

Gender Neutrality in Maintenance Laws under the Bharatiya Nagarik Suraksha Sanhita, 2023

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Abstract

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) represents a major reform in India's criminal procedural law, replacing the Code of Criminal Procedure, 1973. Despite its modernizing intent, Section 144 BNSS—corresponding to Section 125 CrPC—continues to prioritize the wife's right to claim maintenance, reflecting a gender-specific approach. In a social and constitutional context that values equality and non-discrimination, this formulation requires critical reassessment.

This paper examines the need for gender neutrality in maintenance laws, recognizing that financial dependency can affect all spouses. It analyzes Section 144 BNSS through Articles 14, 15, and 21 of the Constitution, judicial precedents, and Law Commission recommendations. Comparative insights from the United Kingdom, Canada, and Singapore illustrate gender-neutral and reciprocal spousal maintenance frameworks.

The study argues that adopting a gender-inclusive approach would align India's legal system with substantive equality and fairness within marital relationships. While the BNSS modernizes procedural aspects, effective reform demands gender-neutral maintenance provisions, ensuring equitable rights and obligations for all spouses, irrespective of gender.

Keywords: *Gender Neutrality, Maintenance Laws, Bharatiya Nagarik Suraksha Sanhita 2023, Marital Rights, Constitutional Equality, Judicial Interpretation*

1. Introduction

1.1 Background and Context

Maintenance is a legal and moral duty to support dependents unable to maintain themselves¹. In India, this obligation is codified under various laws, including Section 125 of the Code of Criminal Procedure, 1973 (CrPC), which provides for maintenance to wives, children, and parents from those with sufficient means.

The primary aim of Section 125 was to prevent destitution through a quick and cost-effective remedy. However, its gender-specific language has historically favored wives as recipients, reinforcing the stereotype of men as sole providers². This view no longer aligns with constitutional equality (Articles 14 and 15) or the evolving social landscape, where gender roles within families are changing.

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaces the CrPC, retains this approach in Section 144, without making maintenance rights explicitly gender-neutral. This raises concerns about whether such reforms adequately address substantive equality in marital relationships.

1.2 Rationale of the Study

Given shifting gender roles—where both men and women may be economically dependent due to various factors—it is essential to examine whether Section 144 BNSS ensures equal protection for all spouses. Although courts have occasionally granted maintenance to men, these are rare exceptions.

This study seeks to critically analyze Section 144 BNSS, assess its alignment with constitutional principles, and explore reforms for a more equitable, gender-neutral maintenance framework. Comparative insights from other countries will also inform this analysis.

¹ Mulla, *Principles of Hindu Law* § 278 (22d ed. 2016)

² *Ramesh Chander Kaushal v. Veena Kaushal*, AIR 1978 SC 1807.

1.3 Research Objectives

1. Analyze Section 144 BNSS in the context of gender neutrality.
2. Examine constitutional and judicial perspectives on spousal maintenance.
3. Study international models for reciprocal maintenance rights.
4. Identify legal gaps and propose reforms for equality in maintenance laws.

1.4 Research Questions

1. Is Section 144 BNSS gender-neutral in safeguarding spousal maintenance rights?
2. How do courts handle maintenance claims by male spouses?
3. What are the constitutional implications of gender-specific maintenance laws?
4. How do other countries implement gender-neutral spousal support?
5. What reforms can make India's maintenance laws more equitable?

1.5 Significance of the Study

As India transitions from CrPC to BNSS, it's crucial that reforms go beyond procedure to reflect social realities. This study aims to:

- Promote gender equality in marital obligations.
- Inform legislative and policy reforms.
- Support academic and judicial discourse on reciprocal spousal duties.

Ultimately, true justice under BNSS requires a maintenance system that is inclusive, equitable, and free from outdated gender norms³.

2. Historical Evolution of Maintenance Laws in India

2.1 Origin and Rationale of Maintenance Provisions

The notion of maintenance in India rests on the moral and legal obligation to support dependents unable to maintain themselves. In classical Hindu law, the duty of a husband to maintain his wife

³ *State of Maharashtra v. Madhukar Narayan Mardikar*, AIR 1991 SC 207.

was considered a *Dharmic* obligation. Similarly, under Islamic law, *nafaqah* made the husband's responsibility to maintain his wife absolute during marriage. These systems, though embedded in patriarchal social structures, shared the aim of preventing destitution.

