3.1 INTRODUCTION

The unit begins by defining marriage as a form of social institution. It discusses the purpose and legitimacy of marriage in our society and the interconnection between marriage and kinship. It introduces the learners about different marriage practices which are predominant in Indian society. The position of women within the institution of marriage is one of the thrust areas of this unit. The feminist critique of marriage is analyzed in the light of public/private dichotomy which has placed women under multiple oppressions. Finally, the unit describes the nature of gender-based violence which are persistent within the society.

3.2 OBJECTIVES

After reading this unit you will be able to:

- Understand marriage as an institution and the various types of marriage found in the society;
- Analyse how the sacramental nature of marriage contribute to women’s subordination;
- Identify domestic violence and various forms it takes; and
- Examine the concept of divorce and the debates surrounding divorce in India.
3.3 DEFINATION AND FORMS OF MARRIAGE

Marriage is traditionally conceived to be a legally recognized relationship, between an adult male and female, that carries certain rights and obligations (Scott and Marshall, 2005, p.383). According to Anthony Giddens “marriage can be defined as a socially acknowledged and approved sexual union between two adult individuals. When two people marry, they become kin to one another; the marriage bond also, however, connects together a wider range of kin groups. Parents, brothers, sisters and other blood relatives become relatives of the partner through marriage” (Giddens, 2009, p.331). The definition of marriage relationship includes guidelines for behavior in matters of sex, obligations to offspring and in laws, division of labour within the household, and other duties and privileges of marital life. In all cultures, marriage is seen as a way to help societies regulate sexual activity, encourage procreation, and develop accountability, as well as provide for parental care, mutual help, and affection (Perry and Perry, 2012, p.329).

At the basis of almost every kinship system is marriage, a legal concept defining the union of a man and a woman, or various combinations thereof, living together in a sexual relationship with the expectation of producing offspring. This relationship is defined and sanctioned by tradition and law. It should be stressed that marriage is an invention of the legal system; that is, it came into being because people thought there should be a binding contract between a man and a woman regarding their mutual privileges and obligations (Perry and Perry, 2012, p.329).

Today this understanding needs to be amended, as men and women do not necessarily include having children as one of the purposes of marriage. In certain societies couples have children even without entering into marriage and then may choose to marry. There are couples who enter into marriage but chose to be childless or opt for adoption rather than have their own biological children. Further as same-sex partners are entering into marriage, the hetero-normativity of the institution of marriage is being challenged. Homosexual marriages further challenge the notion that the important purpose of marriage is to beget legitimate children. Such couples go for adoption, medical intervention and other scientific and legal methods to include children in their family. Thus, the importance of marriage no longer remains exclusively attached to the notion of reproduction but is also undertaken for the purpose of companionship. In India one of the important functions of marriage continues to be to beget legitimate children.

In preindustrial societies, marriage was an economic arrangement between families. Love between the partners had nothing to do with it, although the partners were expected eventually to come to love one another. With modernization, particularly the fact that young adults of both sexes could
find wage paying work, came the ability to make one’s own marital choices. Romantic love as a prerequisite for marriage is thus a modern invention (Perry and Perry, 2012, p.331).

However, scholars also recognize that this free choice in marriage is much more socially determined than is at first obvious. Not only are endogamy and exogamy at work - spouses are chosen within certain groups and outside other groups - but also people overwhelmingly marry mates who are very much like themselves. This tendency is called homogamy. Homogamy persists in such features as age, proximity, social characteristics, individual characteristics and even degree of attractiveness (Scott and Marshall, 2005; Perry and Perry, 2012).

The forms marriage takes vary in different societies. The two broad subdivisions are ‘monogamy’ and ‘polygamy’. Monogamy describes the union of one man with one woman. This is the most common form of marriage found across modern contemporary societies. Polygamy is the term for plural marriage, which can in turn be subdivided into polyandry, or the union of one woman with several men; polygyny, or the union of one man with several women; and group marriage, involving several men living with several women. Within polygamy, polygyny is more common than polyandry.

