

Under when she has  
placed herself in



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Under the Shia law and the Shafii law, the wife is entitled to arrears of maintenance.

According to the Sharai-ul-Islam A wife, when she has placed herself in the power of her husband, is entitled to her maintenance day by day, and if he refuses to give it, and the day passes, her right is confirmed; and so on for other days in succession, though the judge should never have fixed the amount nor made any order in her favour. There is some controversy among our High Courts on the quantum of arrears of maintenance. Some courts have taken the view that the arrears of maintenance have to be at a reduced rate, some hold that these cannot be more than the half. In E. V.

Kunhimariam v. Ooramveettil Mammu, the Kerala High Court, after a review of almost all authorities on the subject, observed that the court will not be justified in fixing lower rates in relation to past maintenance as a general and inflexible rule. There is no justice or equity, the court added, in reducing the rate of maintenance payable to the helpless woman, when the party morally and legally liable for the same has been contumacious in his neglect in prompt payments.

If the maintenance claimed is the legal right and if the claim is within the period of limitation, ordinarily the party entitled to get it must get it in full measures from the party who defaults. Referring to the past attitude of the courts, Sukumaran, J. observed that if the courts in bygone days had been unmindful of the hardship of the neglected wife or the abandoned child, it was not a good reason to continue that cruelty even in the present age.

Under all the schools of Muslim law, a wife can claim arrears of maintenance

if the amount of maintenance has been fixed by an agreement or under an order of the court.