However, personal laws were fragmented and religion-bound, failing to cover interfaith or civil unions. To remedy this lacuna, the legislature over time sought a secular and uniform mechanism to provide maintenance on the basis of need rather than religious affiliation.

2.2 Section 125, CrPC, 1973: A Secular Safeguard

After independence, Parliament enacted **Section 125 of the Code of Criminal Procedure, 1973**, introducing a summary, affordable legal remedy to curb vagrancy and neglect. The provision allows a wife, legitimate or illegitimate minor child, and parents to claim maintenance if the obligated person has the means but refuses or neglects to provide.

The purpose of Section 125 is welfare, not punishment; it applies regardless of religion⁴. Courts have described it as a secular instrument aimed at protecting human dignity⁵. Yet, its wording reflects the gender assumptions of its era, presuming husbands as providers and wives as dependents—an assumption increasingly misaligned with modern socio-economic dynamics.

2.3 Judicial Expansion under Section 125 CrPC

Judicial interpretation has significantly broadened Section 125's reach:

- In **Mohd. Ahmed Khan v. Shah Bano Begum (1985)**, the Supreme Court held that a divorced Muslim woman could seek maintenance under Section 125, affirming its secular and universal character⁶.
- In **Bhuwan Mohan Singh v. Meena (2015)**, the Court linked maintenance to dignity and the right to life under Article 21.

⁴ *Ramesh Chander Kaushal*, AIR 1978 SC 1807.

⁵ *Bhuwan Mohan Singh v. Meena*, (2015) 6 SCC 353.

⁶ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556.

- In **Kanchan v. Kamalendra (2007)**, the Court awarded maintenance to a husband dependent on his wife's income, signaling a shift toward gender inclusivity.

Despite these advances, male or gender-diverse claimants remain rare, largely because the statute lacks explicit gender-neutral language.

2.4 Transition: CrPC → Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023

The BNSS, 2023, repeals the CrPC while re-enacting the substance of Section 125 under Section 144 BNSS. Its aim is to modernize procedure, ensure citizen-centric justice, and promote efficiency.

However, Section 144 retains the gendered framing of maintenance (emphasizing the wife, alongside children and parents) and omits inclusive terms like “spouse” or “partner.” The reform is predominantly procedural, offering improvements like digital filing and faster adjudication, but stops short of correcting the underlying gender bias⁷.

2.5 Constitutional and Social Implications

The enduring gender-specific language in Section 144 raises potential conflicts with Articles 14 and 15 (equality and prohibition of sex discrimination) and with Article 21 (right to life and dignity). Excluding men or gender-diverse dependents amounts to indirect discrimination and reinforces outdated stereotypes that men must always be providers.

As Indian society evolves—women as breadwinners, men as dependents, and diverse family structures—the law's male-provider assumption becomes increasingly untenable.

2.6 Need for Doctrinal Re-evaluation

The enactment of BNSS presents a historic opportunity to reform the doctrine of maintenance. India's constitutional commitment to equality, and its international obligations (e.g. under **CEDAW**), demand that maintenance law shift from a gendered model to a **dependency-based**

⁷ Ministry of Home Affairs, Government of India, Press Release on BNSS, Dec. 2023.

reciprocal model. Under this shift, any dependent—male, female, or nonbinary—should be eligible for maintenance, provided they can show need and lack of means.

Such reform would align statutory law with constitutional morality, rectify structural bias, and better serve the social justice purpose at the heart of maintenance law⁸.

3. Doctrinal and Legal Analysis of Maintenance under the Bharatiya Nagarik Suraksha Sanhita, 2023

3.1 Continuity of Maintenance Law and Doctrinal Framework

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaces the Code of Criminal Procedure, 1973 (CrPC), represents India's ambitious attempt to modernize procedural criminal law⁹. However, despite its structural innovations, the substantive content of the maintenance provision—now placed under Section 144 BNSS—largely mirrors the earlier Section 125 CrPC. Both provisions aim to prevent destitution and uphold the moral duty of financially capable individuals to maintain dependents who cannot support themselves¹⁰. Yet, the provision continues to employ gender-specific language, referring primarily to a “wife,” thereby implying a unidirectional obligation from husband to wife.

