

“A LEGAL DILEMMA BETWEEN FINANCIAL INDEPENDENCE AND ENTITLEMENT, FOR ALIMONY IN WORKING WOMEN”

AUTHORS – SUJA J* & RAMHAAREDDI S**

* BALLB (HONS), LLM CHENNAI DR. AMBEDKAR LAW COLLEGE PUDHUPAKKAM

** BA. LLB , LLM CHENNAI DR. AMBEDKAR GOVERNMENT LAW COLLEGE, PUDUPAKKAM.

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Abstract

Alimony, traditionally conceived as a means of financial protection for women after the dissolution of marriage, has become a subject of renewed debate in light of women's growing participation in the workforce and increasing economic independence. The dilemma lies in balancing the principle of entitlement to maintenance, which arises from the marital bond, with the reality of financial independence achieved by many women today. Indian legal provisions under the Code of Criminal Procedure, the Hindu Marriage Act, and allied statutes recognize a woman's right to claim maintenance, while judicial interpretations have sought to balance necessity, fairness, and dignity. Recent case law demonstrates a shift from unconditional entitlement to a more nuanced evaluation of factors such as earning capacity, standard of living, wage disparity, and caregiving responsibilities. This paper critically examines the legal and social complexities of alimony for working women. It argues that while financial independence may reduce dependency, socio-economic inequalities and the invisible burden of unpaid care work continue to justify maintenance in many cases. The study concludes that a contextual, case-specific approach, guided by principles of equity and gender justice, is necessary to reconcile the tension between financial independence and entitlement in contemporary family law. By examining statutory provisions, case law, and feminist jurisprudence, the study highlights the necessity of striking a balance between entitlement and autonomy to achieve justice in matrimonial disputes.

Introduction

Alimony, or spousal maintenance, is a legal mechanism designed to provide financial support to a spouse after separation or divorce. Traditionally, it has been viewed as a measure to protect women, who were often financially dependent on their husbands due to social and economic structures. However, with the rise of women's participation in education and employment, the concept of alimony has entered a new phase of debate. The central dilemma arises when the wife is financially independent. Should she still be entitled to alimony, or would that contradict the principle of self-sufficiency. On the one hand, working

women may still face economic disadvantages, such as wage disparity, employment insecurity, and the burden of childcare, which justify the need for support. On the other hand, granting alimony to financially secure women may appear as unfair enrichment and an unnecessary financial burden on the husband. This issue highlights a conflict between **financial independence and entitlement**, where courts must carefully balance equity, justice, and gender equality. Recent judicial pronouncements in India reflect evolving perspectives, yet inconsistencies remain due to varying interpretations and the absence of clear statutory guidelines. The debate thus

raises important questions about the role of alimony in modern society and its alignment with the principles of fairness and constitutional equality.

Definition

Alimony refers to the financial support that one spouse is ordered to provide to the other after separation or divorce, either as maintenance during proceedings or as permanent support. It is intended to ensure that the economically weaker spouse is not left destitute due to the breakdown of marriage.

According to Black's Law Dictionary, alimony is:

"A court-ordered allowance that one spouse pays to the other spouse for maintenance, either during or after a marital action."¹

Indian Legal Context

Section 25 of the Hindu Marriage Act, 1955, provides for permanent alimony and maintenance, empowering courts to order either spouse to pay for the support of the other, taking into account income, property, and conduct of the parties.

Section 125 of the Code of Criminal Procedure, 1973, extends the right to maintenance to wives (including divorced wives), children, and parents who are unable to maintain themselves.

The relationship between alimony and working women highlights one of the most complex dilemmas in contemporary family law: the conflict between financial independence and entitlement. Alimony, or maintenance, is designed to provide economic support to a spouse who is unable to maintain themselves after separation or divorce. In India, this right is enshrined under Section 125 of the Code of Criminal Procedure, 1973, and under Section 25 of the Hindu Marriage Act, 1955, among other personal laws. It has been judicially recognised as a right, not a concession, intended to secure the dignity of dependent spouses, most often women. Yet, in an era where women

increasingly participate in the workforce and attain financial independence, the continuing entitlement to alimony raises significant legal and ethical dilemmas.