Rules of marriage include endogamy and exogamy. Endogamy ensures that partners in the marriage belong to the same social group i.e. the same caste, tribe, religion, class and others. In India the Hindu social order through its caste system strictly followed caste endogamy and any violation of it entailed punishment including what is known as honour killing. Caste endogamy ensured the maintenance of the purity of the caste group, maintenance of caste boundary and hierarchy, and perpetuated caste inequality through unequal distribution of property and power among several castes.

Marriage between individuals belonging to different castes is called hypergamous marriage if the woman belonged to a lower caste and the man to a higher caste than the woman. The marriage of a higher caste woman to a lower caste man is called hypogamy. In Indian society hypergamous marriage is relatively easily accepted as compared to hypogamous marriages. Hypogamous marriages often lead to violence against the caste group to which the man belongs to by the upper caste group to which the woman belongs.

Exogamy on the other hand entails that individuals marry outside their own group. Gotra exogamy whereby individuals are expected to marry outside their gotra (lineage group), and village exogamy or marriage outside one’s village, which was the norm in some parts of north India, are some among the various forms of exogamy.
3.4 WOMEN AND THE INSTITUTION OF MARRIAGE

Hindu and Christian personal laws considered marriage as a sacrament where as Islamic laws view it as a contact. You will read about personal laws in the unit 3: Personal Laws, Block VI of this course. The sacramental nature of marriage emphasizes that marriage is a sacred bond ordained by the almighty and under no circumstances it can be dissolved. All religions eulogized permanency of marriage and denied dissolution of marriage. Religion at least made it undesirable and difficult where divorce was granted to dissolve marriage, especially for women. Further, marriage as natural, contractual, sacrament ensured that women’s identity within marriage was subsumed under that of their man. Through religious and social dictates the woman was socialized to merge her identity with that of the husband, and not believe in her independent existence.

In India, socialization of women into accepting the secondary status in marriage and merging their identity within that of their husband and his family is undertaken in many ways. Traditional ideals hold that a girl should be married at an early age, while she is still impressionable and has achieved little independence, to help ensure a successful marriage (Seymour, 1999). To marry one’s daughters off propitiously is considered one of the primary religious duties of Hindu parents (Kakar, 1988, p.60). Kanyadaan (gifting of a daughter) is considered as the greatest duty for parents. It is through this process that women are transferred from one family to another and also the control over them transferred from father to husband.

Marriage confirms the scriptural and societal need of control over women by men at all stages of their lives. The ideal women are those who do not strive to break these bonds of control. Moreover, the salvation and happiness of women revolve around their virtue and chastity as daughters, wives and widows. Sita wife of Lord Rama is to most Hindu women represents the ideal towards which all women should strive (Wadley, 1988, p.32). The ideal womanhood includes one of chastity, purity, gentle tenderness and a singular faithfulness which cannot be destroyed or even disturbed by her husband’s rejections, slights or thoughtlessness. The popular myths and legends give one moral: whether treated well or ill a wife should never indulge in ire (Kakar, 1988, p.55).

To be a good wife, is by definition, to be a good woman. Wives should restrain all their senses and keep their hearts under complete control. They should regard their husbands as veritable gods. For women, neither sacrifice, nor sraddhas (penances), nor fasts are of any efficiency. By serving their husbands only can they win heaven. This is the ideal purveyed over and over again, in numberless myths and legends, through which society moulds the character and personality of its female members (Kakar, p.56; Wadley, 1988, p.32). The wifely role is one of subordination, and of devotion in any circumstances (Wadley, 1988, p.33).
In the social hierarchy of her new family, the bride usually occupies one of the lowest rungs. Unflinchingly and without complaint, the new daughter in law is required to perform some of the heaviest household chores. (Bagchi, 1995, p.1). The ‘girl child’ became the pure vessel of virginity. The ‘chaste wife’ as the exclusive property and conscience keeper of the husband (who is free to marry many times and to have extramarital sex) and the self denying mother (Bagchi, 1995) Thus, the sacramental dictates to preserve marriage under patriarchal ideology burdened women with the task of preserving marriage and family at the cost of their individuality, rights and freedom (Seymour, 1999). It also justified violence in the name of maintaining family and marital stability and socialized women to accept violence as normal.