While this doctrinal continuity ensures stability in enforcement, it also perpetuates outdated gender assumptions. The BNSS focuses primarily on efficiency, digital documentation, and citizen-centric justice, but it does not modernize the substantive rights relating to maintenance. In effect, the law continues to operate on the presumption that dependency is inherently female and responsibility is inherently male—a notion that no longer aligns with the contemporary realities of Indian society¹¹.

3.2 Legislative Intent and Policy Perspective

⁸ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

⁹ *Bharatiya Nagarik Suraksha Sanhita*, No. 45 of 2023.

¹⁰ *Code of Criminal Procedure*, No. 2 of 1974, §125.

¹¹ Ministry of Home Affairs, *Press Release on Criminal Law Reforms*, (Dec. 2023).

The legislative intent behind Section 144 BNSS is rooted in the goal of ensuring social justice and preventing economic destitution¹². However, the absence of any explicit recognition of gender neutrality within its framework limits its capacity to achieve genuine equality. Maintenance, as a socio-legal measure, was never intended as a gender privilege but as a tool to secure the survival and dignity of dependents. Therefore, its application should be governed by financial dependency rather than gender identity¹³.

In present times, social dynamics have evolved substantially—women are active contributors to household income, and in many instances, men or non-binary partners may find themselves dependent. By retaining gendered terminology, the BNSS inadvertently excludes these groups, creating an imbalance between constitutional ideals and statutory realities. Thus, while procedural reforms under the BNSS represent progress, the absence of substantive reform in maintenance provisions marks a serious doctrinal gap.

3.3 Judicial Approach and Expanding Interpretation

Indian courts have played a pivotal role in interpreting maintenance provisions through a lens of fairness and social justice. In *Rajnish v. Neha* (2020)¹⁴, the Supreme Court emphasized transparency and uniformity in maintenance determinations, acknowledging that both spouses have mutual duties of support. Although the judgment did not directly declare the law gender-neutral, it articulated principles that favor equality and reciprocity. Similarly, in *Kanchan v. Kamalendra* (2007)¹⁵, the Bombay High Court recognized that a dependent husband could also claim maintenance, emphasizing that the object of maintenance law is to prevent destitution rather than reinforce gender hierarchy.

Despite these progressive decisions, the judiciary remains bound by the literal language of the statute. In *Ramesh v. Rajeshwari* (2018), the Madras High Court reiterated that Section 125 CrPC was intended to protect women alone, demonstrating the difficulty courts face when balancing social justice with legislative wording. This inconsistency underscores the urgent need for

¹² Statement of Objects and Reasons, *Bharatiya Nagarik Suraksha Sanhita Bill*, 2023.

¹³ *Bhagwan Dutt v. Kamla Devi*, (1975) 2 SCC 386.

¹⁴ *Rajnish v. Neha*, (2021) 2 SCC 324.

¹⁵ *Kanchan v. Kamalendra*, 2007 SCC OnLine Bom 725.

Parliament to explicitly adopt gender-neutral phrasing to ensure consistent judicial application across the country.

3.4 Constitutional Dimensions and Equality Concerns

From a constitutional standpoint, the gender-specific nature of Section 144 BNSS invites scrutiny under Articles 14, 15, and 21 of the Indian Constitution¹⁶. Article 14 ensures equality before the law and equal protection of the laws, Article 15 prohibits discrimination on the basis of sex, and Article 21 guarantees the right to life and dignity. Collectively, these provisions obligate the State to enact laws that promote substantive equality rather than reinforce gender-based distinctions.

