



Indira Gandhi
National Open University
School of Social Work

BFEE-102

Elective on Family Education

Block

3

MAJOR PROBLEMS IN MARITAL LIFE

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INTRODUCTION TO BLOCK 3

Welcome to Block 3 of the course on Elective on Family Education. This block deals with 'Major Problems in Marital Life.' There are four units in this block. The **first unit** is on 'Psycho-Social Effects of Divorce, Separation and Migration'. In this unit, the meaning of divorce, causes of divorce, and the effects of divorce have been described in simple language. Apart from this, we have also described the meaning and causes of migration and separation and its impact on the members of the family. The **second unit** is on 'Dowry Demands and Dowry Deaths'. Under this unit, we have explained the Dowry Prohibition Act, 1961 and the legislative efforts to curtail dowry in the country. There is also a brief discussion on dowry deaths and the legal provisions to deal with such issues. The **third unit** of this Block is on 'Legal Issues Involved in Marriage'. The issues described in this unit include the Christian marriage law, Muslim marriage and Divorce Act, Special Marriage Act, 1954 and the Hindu Marriage Act, 1955. **Unit four** is on "Domestic Violence: Its Causes and Impact". This unit describes the theories on domestic violence, impact of domestic violence and the steps involved to reduce domestic violence.

All the four units of this block are very important, as they deal with special issues, which have a bearing on families across the country. The information provided in this block will be highly useful to people, who are involved in family counselling and social work.

UNIT 1 PSYCHO-SOCIAL EFFECTS OF DIVORCE, SEPARATION AND MIGRATION

Contents

- 1.0 Objectives
- 1.1 Introduction
- 1.2 Meaning of the Term 'Divorce'
- 1.3 Causes of Divorce
- 1.4 Divorce and Its Effects
- 1.5 Meaning and Causes of Migration and Separation
- 1.6 Let Us Sum Up
- 1.7 Suggested Readings

1.0 OBJECTIVES

The aim of this unit is to familiarize you with the various psychological and social effects of divorce, separation and bereavement. This unit will acquaint you with the causes, which are aggravating the practice of divorce and you will get to know about the consequences of divorce, separation and bereavement. This unit will also highlight some aspects which will, hopefully, help to reduce the rate of divorce.

After studying this unit, you will be able to:

- explain the term 'divorce' and the various forms of divorce;
- state the psycho-social consequences of divorce on partner, children and family;
- state various psychological and behavioural changes due to divorce;
- explain bereavement, separation, and migration; and
- state the consequences of separation, migration and bereavement.

1.1 INTRODUCTION

The present society is characterized, among other things, by the declining importance of all primary groups including the family. The family acts simultaneously as an educative unit and a socio-cultural agency. The sex and

hunger urges, economic compulsions and the cultural traditions have provided the theoretical justification for the existence of the family. The famous philosopher, Confucius, thought that happiness and prosperity would prevail if everyone would behave 'correctly' as a family member. You must have read about the importance of family as a unit in Block 1 of this course. A family does not consist simply of a number of individuals. Rather, it includes the complex interactions occurring among them.

The traditional image of 'home' and family as a cozy nest of love, security, togetherness and never ending happiness has been severely battered in recent times. This is also proved by an abundance of statistical evidence based on empirical studies that family discord and divorce is continuously on the rise. Undergoing the process of divorce and the consequences of divorce is a mentally as well as economically shattering experience for the partners. The after-effects of divorce, especially for the children, have a damaging effect when the issue of taking the custody arises. The practice of awarding custody primarily to one parent is bad for everyone involved child, father and the mother.

Studies have proved that the emotional experience for the children leads them towards deviant behaviour, which may lead even to crime. In a study by Kirkpatrick in 1951, it was found that parental divorce showed greater influence than bereavement on the marital adjustment of grown up offspring. This study shows that the children face long term effect on their life because of parental discord and dissolution of the marriage.

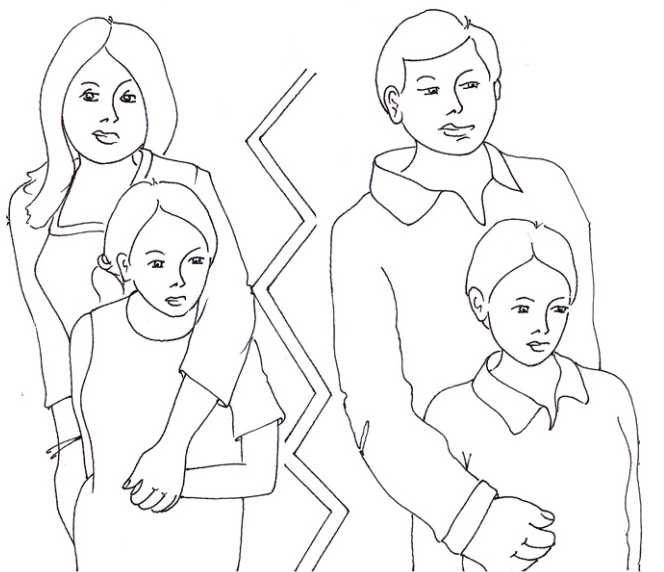
1.2 MEANING OF THE TERM 'DIVORCE'