### 3.5 DOMESTIC VIOLENCE

You might have read about domestic violence in the course MWG 002: Gender and Power in the first semester. Domestic violence includes all forms of violence that occurs between individuals who are related through intimacy, blood or law. Domestic violence can be perpetrated both in active and passive manner, it can be in an overt and covert manner, and can be physical, sexual and psychological in nature or all at a time.

For a woman violence can start even before birth, in her natal home and continue in her matrimonial home till death. Domestic violence can have different manifestations throughout the life cycle of a woman. Some of the forms that it takes in India are discussed below:

a) **Female Foeticide:** Eliminating girl children even before birth is a pattern of violence increasingly perpetrated in Indian society. Even before the female baby is born she is killed inside her mother’s womb by the process of abortion. The decline in female-male sex ratio confirms common prevalence of such forms of domestic violence. With the easy availability and misuse of amniocentesis, a medical technique designed to detect birth defects which can also detect the sex of the foetus, female foeticide has become a common form of violence against women (Rathee, 2001). The patriarchal system of dowry, the preference for a son due to economic and ritual reasons and other lifelong expenditures that make the woman look like a burden makes the parents kill their girl child even before birth. The argument of the perpetrators of this form of violence is that they are saving the girls from dowry harassment and other forms of violence that would have undergone throughout their lives had they been born.

b) **Female Infanticide:** It is the killing of an infant usually by a family member because it is female. This is done in various cruel ways by drowning the baby in water/milk, strangling her to death, and putting
poison in the mother’s breast while feeding milk to the baby. The reason for such acts of violence is same as that of the female foeticide.

Though the mother plays a role in both the above forms of violence, she is often the victim of the patriarchal system and has little control over what transpires in her personal life and her desires. A woman who cannot protect herself, who is forced to subordinate and sacrifice all her desires to the patriarchal setup cannot take decisions on and about motherhood either. It is a hard reality that her place and position in the home and society is determined ensured and enhanced only if she produces a male child.

c) **Unequal access to food, clothing, education, and medical facilities:**
These are other forms of violence against female children. Girl children in many areas are rarely sent for education, parents prefer to keep the money to be spent in a girl’s education for her dowry. It is even thought that girl’s education isn’t important, as finally she has to do domestic work family rather than go for a job outside.

Even in matters of food in many families the male child is given preference over the female child. The male child gets the larger share in the food and if something is left only then the girl child can take it. The health of girls and women in general are considered trivial, much less is spent for their ailments in comparison to the male members of the family.

d) **Child Sexual Abuse:** Child sexual abuse occurs, when sexual activity such as exposure of genitalia, fondling, intercourse, oral sex, or pornography (exposure to or involvement in) is enacted with a minor; by a person who holds power over the event. The power difference eliminates consent. Children are vulnerable and do not play any role in decision making and have no control over the situation. Infact, they hardly know what is happening to them, and when they grow up they may experience many psychological problems. The chance is great, that the victim knows the offender. It is the girl child who is more vulnerable to sexual abuse especially in the Indian context, although the prevalence of male child sexual abuse is undeniable.

e) **Early marriage:** Early marriage is encouraged to control the sexuality of the girl. The anxiety is that she should be passed safely from her natal home to the marital home without bringing in danger to the family name. A girl’s sexuality has to be controlled as it may bring disgrace upon the family prestige if she misuses her freedom. Early marriage results in early pregnancy, which is harmful, and sometimes life threatening for the mother. It also does not give women chance to grow as an individual restricting their educational and employment
opportunities. This further keeps them subordinate in marriage and likely to tolerate violence.