The Supreme Court's decision in *NALSA v. Union of India* (2014)¹⁷ further expanded the understanding of gender identity by recognizing the rights of transgender persons to equality and dignity. However, the BNSS, by continuing to identify maintenance beneficiaries solely in heteronormative and gender-specific terms, risks being inconsistent with this jurisprudence. Excluding male or gender-diverse dependents from maintenance protections denies them equal protection and undermines the inclusive constitutional vision envisaged by the framers¹⁸.

3.5 Comparative Legal Developments

In several progressive jurisdictions, maintenance laws are firmly grounded in gender-neutral principles. The United Kingdom's Matrimonial Causes Act, 1973, the United States' family law statutes, and the Family Law Act, 1975 of Australia all permit either spouse to claim maintenance based on financial dependency and need. These frameworks reflect a recognition that maintenance is not a matter of gender privilege but of social responsibility. India's retention of gendered terminology, therefore, contrasts sharply with the global shift towards equality in marital obligations. Adopting a gender-neutral approach would not diminish women's rights; rather, it would extend legal protection to all individuals, ensuring fairness and constitutional consistency.

3.6 Towards a Gender-Neutral Interpretation

¹⁶ *Constitution of India*, arts. 14, 15, 21.

¹⁷ *NALSA v. Union of India*, (2014) 5 SCC 438.

¹⁸ *Convention on the Elimination of All Forms of Discrimination Against Women*, Dec. 18, 1979, 1249 U.N.T.S. 13.

To bring Section 144 BNSS in harmony with constitutional morality and contemporary social realities, a doctrinal reorientation is necessary. The law should focus not on the claimant's gender but on the existence of dependency and neglect. Replacing the term "wife" with "spouse" or "partner" would ensure that maintenance provisions extend to all dependents, regardless of gender identity or marital orientation. Such reform would strengthen the social justice objectives of the BNSS and align it with both domestic constitutional principles and international human rights standards.

In essence, the movement toward gender neutrality in maintenance law is not a departure from tradition but an evolution of justice itself. It transforms maintenance from a paternalistic welfare measure into a truly egalitarian right that upholds the dignity of every individual within the marital relationship¹⁹.

4. Male Rights and Gender-Neutral Maintenance

Maintenance laws in India have historically been rooted in patriarchal social structures, presuming men as providers and women as dependents²⁰. This framework, while contextually relevant in earlier times, increasingly fails to reflect the socio-economic realities of modern marital relationships. With the growing participation of women in the workforce and the rise of non-traditional family roles, there are instances where husbands or male partners may become financially dependent. Despite this shift, the legal framework under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), echoing Section 125 of the Code of Criminal Procedure, 1973, continues to largely frame maintenance in gendered terms, implicitly favoring female claimants.

Legally, the BNSS does not explicitly exclude men from claiming maintenance, but judicial practice and social perception have effectively limited such claims. Courts have been reluctant to extend maintenance rights to husbands due to deep-rooted stereotypes associating financial dependency with femininity. This exclusion has significant constitutional implications. Articles 14 and 15 of the Indian Constitution guarantee equality before the law and prohibit discrimination based on sex. Limiting maintenance rights primarily to women creates an asymmetry that

¹⁹ *Indian Young Lawyers Ass'n v. State of Kerala*, (2019) 11 SCC 1.

²⁰ *Bhuwan Mohan Singh v. Meena*, (2015) 6 SCC 353.

contravenes these constitutional principles, particularly the notion of substantive equality, which considers social and economic realities alongside formal legal equality.

Judicial precedents, while limited, indicate that the legal system can and has recognized male entitlement to maintenance under exceptional circumstances. In *Bhagwan Dutt v. Kamla Devi* (1975)²¹, the Supreme Court emphasized that the purpose of maintenance is protective, not punitive, and is intended to prevent destitution irrespective of gender. The Bombay High Court, in *Kanchan v. Kamalendra* (1992), explicitly acknowledged that a husband unable to earn due to genuine incapacity may claim maintenance from his wife. Further, in *Rajnish v. Neha* (2020)²², the Supreme Court underscored the principles of fairness and reciprocity in determining maintenance obligations, focusing on financial capacity and dependency rather than rigid gender norms. These cases collectively demonstrate that the legal rationale of maintenance is not inherently gendered, but its application has often been constrained by traditional assumptions.

