

Bill No. 100 of 2019

THE HINDU ADOPTIONS AND MAINTENANCE (AMENDMENT)
BILL, 2019

By

SHRI RAHUL SHEWALE, M.P.

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BILL

further to amend the Hindu Adoptions and Maintenance Act, 1956.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Hindu Adoptions and Maintenance (Amendment) Act, 2019. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 18 of the Hindu Adoptions and Maintenance Act, 1956 after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 18.

10 "(4) Notwithstanding anything in sub-section (1), where the husband is unable to provide maintenance to his Hindu wife on account of physical disability, mental

disorder, disappearance, renunciation of the world by entering, any religious order, the Hindu wife shall, except where the husband has received his share in the joint family property, be entitled to claim maintenance during her lifetime from the members of the joint Hindu family.

Explanation.— In this section, the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disabling of mind and include schizophrenia." 5

STATEMENT OF OBJECTS AND REASONS

Section 18 of the Hindu Adoption and Maintenance Act, 1956 provides for the maintenance of wife by her husband during her life time and section 19 provides for the maintenance of wife by her father-in-law after the death of her husband. Therefore, the wife of a person who is incapacitated does not enjoy such right of maintenance against the relatives of the husband even if the husband is a member of a joint family.

Under the Hindu law, only sons, grandsons and great grandsons and daughters (after the 2005 amendment to the Hindu Succession Act, 1956) have a natural and inherent right in birth interest in the joint family property or the coparcenaries property. Other female members of the family, such as the mother, wife and daughter-in-law do not possess the rights of coparceners with respect to joint family property. For this reason, the right of maintenance of female members has been given supreme importance. In cases, where the husband having a personal obligation to maintain is not able to do, several Courts have upheld the claim of the wife to receive maintenance from her husband's relatives out of her husband's share in the joint family property.

Taking into consideration the above stated factors, the Law Commission of India in its 252nd Report on "Right of the Hindu Wife to maintenance: A relook at section 18 of the Hindu Adoptions and Maintenance Act, 1956" recommended an amendment to the said section 18 to protect the right of a Hindu woman in cases where the husband is not able to maintain her.

Hence this Bill.

NEW DELHI;
June 6, 2019.

RAHUL SHEWALE

ANNEXURE

THE HINDU ADOPTIONS AND MAINTENANCE ACT, 1956

(78 OF 1956)

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Maintenance
of wife.

18. (1) Subject to the provisions of this section, a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained by her husband during her lifetime.

(2) A Hindu wife shall be entitled to live separately from her husband without forfeiting her claim to maintenance,—

(a) if he is guilty of desertion, that is to say, of abandoning her without reasonable cause and without her consent or against her wish, or of wilfully neglecting her;

(b) if he has treated her with such cruelty as to cause a reasonable apprehension in her mind that it will be harmful or injurious to live with her husband;

(c) if he is suffering from a virulent form of leprosy;

(d) if he has any other wife living;

(e) if he keeps a concubine in the same house in which his wife is living or habitually resides with a concubine elsewhere;

(f) if he has ceased to be a Hindu by conversion to another religion;

(g) if there is any other cause justifying her living separately.

(3) A Hindu wife shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by conversion to another religion.

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further to amend the Hindu Adoptions and Maintenance Act, 1956.

(Shri Rahul Shewale, M.P.)