f) Dowry: It is an age-old practice related with marriage prevalent in India. It is the exchange of wealth especially from the bride’s home to the grooms. It can be in the form of cash, ornaments, lands, modern gadgets or other movable and immovable property. Dowry in legal terms is defined as property given in connection of and as a condition of marriage taking place. Dowry has become inseparably interlinked with the general status of women in Indian society. Dowry forms one of major causes of wife battering. Dowry violence and dowry deaths are common in Indian homes. Wives are beaten, deserted, tortured, murdered, burnt in order to extract more dowry from their parents. The evil of dowry is behind female foeticide and infanticide. In the recent times one sees that the dowry system has percolated to those societies where it previously never existed.

g) Wife battering: The most widely practiced and widely denied form of domestic violence is wife battering. Wife battering involves physical, psychological and sexual abuse inflicted upon the wife that may even lead to her death. It is a complex social phenomenon of power relationships within the family. Wife battering involves kicking, beating with hand or stick, dragging the woman by hair, cutting her body, abusing her with foul language, keeping her hungry, having forced sex, shouting, scolding, threatening, desertion and many other means of torture.

It is socially acceptable to keep the wife in a subordinate position and isn't talked about and interfered in as it is regarded as a personal matter between the wife and the husband. Even many wives feel that their husbands have a right to beat them if they are wrong or if he is upset. This attitude is mostly due to their gender socialization. Wife battering is a common form of violence within the four walls of the home, which is thought to be the most safe and secure place.

h) Sati: The act of Sati is immolation of the wife in the funeral pyre of the husband. It is a kind of public killing of the wife and is a long-standing tradition among certain upper caste Hindus. It is legitimized through myths. Traditionally, widows have low status in the Hindu society and are often treated miserably. Some do commit suicide rather than be subject to daily torture and humiliation. Not always does the wife burn herself in her husband’s pyre willingly but is forced to do so. It is often used against women to take control of land and other economic resources that they might inherit as widows. It also helped manipulate the distribution of property in a society that had rigid property rules, where the widow had a right to succeed her dead
husband’s property. During the colonial period, Hindu culture and rules were perceived to be under threat and thus Hindu identity suffered a blow, which you will read in the unit 2: Identity and Communalism of the last block on religion. As stated earlier widows were subjected to various restrictions, humiliation and were seen as bad women and curse. Along with this, the economic dependence on the family made their life miserable. This made the women sometimes accept sati on their own. All these factors contributed to the rise and spread of sati.

The British government banned this practice in 1829 and this ban continued even after independence. The Roop Kanwar sati case in Rajasthan in 1987 again brought up a controversy regarding sati in India. Roop Kanwar’s case showed that sati was a complex mixture of misogyny, economics and fundamentalism. This practice has not ceased altogether and one can find incidents of sati being reported at intervals in different parts of India.

i) Sexual assault or Rape: Rape is broadly defined as non-consensual intercourse through the use of physical force, threats or intimidation, including the rape by a man of his wife, which is called marital rape. Rape may also occur between people who know each other and between people who have previously had consensual sexual relations. Rape involves both physical and mental trauma. Unlike common belief that rape is always committed in dark streets by brutal and terrifying strangers, most rapes happen within the four walls of the home by family members, acquaintances, neighbors, cousins and other close relatives. Women at police stations often complain of sexual abuse on them by their in-laws, relatives and sometimes even fathers. That is specifically the reason why rape comes within the scope of domestic violence. Along with getting sexual pleasure, committing rape is also used as a weapon to demoralize and control women. According to Flavia Agnes “rape has been one of the means through which the social hierarchy of power relationships is maintained and nurtured in a gendered society” (Agnes, 2002, p. 844). The social stigma attached to the incident of rape further victimizes the victim.