Beyond statutory interpretation, male claimants face significant social and psychological challenges. Societal stigma and notions of masculinity discourage men from approaching courts for maintenance, even when justified by circumstance. The perception that financial dependence diminishes male authority or social standing deters legitimate claims, effectively denying men access to a constitutionally protected right. This social dimension illustrates that legal reform alone is insufficient; recognition of male rights in maintenance also requires a shift in societal attitudes and judicial willingness to interpret statutes progressively.

A gender-neutral maintenance framework would address these issues comprehensively. It would emphasize dependency and need as the core criteria, rather than the claimant's gender. By replacing gender-specific terminology in Section 144 BNSS with inclusive language such as "spouse" or "partner," the law would extend protection to all financially dependent parties, aligning statutory provisions with constitutional equality. Such reform would not weaken women's rights but would instead create a balanced system that recognizes the mutual obligations and vulnerabilities of both spouses²³.

²¹ *Bhagwan Dutt v. Kamla Devi*, (1975) 2 SCC 386.

²² *Rajnish v. Neha*, (2021) 2 SCC 324

²³ Law Commission of India, *Report No. 277* (2020).

In contemporary India, where family dynamics are increasingly diverse, recognizing male rights in maintenance is critical to achieving substantive justice. Courts can play a transformative role by adopting a purposive interpretation of BNSS provisions, ensuring that maintenance is granted based on financial necessity rather than gendered assumptions. Gender-neutral maintenance would reinforce the principles of fairness, reciprocity, and social justice, making the law truly inclusive. Ultimately, the objective is not to challenge the historic protective role of maintenance for women but to expand the ambit of legal protection to all dependents, thereby fulfilling the constitutional promise of equality and dignity for every individual²⁴.

5. Comparative Perspectives on Gender-Neutral Maintenance Laws

The debate on gender neutrality in maintenance is not unique to India. Several jurisdictions worldwide have reformed family law to recognize maintenance as a right based on financial dependency rather than gender, offering valuable lessons for the Indian legal system²⁵. Examining these international frameworks highlights how India can balance the protection of dependents with constitutional equality²⁶.

5.1 United Kingdom

In the United Kingdom, maintenance laws under the Matrimonial Causes Act, 1973 and subsequent amendments treat both spouses equally²⁷. The courts assess financial support based on the needs and resources of each party, without consideration of gender. The emphasis is on equitable distribution and mutual responsibility, reflecting the principle that maintenance serves to prevent destitution rather than reinforce traditional gender roles. This approach demonstrates the feasibility of a gender-neutral framework, ensuring fairness while safeguarding economic security for all spouses.

5.2 United States

²⁴ *NALSA v. Union of India*, (2014) 5 SCC 438.

²⁵ Law Commission of India, *Report No. 277: Equal Access to Maintenance* (2020).

²⁶ *Bharatiya Nagarik Suraksha Sanhita*, No. 45 of 2023, §144.

²⁷ *Matrimonial Causes Act*, 1973, c. 18 (U.K.).

Family law in the United States, governed at the state level, similarly adopts a gender-neutral perspective²⁸. Courts award spousal support (alimony) based on income, earning capacity, and length of marriage rather than sex. Jurisdictions such as California and New York explicitly prohibit gender discrimination in maintenance claims, enabling husbands, wives, and non-binary spouses to seek support. The U.S. model underscores the importance of flexibility, allowing courts to tailor support obligations according to financial circumstances rather than socially constructed roles²⁹.

5.3 Canada and Australia

In Canada, the Divorce Act, 1985 and its amendments provide for spousal support in a gender-neutral manner, prioritizing economic need, contributions to the household, and the impact of child-rearing responsibilities. Similarly, Australia's Family Law Act, 1975 emphasizes equitable support for dependent spouses regardless of gender. Both jurisdictions integrate social realities, recognizing that caregiving responsibilities or temporary unemployment can render any spouse dependent. These examples illustrate how gender-neutral maintenance can be structured to protect vulnerable parties without undermining fairness or social welfare³⁰.

