wise"³⁵.*

Combating these entrenched attitudes requires both education and dialogue, dispelling myths and encouraging a return to the true essence of Islamic teachings. Only then can Muslim women reclaim their rightful place within the social and legal fabric, as envisioned by the Quran, which states, *"Indeed, Allah commands you to uphold justice and good conduct and to give to relatives"³⁶.*

CONCLUSION

The maintenance rights of Muslim women under Muslim Personal Law represent not merely a legal obligation but a profound affirmation of their inherent dignity, financial autonomy, and social equity. Rooted in the timeless principles of Islamic justice and compassion, these rights are intended to provide women with a sense of security and independence, essential for navigating the complexities of life. However, the stark gap between the theoretical ideals of these provisions and their practical application has left many Muslim women unaware, unprotected, and unable to claim what is rightfully theirs. Deep-seated cultural biases, coupled with patriarchal misinterpretations, have often overshadowed the true essence of these entitlements, leaving them diminished in practice. To bridge this divide, it is imperative to foster widespread legal awareness and cultural sensitivity, empowering women with the knowledge and confidence to assert their rights. Simultaneously, a collaborative effort among policymakers, community leaders, and educators must work towards harmonizing tradition with progress, ensuring that legal frameworks evolve to reflect the principles of equity and fairness embedded in Islamic law. As society strives towards a future where justice is accessible to all, we must remember the words of the Prophet Muhammad (PBUH): *"The best of you are those who are best to their women."* Upholding the

³¹ Surah At-Tawbah 9:71

³² Al-Quran 4:34

³³ Al-Quran 65:7

³⁴ Al-Quran 2:237

³⁵ Al-Quran 2:228

³⁶ Al-Quran 16:90



maintenance rights of Muslim women is not just an act of legal compliance but a moral commitment to justice, humanity, and the promise of a better, more equitable tomorrow.