Society still has to acknowledge that rape in marriage is a possibility. The institution of marriage is based on the belief that once married the wife becomes the property of the husband. Further it is also believed that within marriage the consent of the woman is always already there and thus rape within marriage cannot exist. The majority of women who are raped by their partners are also battered. In ‘battering rapes’, women experience both physical and sexual violence in the relationship. These assaults involve torture and ‘perverse’ sexual acts and are often physically violent.
j) **Violence against aged persons and widows:** Widows and aged persons are most of the times economically dependent upon their relatives. Therefore, they are more vulnerable to violence by their family members who include in-laws, sons, daughters-in-law, and other relatives. Their food, health, and other basic necessities are neglected and they are ill-treated through verbal and physical abuse. In patriarchal society, widows are considered as a curse and as an evil omen and their movement is restricted in various ways. They are most vulnerable to sexual abuse within the marital family and are sometimes forced into prostitution by their in-laws. In a patriarchal system women do have the right over property which makes them vulnerable to violence and desertion especially after the death of her husband.

These are the various forms of violence that take place within the domestic sphere in India. For a long time much of this violence was not even legislated against by the law. It is mostly through the efforts of the women's movement that today most of these forms of violence are at least in written law condemned and considered punishable offences. However, violence such as marital rape is yet to be recognized as a crime both by the law and society. One of the important factors for such apathy is the persistence of public/private dichotomy.

**Public/Private Dichotomy**

You have already been introduced to the concept of public/private dichotomy in the last unit of the Block 1, MWG 002: Gender and Power, which discusses the origin and meaning of these two separate spheres from a feminist perspective. Dichotomy between private and public obscured the subjection of women to men within an apparently universal egalitarian order. This dichotomy was based on the idea of natural differences between men and women that leads to subjection. Women’s natural function of childbearing prescribes their domestic and subordinate place in the order of things. As you may have learnt that women are associated with nature, emotion, love, morality and the sphere of private whereas men are associated with culture, reason, justice and the sphere of public. Mental work is always seen as superior to physical work. The work that women do such as child bearing, dealing with unsocialised infants and raw materials, household chores is all seen as unproductive physical work. So, women and physical work is taken to be inferior to the cultural sphere of men and male activities. Men were the advantaged as they existed in both the spheres but women were confined to the private sphere. This whole process of deprivation and subordination of women is aptly described by Linda McDowell and Rosemary Pringle:

“This notion of the public and the private as separate spheres, each appropriate to different sex’s has a long and contested history but has been of particular importance. Since the development of industrial capitalism and urbanization in advanced economies which resulted in the increasing
Marriage and Divorce in India

Gendered socialization, patriarchal nature of family and marriage, prevalence and normalization of gender violence in the name of family and marital sanctity, and overall subordination of women within these institutions led feminists to criticize these institutions and sometime even reject them. Feminists consistently criticized the claim that marriage is no longer a sacrament but a contract between equals. They argued that marriage is not a proper contract as in this contract the parties involved are not equal, and do not go on to live a life of equality, with equal restraints and privileges. They emphasize that throughout history and till date almost always women entered into this contract placed in a secondary position to the man in marriage. Feminist criticism takes a ‘contract’ to be an agreement between two equal parties who negotiate until they arrive at terms to their mutual advantage. For them if marriage were a proper contract, women would have to be brought into civil life on exactly the same footing as their husbands, which still is largely not the case. Social customs and law deprived women of the opportunity to earn their own living, so that marriage was their only hope of a decent life. Therefore, though there have been large scale changes in the condition of women yet gender discrimination still exists which spills over to the marriage contract keeping women in a subordinate state within marriage.

3.6 DIVORCE

In many societies divorce has become an accepted part of marriage. All legal systems today grant the right to divorce to both women and men in marriage. Divorce laws have become simpler to the point that mutual consent divorces are granted. Leading causes of divorce as brought forth by various studies are personality differences and incompatibility, infidelity, physical and psychological abuse, lack of commitment to the marriage and others. Though divorced status is considered as normal in many societies, in India it is still difficult to opt for divorce especially for women.