5.4 Lessons for India

The comparative analysis offers valuable insights for India. Gender-neutral language ensures maintenance rights are accessible to all spouses, including men and gender-diverse individuals, and shifts focus from stereotypes to financial need in line with Articles 14 and 15 of the Constitution. International practices show that gender neutrality strengthens fairness without undermining women's protection.

India should consider interpreting or amending Section 144 of the BNSS to replace "wife" with inclusive terms like "spouse" or "partner," enabling courts to assess maintenance based on equity and dependency. Awareness campaigns and judicial sensitization can further address stigma against male or non-traditional claimants.

²⁸ *Uniform Marriage and Divorce Act, 1970 (U.S.)*.

²⁹ Margaret F. Brinig, *Family, Law, and Community: Supporting the Covenant* 145 (LexisNexis 2010).

³⁰ Law Commission of Canada, *Spousal Support Advisory Guidelines* (2008).

By drawing from global models, India can modernize Section 144 BNSS to ensure maintenance is determined by need and capacity, creating a more inclusive and equitable legal framework for marital obligations.

6. Contemporary Challenges and Policy Gaps in Gender-Neutral Maintenance Laws

Despite the progressive intent of Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which theoretically allows both spouses to claim maintenance, several contemporary challenges and policy gaps hinder its effective implementation in a gender-neutral manner.

6.1 Gendered Judicial Interpretation

While the BNSS employs gender-neutral language, judicial interpretation often reverts to traditional gender roles. Courts frequently assume women as the primary beneficiaries of maintenance, reflecting societal biases rather than legal neutrality. For instance, in the 2025 Bengaluru case of Avinash SJ v. Shubha, despite the wife earning an annual income of ₹11.2 lakh, the court upheld an interim maintenance of ₹1.8 lakh, emphasizing the husband's obligation irrespective of the wife's financial status

6.2 Societal Stigma and Male Claimants

Men seeking maintenance often face societal stigma, which discourages legitimate claims³¹. The perception that men should be the sole providers leads to underreporting of male dependency³². Although the law permits men to claim maintenance, societal norms and biases result in a significant underutilization of this provision by male spouses

6.3 Lack of Comprehensive Data

There is a notable absence of comprehensive statistical data on the number of men receiving maintenance³³. Most official records and surveys focus on women as maintenance recipients due to historical social norms and legal frameworks. This data gap impedes informed policymaking and the assessment of the law's impact on all genders.

³¹ Law Commission of India, *Report No. 252 on Maintenance Laws* (2015).

³² Poonam Pradhan Saxena, *Family Law in India: Challenges and Reforms* (Oxford Univ. Press 2017).

³³ National Judicial Data Grid (NJDG), *Case Statistics Report* (2024).

6.4 Judicial Delays and Enforcement Issues

The Indian judiciary faces significant delays, with millions of cases pending across various courts. This backlog affects maintenance cases, leading to prolonged periods before final settlements. Additionally, enforcement of maintenance orders remains a challenge, with many recipients, regardless of gender, experiencing delays in receiving due support

6.5 Policy Gaps in Legislative Framework

While the BNSS provides a legal framework for maintenance, it lacks specific provisions addressing the nuances of gender neutrality. The absence of clear guidelines and definitions leads to inconsistent application and interpretation of the law³⁴. Moreover, the law does not mandate the collection of data on maintenance claims by gender, hindering the evaluation of its effectiveness in promoting gender equality

7. Recommendations and Way Forward

7.1 Legislative Reforms for Gender Neutrality

Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) should be amended to use gender-neutral terms such as “spouse” or “partner” instead of “wife” or “husband.” The law must clearly recognize that financial vulnerability can affect any spouse, ensuring equal access to maintenance and reducing judicial ambiguity or gender bias.

7.2 Judicial Training and Consistent Interpretation

Judicial sensitization programs should be institutionalized to encourage uniform, gender-neutral interpretation of maintenance laws³⁵. Courts must assess financial dependency and earning capacity without stereotypes. Specialized family benches could enhance consistency and equitable outcomes³⁶.

³⁴ Law Commission of India, *Report No. 277* (2020).