Traditionally, alimony emerged as a protective measure rooted in patriarchal structures where women were financially dependent on men due to restricted access to education, employment, and property. The Supreme Court of India observed that the right to maintenance is fundamental for ensuring the dignity of a woman, equating it with her right to live with respect and decency¹⁰⁸⁷. However, this perspective was shaped by socio-economic realities where women had limited opportunities for financial independence. Today, however, with rising female literacy and greater participation in the labour market, women are increasingly self-reliant. The law thus confronts the tension between recognising their entitlement to alimony as a legal right and encouraging their financial independence as a social good.

The issue becomes particularly acute when courts must decide on alimony claims by women who are already earning. The Supreme Court held that a spouse who is capable of earning but chooses not to do so cannot simply sit idle and claim maintenance, underscoring that entitlement cannot become an instrument of exploitation.¹⁰⁸⁸ This reflects a shift towards recognising financial independence as a crucial factor in determining alimony. Yet, courts have also emphasised that a woman's income does not automatically disentitle her from maintenance if her earnings are insufficient to maintain the same standard of living as her spouse. The Court clarified that "merely because the wife is earning something, it would not be a ground to reject her claim for maintenance."¹⁰⁸⁹

¹⁰⁸⁷ In *Bhuvan Mohan Singh v. Meena*,

¹⁰⁸⁸ In *Manish Jain v. Akanksha Jain*,

¹⁰⁸⁹ In *Shailja v. Khobbanna*,

Concept and Purpose of Alimony

Alimony, also referred to as maintenance or spousal support, is a legal mechanism designed to provide financial assistance to a spouse after separation or divorce. Its roots can be traced to the socio-legal understanding that marriage creates mutual obligations, including the duty to provide for one another's sustenance and well-being. Historically, this obligation was viewed in the context of patriarchal family structures where women, being excluded from property rights and often denied educational and economic opportunities, depended financially on their husbands. Thus, alimony evolved as a safeguard against destitution and social marginalization of women upon the dissolution of marriage.

The primary purpose of alimony is not to function as a form of charity but as an instrument of justice and equity. It acknowledges that marriage is not merely a personal relationship but also an economic partnership. During the course of a marriage, one spouse often the wife in may forego career advancement, educational opportunities, or personal financial growth in order to manage household responsibilities and childcare. These sacrifices contribute significantly to the stability of the marital unit, even though they may not generate direct income. Therefore, when the marriage ends, alimony serves as a corrective measure, ensuring that the financial burdens of divorce are not disproportionately borne by the economically weaker spouse. It is a secular provision, cutting across personal laws, that emphasizes prevention of vagrancy and destitution. The Hindu Marriage Act, 1955, through Sections 24 and 25, provides for maintenance both during the pendency of matrimonial proceedings (interim maintenance) and after divorce (permanent alimony). Similarly, the expands the scope of relief by allowing women in domestic relationships to seek maintenance as part of

broader protective orders¹⁰⁹⁰. These provisions reflect a welfare-oriented philosophy, reinforcing the principle that the duty of financial support does not automatically end with the termination of the marital tie.

The concept of alimony also encompasses the idea of maintaining the spouse at a standard of living similar to that which was enjoyed during the marriage. Courts in India have frequently reiterated that maintenance is not limited to subsistence alone but extends to ensuring dignity and social status. The Supreme Court held that while determining permanent alimony, courts must consider the status of the parties, the capacity of the husband to pay, the reasonable needs of the wife, and other circumstances of the case. Thus, the purpose of alimony transcends mere survival, it is about ensuring fairness, equality, and recognition of the non-financial contributions made by the spouse during the marital partnership.¹⁰⁹¹

Furthermore, the institution of alimony embodies a dual character: it is both protective and corrective. It is protective because it safeguards economically dependent spouses from poverty and exploitation; it is corrective because it seeks to rectify imbalances created during the marital relationship, particularly those stemming from gender roles and societal expectations. In this way, alimony functions as a tool of social justice, aligning with the constitutional mandate of equality under Article 14 and the right to life and dignity under Article 21 of the Indian Constitution.