India has different marriage and divorce laws for different religions. Almost all religions have their own marriage and divorce laws. The Hindu Marriage Act, 1955 is applicable to Hindus, Sikhs, Buddhists and Jains. Dissolution of Muslim Marriage Act, 1939 is specifically for Muslims. Indian Divorce Act, 1869 applies to Christians and The Parsi Marriage and Divorce Act, 1936 applies to Parsis in India. The Special Marriage Act, 1954 is applicable to
those who opt for secular as well as inter-caste and inter-religion marriage. There have been amendments to the above mentioned different marriage and divorce laws.

Grounds for divorce in India mainly include adultery, desertion, cruelty, impotency, chronic diseases, and conversion into another religion. Though several laws have been passed the divorce procedure in India is still complex and time taking. The judiciary in India largely believes that marriages should be saved at any cost and therefore often deliberately stretches the procedures believing that the extended time span may help couples reconsider their decisions for divorce. It is for this reason that the judiciary dictates couples to go through compulsory counselling before actually hearing their case for divorce. Many times in cases where cruelty against wife is the ground for which divorce is sought, such counselling proves counterproductive.

Personal laws have often served to legalize men’s dominance over women—unilateral divorce by men; inadequate maintenance after divorce; inheritance by men only; sex-biased ownership and control of property and succession rules; multiple marriages only for men; custody of children to men only on dissolution, and so on. The common factor is male dominance, i.e., sex inequality, in culturally specific and not infrequently religiously rationalized form (Mackinnon, 2005, p.273). It is for this reason that reformers, women’s movements and other activists from time to time have sought to reform personal laws to give women equality of rights within marriage and divorce. One such reform was the enactment of the Hindu Marriage Act, 1955 seeking to give Hindu women equal property rights, right to divorce within Hindu marriage and others.

The years 1955-1956 are memorable years in the history of Indian ‘modernity’ as sections of the famous Hindu Code Bill, were codified as law during this time (Majumdar, 2003, p. 2130). The Hindu Code Bill was first introduced to the legislature in 1947. A series of debates sprung up as this bill sought to give dissoluble character to Hindu marriage by granting separation and divorce on certain specific grounds and also sought to give women equal property rights in paternal property. It also sought to remove polygamy that was allowed to men in Hindu society. Large sections of the society and parliament opposed this bill arguing that such provisions will only lead to fighting among siblings and break down of marriage and families. They preferred to save the institutions of family and marriage at the cost of equal rights of all members and insisted that Hindu laws are sacred and cannot be changed. These arguments were based on a false notion that there was a pan Indian Hindu law and that no where did Hindu law grant property, divorce and remarriage rights to women. They called upon women not to follow western ideals but continue to keep their self worth by being self sacrificing, loving and virtuous and by keeping up the sacramental character of marriage and sanctity of family. On the other hand some of the
supporters of the Bill argued that there was not one Hindu personal law but that different regions in India followed different local customary laws which many times granted women divorce, remarriage and property rights. Therefore, they believed that codifying such laws will be helpful to large sections of people by making institutional divorce accessible and inexpensive through establishment of institutional mechanisms. Divorce and equal property rights and abolition of polygamy were seen by some supporters of the Bill as positive steps towards keeping up the constitutional commitment to equality and non-discrimination on the basis of sex. They argued that such provisions will bring India at par with other progressive nations and remove a blemish from Indian culture.

Thus, the debate on the bill was played out by mobilizing the language of self-sacrifice to oppose what the protest groups against the Bill believed to be the language of self-interest (Kishwar, 1994). The Hindu Code Bill was finally passed as four different Acts with the Hindu Marriage Act granting divorce, removing polygamy and granting women equal property rights in 1955. However, it was only the Hindu Marriage Act by the Marriage Laws (Amendment) Act, 1976 that granted legal mutual consent divorce to couples seeking divorce through Hindu Marriage Act. Despite changes in law even after decades the arguments that were put forward to oppose the provision of divorce in the Hindu Code Bill still hold sway both in society and within the legal system. Divorce still is seen as an act of breaking of marriage and family even when sought under conditions of cruelty. This is largely the case when a woman initiates divorce bringing upon her the tags of ‘home breaker’, ‘loose morals’, ‘selfish’, ‘bad mother’ and others. State, society and community are still anxious to save marriage and family and protect the dominance of men even at the cost of women’s rights to a life of dignity and freedom from violence. The Shah Bano case which you will be reading in the last block of this course is an example of such coalition between state, community religious and patriarchal familial ideology.