Divorce is the socially and legally recognized dissolution of a marriage. Like marriage, it is governed by a variety of cultural and legal regulations that show how difficult it is to accomplish and the social and personal consequences it produces. Sometimes, the dissolution is by stages, for example, in a sequence of avoidance, suit for separate maintenance, legal separation, and finally an absolute divorce. A couple with high expectations of marital bliss, but relatively little marital disorganization, may seek divorce as an exit from marriage. The demographic approach stresses the changing prevalence of divorce in various countries. In a finding by M. Le Balance in 1997, it was found that youths were more violent than thirty years ago and one reason for that was the breaking down of the family unit.

Sociologists have pointed out the similarities in the process of adjustment that are required by divorce or bereavement. In both, a set of role relations has been found to be disrupted and adjustments are required throughout the family network.

Each marriage relationship is unique in many ways. It is not always possible to find an appropriate replacement for the missing partner. Apparently, in all societies, the death of spouse creates an obligation for kinfolk and friends to help the bereaved person, to offer solace, to make small or large gestures of support. In divorce, even when one spouse is very unhappy about the divorce,

only a few very close friends may feel any obligation to offer emotional solace.



Divorce in Various Cultures and Tribes

Obtaining divorce varies from culture to culture. Among Muslims, divorce is only the husband's privilege; and he can have it even without assigning a cause. Divorce can be obtained by merely repeating three times the formula of repudiation (Talaq) in the presence of at least two witnesses. A husband has to pay 'meher', which is a settlement, to the wife out of his property to compensate her in the event of divorce. Under certain circumstances, Islamic law does give a wife the permission of unilateral action.

Are you interested in knowing about the process of divorce among the tribes?

In the case of Khasis, a tribe from Meghalaya, divorce is permitted for reasons of adultery, barrenness and incompatibility of temperament. The separation can take place only after mutual consent. There is no possibility of remarriage between two such people who have separated by divorce. The divorce is obtained in a public ceremony.

Among the Gonds (tribe), divorce can be obtained on grounds of marital infidelity, carelessness in household work, barrenness and quarrelsome disposition. The initiative may be taken either by a husband or wife.

The Kharias (tribe) allow divorce on grounds of marital infidelity, sterility, laziness, refusal of the wife to live with her husband and theft.

Among the Hindus, divorce can be obtained with the help of law—the Hindu Marriage Act, 1955.

Among the Christians, there are two popularly known denominations, namely the Catholics, who owe allegiance to the Pope and the Protestants. Catholics do not officially accept the possibility of divorce, though they accept the possibility of declaring a marriage annulled. This means that the marriage was right from the beginning null and void due to certain reasons like prior

impotence, serious deception, etc. Protestants are more lenient with regard to the question of divorce and remarriage.

Check Your Progress I

Note: Use the space provided for your answer.

1) What is the meaning of divorce?

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1.3 CAUSES OF DIVORCE

After having read about divorce, let us try to find out the causes of divorce.

Some people are less tied to marriage than others. Family functions, religious taboos or life-long commitment to parental roles may simply have less meaning for them. The door of divorce is more open to certain couples than to others because of lenient laws, encouragement of relatives, opportunities for remarriage and, in general the prospect of freedom without the economic, religious and psychological penalties, which pose a threat for others. Let us analyse some of the major causes.

1) **Modernization**

The disintegration of the family has been hastened by free sex relations made possible by changing notions about morals and by birth control techniques. The religious sanctions behind family and marriage are becoming diminished/have vanished, making dissolution easier.

In the past, the marriage ceremony used to be a family function, where the bond was between the two families. With modernization, the concept of couples going in for marriages by their own choice is becoming increasingly prevalent. With this type of marriage, though parents ultimately give their consent, the natural bond between the families do not always take place. This type of selecting one's own partner has its advantages and disadvantages with regard to the stability of marriage.

2) **Growing Acceptance of Change**

Priorities have shifted even in a country like India where hidebound traditions exist. Where the priority was the husband, it has now shifted to careers as far as the woman is concerned. Previously, the gender roles were defined and it was easier to conform to a pattern. The inevitable liberation by the woman, her economic independence and western influences have given marriage a new outlook, especially among the educated urban dwellers.