Thus, the concept and purpose of alimony must be understood not simply in terms of financial support, but as a mechanism that reflects the principles of equity, fairness, and social welfare within the broader framework of family law. It acknowledges the economic dimensions of marriage and ensures that separation or divorce does not unfairly penalize one spouse, especially the one who

¹⁰⁹⁰ Protection of Women from Domestic Violence Act, 2005

¹⁰⁹¹ In Vinny Parmvir Parmar v. Parmvir Parmar (2011),

has historically borne the weight of unpaid and unrecognized labor. The dilemma deepens when considering working women in marriages marked by unequal economic power. Even if a woman is employed, her income may be substantially lower than that of her husband, reflecting persistent gender pay gaps and occupational segregation. In such circumstances, entitlement to alimony is not about dependency but about fairness and equity. The law thus seeks to level the field by recognising that financial independence, in a narrow sense of earning an income, does not necessarily equate to economic equality. This rationale underpins judgments, where the Supreme Court capped maintenance at 25% of the husband's net salary, acknowledging the need for proportionality and balance.¹⁰⁹² From a feminist legal perspective, however, the entitlement to alimony cannot be dismissed simply because a woman is working. Structural barriers for such burden of unpaid care work, gender-based wage discrimination, and career interruptions due to child-rearing it mean that women often enter divorce negotiations at an economic disadvantage. It have argued that law must focus not merely on formal equality but on substantive capabilities: the ability of women to achieve genuine economic independence.¹⁰⁹³ Thus, entitlement to alimony can serve as a corrective mechanism to bridge structural inequalities, even for working women.

The law must therefore strike a balance: alimony should not be used as a lifetime guarantee when the woman is capable of achieving self-sufficiency, but it must also not be denied in situations where her financial independence is superficial or inadequate to secure dignity. Conditional entitlements, such as time-bound alimony linked to skill development or rehabilitative support, may offer a pragmatic middle path.

Constitutional and Welfare Law Dimensions: Financial Independence and Entitlement

The Indian Constitution embodies a unique blend of liberal democratic ideals and welfare state commitments. It should the law balance an individual's right to financial independence with the entitlement to welfare benefits guaranteed by the State? On the one hand, independence is celebrated as an essential component of dignity and self-reliance; on the other, entitlement represents the State's duty to secure minimum social and economic security for its citizens. The constitutional framework, particularly through the Directive Principles of State Policy and the expansive interpretation of Article 21, reflects the judiciary's and legislature's attempt to reconcile this tension. Yet, challenges remain, as entitlement schemes often risk fostering dependency while the sole emphasis on independence risks neglecting vulnerable sections of society.

A. Directive Principles of State Policy and Welfare Jurisprudence

The Directive Principles of State Policy (DPSPs), though non-justiciable under Article 37, are fundamental in guiding the governance of the country. Among them, Articles 38, 39, 41, and 43 directly address social and economic welfare, thereby anchoring the entitlement discourse in the constitutional text. Article 38 obliges the State to strive to promote the welfare of the people by securing a social order informed by justice—social, economic, and political. Article 39 directs the State to secure, among other things, that citizens have the right to an adequate means of livelihood, that wealth is not concentrated in a few hands, and that men and women receive equal pay for equal work. Article 41 mandates the State to provide the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disablement. Finally, Article 43 calls for securing living wages and conditions of work ensuring a decent standard of life.