The British had maintained that the traditional laws of religious communities continue to govern personal matters relating to family and marriage. This came to be known as ‘personal laws’ and varied from one religious community to another, and remained uncodified. The Shariat law was passed in 1937 which provides that Muslims in India will be governed by Muslim religious laws in matters relating to the family (Pathak and Rajan, 1992). In 1949, when the constitution of Independent India was framed, the founding fathers saw the necessity of continuing to recognize personal law; at the same time moved by the unifying secular impulse, they also declared as an objective of the state i.e., the adoption of a uniform civil code (Art.44) (Pathak and Sunder Rajan, 1992, p.258).
In April 1985, after ten years of struggle the Supreme Court confirmed the judgement of the High court awarding Shah bano, a divorced women, maintenance of Rs. 179.20 per month from her husband. This judgment was passed under Section 125 of the Criminal Procedures Code and under Muslim Personal Law. In response to the judgment, Muslim community demanded that the judgment be repealed and that Muslim community be excluded from Section 125. The government gave primacy to the Muslims’ perception that their community identity was threatened. In February 1986, the Muslim Women (Protection of Rights on Divorce) Bill was introduced and passed in parliament which excluded divorced Muslim women from the purview of Section 125. The government’s strategy was seen as regressive by progressive liberals as well as the women’s movement. A Muslim woman’s fight for legal right to maintenance resulted in an Act that has not only taken away that right but driven her back to total dependence upon her natal family. For most of the autonomous women’s groups, this was a hard idea to accept because it appeared to lend legitimacy to the idea that the rights of women could be defined by the religious community to which they belonged instead of arguing that rights and religion were separate issues (Pathak and Sunder Rajan, 1992, p. 257-265).

The history of marriage and divorce laws in India shows that the entitlement of the family to privacy and autonomy is widely recognized and granted, and it is for this that any rights granted to the woman as an individual citizen by the state can only be imperfectly enforced. When women become victimized within the family, the state is reluctant to move in to prevent or punish the crime. In this context it becomes important to highlight that this is a predicament shared by women from all communities and therefore there is a necessity to look at matters of family, marriage and divorce primarily through the lens of gender not losing sight of the other identities that women carry (Pathak and Sunder Rajan, 1992).

3.7 LET US SUM UP

Marriage can be defined as a socially acknowledged and approved sexual union between two adult individuals. Traditionally marriage in most societies is thought to be a sacrament. However, today marriage has taken the form of a contract and is bound by legal rules and regulations. Marriage takes various forms and the most common classification is that of monogamy and polygamy. Marital ideology across the world has been based on the principle of female subservience and male domination. Domestic violence which includes marital violence is a sad reality of the institutions of marriage and family and takes various forms. Divorce today is granted in almost all societies by law. However, in India the discourse on women’s rights within marriage and family is a complex and contentious matter as it is closely intertwined with religious and other social identity politics/issues.
3.8 UNIT END QUESTIONS

1) Define marriage. Discuss its different forms.

2) What is domestic violence? What forms does it take?

3) In India the fight for women’s rights within marriage and divorce is fraught with complexities. Discuss.

4) Discuss the process of socialization of women in India that contributes towards their subordination in marriage.

5) What is public/private dichotomy? Discuss how the opposition to Hindu Code Bill’s proposal for divorce rights for women is connected to the ideology of public/private dichotomy?

3.9 REFERENCES


Kishwar, Madhu (1986). ‘In Search of Answers: Indian Women’s Voices from Manushi,


### 3.10 SUGGESTED READINGS