³⁵ See generally Law Commission of India, *Report No. 277: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies* (2018) (discussing judicial accountability and training).

³⁶ See also *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 (India) (recognizing judicial role in systemic reforms).

7.3 Data Collection and Policy Research

A national database tracking maintenance claims by gender and financial status should be established³⁷. Comprehensive data will help evaluate the effectiveness of BNSS provisions and guide evidence-based policy reforms promoting gender equality.

7.4 Public Awareness and Social Change

Public awareness campaigns and legal literacy initiatives are vital to overcome stigma against male or non-traditional claimants³⁸. Collaboration with NGOs and educational institutions can normalize diverse dependency claims and promote inclusivity in maintenance law³⁹.

7.5 Procedural Simplification and Enforcement

Digitalized filing, simplified application processes, and clear financial assessment guidelines can reduce delays and ensure timely enforcement. Standardized criteria for dependency and capacity would enhance transparency and fairness.

7.6 Learning from International Practices

Countries such as the UK, US, Canada, and Australia have successfully adopted gender-neutral maintenance systems based on financial need and mutual responsibility⁴⁰. India can adapt these principles within its socio-economic context to strengthen the BNSS framework.

7.7 Toward Holistic Reform

Integrating legislative clarity, judicial training, data-driven policy, awareness, and procedural reforms will create a truly gender-neutral maintenance regime⁴¹. Such reform will align Section

³⁷ Ministry of Law and Justice, *Annual Report 2022–23* (India) (highlighting need for gender-disaggregated legal data).

³⁸ See National Legal Services Authority (NALSA), *Annual Report 2022* (India) (stressing legal literacy for gender inclusion).

³⁹ See also Ministry of Women and Child Development, *Handbook on Gender Sensitization* (2021).

⁴⁰ Cf. Law Commission of India, *Consultation Paper on Reform of Family Law* (2018).

⁴¹ See *Indra Sawhney v. Union of India*, AIR 1993 SC 477 (India) (affirming constitutional goal of substantive equality).

144 BNSS with constitutional principles of equality and dignity, ensuring fairness for all dependent spouses⁴².

Conclusion

The analysis of maintenance laws under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) reveals both progress and persistent challenges in achieving gender neutrality. Historically, Indian maintenance laws were framed within a patriarchal paradigm, where women were viewed as dependents and men as providers. While the BNSS modernized procedural aspects and codified maintenance provisions, the continued use of gendered language and the predominance of traditional judicial interpretations reflect enduring social and legal biases.

This study highlights that male rights in maintenance remain under-recognized due to societal stigma, lack of awareness, and limited judicial precedents. At the same time, the law's potential for inclusivity presents a significant opportunity. Recognizing maintenance as a right based on financial dependency rather than gender aligns with the constitutional guarantees of equality under Articles 14 and 15, promotes substantive justice, and reflects contemporary family dynamics where both spouses may contribute economically or face dependency.

Comparative analysis of international frameworks demonstrates that gender-neutral maintenance is both feasible and equitable. Jurisdictions such as the United Kingdom, United States, Canada, and Australia assess support based on need, capacity, and mutual responsibility, without regard to gender. These examples provide a valuable blueprint for India to reform BNSS provisions, ensuring fairness for male, female, and gender-diverse claimants alike.

Policy gaps identified in this study—such as judicial conservatism, enforcement challenges, lack of comprehensive data, and social stigma—underscore the need for a multi-faceted reform strategy. Legislative amendments, judicial sensitization, procedural simplification, public awareness campaigns, and adoption of best practices from comparative jurisdictions collectively provide a roadmap for achieving true gender neutrality in maintenance.

⁴² See also *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India) (upholding dignity and equality within family law).

In conclusion, gender-neutral maintenance is not about reversing historical protections for women, but about ensuring equitable legal protection for all dependents. The BNSS, if interpreted and implemented inclusively, can serve as a transformative legal instrument that upholds fairness, safeguards vulnerable spouses, and reinforces India's constitutional commitment to equality and human dignity. By embracing these reforms, India can lead in creating a modern, just, and inclusive framework for maintenance, reflective of contemporary societal realities and global best practices.

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