¹⁰⁹² *Kalyan Dey Chowdhury v. Rita Dey Chowdhury*,

¹⁰⁹³ https://www.researchgate.net/publication/251372216_Gender_Equality_In_India

These provisions are emblematic of entitlement in the constitutional framework. They impose a duty on the State to provide basic necessities, thereby countering inequalities created by socio-economic disparities. However, these provisions simultaneously create a tension with the constitutional vision of a democratic citizenry built on autonomy and self-sufficiency. Welfare jurisprudence in India has thus evolved to read DPSPs in harmony with Fundamental Rights, particularly Article 21. The Supreme Court has consistently held that while DPSPs are not enforceable, they must inform constitutional interpretation. Justice Mathew famously remarked that the DPSPs are fundamental in the governance of the country and should be treated as such when interpreting laws and rights.¹⁰⁹⁴ This has allowed entitlement claims to expand under the broader umbrella of fundamental rights, particularly the right to life.

The dilemma is further compounded by social realities. Despite the increase in women's workforce participation, wage disparities, career interruptions due to childcare, and patriarchal biases persist. A woman may be "working," yet her earnings may not be sufficient to meet her needs or to compensate for the years lost in unpaid domestic labor. In such circumstances, denying alimony solely on the basis of employment would amount to formal equality, ignoring substantive justice. The law, therefore, must move beyond the simplistic binary of dependence and independence and instead adopt a contextual approach that recognizes invisible disadvantages.

B. Right to Life under Article 21 and Expansion of Entitlement Rights

Article 21 of the Constitution guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law." Initially interpreted narrowly, its scope expanded significantly post *Maneka Gandhi v. Union of India* (1978), where the Court held that the right

to life includes the right to live with dignity. This opened the door for incorporating welfare entitlements into the ambit of fundamental rights.

The Court held that eviction of pavement dwellers violated their right to livelihood under Article 21. The judgment underscored entitlement to a means of living, even for those in informal employment, thereby expanding constitutional protection.¹⁰⁹⁵

The Court recognised the right to shelter as a fundamental right. It held that housing is not merely a roof over one's head but includes the right to live with dignity, privacy, and access to basic amenities. This case illustrates entitlement as central to the idea of a dignified life.¹⁰⁹⁶

The Court held that the failure of a government hospital to provide timely medical treatment to a patient violated Article 21, thereby making the right to health part of the right to life.¹⁰⁹⁷

These cases illustrate the judiciary's expansion of entitlements under Article 21, converting socio-economic needs into enforceable rights. It expansion also generates practical dilemmas. By recognising entitlement as a part of the right to life, courts risk creating a culture of dependency on the State, particularly if such rights are not accompanied by mechanisms to foster independence and self-reliance. For instance, while recognising the right to livelihood is critical, excessive reliance on State employment schemes without adequate skill development measures risks stagnation of economic independence.

C. Social Security Schemes: Pensions, Subsidies, and Reservations

The Indian welfare state has developed an extensive framework of social security schemes aimed at providing entitlements in the form of pensions, subsidies, and reservations. Old age pensions, widow pensions, and disability pensions reflect the

¹⁰⁹⁵ *In Olga Tellis v. Bombay Municipal Corporation* (1985),

¹⁰⁹⁶ *Chameli Singh v. State of Uttar Pradesh* (1996),

¹⁰⁹⁷ *In Paschim Banga Khet Mazdoor Samity v. State of West Bengal* (1996),

¹⁰⁹⁴ *In State of Kerala v. N.M. Thomas*,

constitutional mandate under Article 41. whether for food, fuel, or education are designed to reduce inequalities and ensure minimum standards of living. The Public Distribution System (PDS), Mid-Day Meal Scheme, and Direct Benefit Transfers are all reflections of entitlement-based welfare measures.

Reservations in education and public employment represent another unique form of entitlement, justified on the grounds of social justice and substantive equality under Articles 15(4), 15(5), and 16(4). These measures provide structural support to disadvantaged groups who, despite formal independence, are economically and socially marginalised. However, entitlements of this kind often draw criticism for perpetuating dependency and creating a sense of entitlement-based rights irrespective of merit. Critics argue that such schemes discourage competitiveness and self-reliance, while supporters contend that they are necessary correctives for centuries of systemic discrimination.

Pension schemes raise a similar dilemma. While old-age pensions provide security for the elderly who can no longer work, they also impose a financial burden on the exchequer, raising questions about sustainability. Subsidies, too, can foster dependency if not targeted effectively. For example, the debate around fuel subsidies often highlights that universal entitlements benefit the rich and poor alike, thereby diluting the principle of distributive justice. The legal dilemma thus lies in designing entitlement frameworks that support the vulnerable without discouraging productivity and financial independence.

D. The Dilemma of Universal Basic Income (UBI) vs. Targeted Entitlements

The debate over Universal Basic Income (UBI) represents a contemporary dimension of this dilemma. UBI proposes that every citizen should receive a fixed income from the State, irrespective of their employment

status, to guarantee a minimum standard of living. Advocates argue that UBI simplifies welfare systems, reduces bureaucratic inefficiency, and ensures dignity by granting financial independence free from stigma. The Economic Survey of India (2016–17) discussed UBI as a potential reform, noting that it could replace a fragmented welfare system with a direct, unconditional entitlement.

- E. However, critics contend that UBI risks discouraging employment, thereby weakening financial independence. Providing income without linking it to work or skill development may foster dependency rather than empowerment. By contrast, targeted entitlements, such as conditional cash transfers or subsidies linked to education and healthcare, encourage social investment and independence. For example, conditional cash transfers in Latin American countries have shown success in improving school enrolment and healthcare usage while still fostering independence.

The dilemma is therefore whether entitlements should be universal and unconditional or targeted and conditional. UBI promises simplicity and equality, but may undermine the ethic of independence. Targeted entitlements, while more complex, can be designed to empower recipients by linking benefits to self-development. Indian policy debates continue to wrestle with this balance, reflecting the larger constitutional tension between independence and entitlement.

Conclusion:

Alimony for working women lies at the intersection of law, gender equality, and social justice. Traditionally, alimony was conceived as a protective mechanism to safeguard women from destitution after the breakdown of marriage, reflecting the socio-economic realities of a patriarchal society where women were often excluded from economic participation. However, with the rise of women's

education, employment, and financial independence, the very rationale for unconditional entitlement to maintenance has been questioned. The dilemma, therefore, is whether alimony should remain a right regardless of a woman's earning capacity, or whether financial independence should limit such entitlement. Judicial pronouncements in India have attempted to balance this tension by adopting a contextual approach. Courts have recognized that financial independence does not automatically negate the right to maintenance; instead, factors such as wage disparity, stability of employment, standard of living during marriage, caregiving responsibilities, and the sacrifices made by women in nurturing the family are taken into account. This ensures that alimony is not reduced to a rigid formula but functions as an equitable remedy tailored to the circumstances of each case. Importantly, the law acknowledges that income alone cannot be the sole determinant of independence for social realities and hidden economic inequalities must also be considered.

In a modern welfare-oriented legal system, the purpose of alimony is not to perpetuate dependency but to ensure fairness, dignity, and justice in the aftermath of marital dissolution. For working women, this means that entitlement to maintenance should neither be denied on the simplistic ground of employment nor granted unconditionally without regard to actual necessity. Instead, a balanced approach—considering the relative financial capacities of both spouses, the contributions made within the marriage, and the future needs of dependents is essential. Ultimately, the dilemma between financial independence and entitlement can only be resolved through a nuanced and flexible legal framework, guided by principles of equality under Article 14 and the right to life with dignity under Article 21 of the Indian Constitution. The future of alimony law in India lies in promoting gender justice, recognizing the economic value of unpaid domestic labor, and ensuring that no spouse,

irrespective of employment status, is unfairly disadvantaged by the dissolution of marriage. In this way, alimony will continue to serve its true purpose: a corrective and protective measure that upholds justice while adapting to the evolving realities of society.

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