3) **High Personal Aspirations**

In modern industrial society, people are more ambitious than the people of traditional societies. At the cost of their family life, they pursue their career. Thus, family has taken a back seat. There has been a tremendous growth in individualism (happiness of oneself) at the cost of the family.

4) **Growth of the Nuclear Family**

As a result of urbanization and industrialization, the nuclear family came into existence. In the Indian perspective, the concept of family was always thought to be in terms of a joint family system. In the joint families, children were given better attention. The attitude towards parents was mostly of respect and regard and the younger looked towards their elders for guidance. All the family members were consulted on all important family matters. The joint family did not allow the neglect or disregard of elders. Individualism was not preferred and in this context, taking the option of divorce was not a hurried and individualized one. The parents played the role of a mediator between the husband and wife. The beginning of the dissolution of the joint family system has brought about many larger issues and divorce is one of them.

5) **Declining Values**

There has been a noted decline in the value system among the people. You have already studied about Moral, Ethical and Personal values in some of the previous blocks of this programme of study.

6) **Physical Separation**

With more and more job opportunities abroad, people are giving up the village life and migrating to big cities within and outside the country. It is well known that housing facilities is a big problem in the big cities and people cannot afford to take their families along with them. To satisfy their sexual urges, men tend to take the help of other services like visiting brothels, which are easily available.

Check Your Progress II

Note: Use the space provided for your answers.

1) What are the reasons behind the growth of the nuclear family?

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2) How can physical separation be a cause of divorce?

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1.4 DIVORCE AND ITS EFFECTS

Any change from the present situation to another situation creates disruptions in life. Divorce is a devastating situation for both the partners. The partners, who got united because of a shared goal or for proximity, when faced with the actual situation of divorce, take some time to adjust to the new situation. While the divorce process is in progress, and for some time afterward, both parties are likely to feel personally rejected, cheated in the economic arrangements, misrepresented legally, bitter about the co-partner arrangements, lonely because they have lost a friend, and afraid of living alone.

This disrupting process gives rise to many behavioural changes among the partners and those who are also affected directly or indirectly by it. Let us analyze some of these effects one by one.

1) **Stress**

Stress can be defined as a bodily reaction that can occur in response to either internal, cognitive stimuli or external environmental stimuli. A stimulus that causes stress is known as a stressor. The stress, which is experienced, consists of bodily responses, increased heart rate and blood pressure, dry mouth, rapid breathing and so forth. The stressors producing these responses are our own internal reactions or comments of our friends and neighbours. Significant events, such as marriage, death of a family member and divorce disrupt normal life and cause more stress. These stressful life events may have negative effect on health. In a scale developed for ranking the stressful life events, divorce acquires the second rank; it has been rated as a chronic stressor.

As stated earlier, stressful events lead the body to undergo several minor or



major physiological changes. These changes are very important to understand because they can lower the body's resistance to disease. The fact that many diseases are either caused by or made far worse by stress,

has been accepted by the medical practitioners as well. Even before the divorce is legalized, the partners have to undergo many legalities, which are painful for them. All the more, it is a human tendency that after the process has been initiated, there's no turning back because it hurts the ego of the partners. The process of divorce somehow makes the partners think about their past in which they remember the happy times as well. It creates mental stress among the partners, which is sometimes followed by physical stress.

2) **Low Self-esteem and a Feeling of Failure**

The divorce sometimes leaves a negative effect of reduced self-esteem on the partners. It can affect one's performance in day-to-day activities.

3) **Rise in Aggressiveness or Anger**

Many a times, the negative emotions may lead to mental imbalance of the people, which can result in raised anger or aggression in the temperament.

4) **Depression**

Divorce has been rated as the second main cause of stress for the partners and their children. The process tires a person mentally as well as physically, sometimes resulting in depression and sense of regret.

5) **Rise in Delinquency**

It has been found through various studies that the major percentage of the delinquents and rise in crime among the young people result from children coming from broken homes or a single parent family.

Marriage is strongly institutionalized, not just in India but everywhere in the world and is a preferred context for intimate relations. It is the cornerstone of family life. Marriage offers stability, providing an atmosphere of love, encouragement, acceptance and trust. With the practice of divorce, all of these lose their meaning as well as leave a negative impact on the partners as well as the children. The close relatives of the partners also get affected by its negative impact.

Effects of Divorce

We will discuss the effects of divorce under the three broad headings given below:

- i) Effect on the children
- ii) Effect on the partners
- iii) Effect on the family

i) **Effect on the Children**

Children are the direct sufferers by the dissolution of the marriage. The incapability of the adults to get along well affects the child negatively. Single parenting is a difficult situation for the child in all the stages of his/her growth. In the infancy stage, the child misses the affection of both the parents, as one of the parents is not present and one parent may not be able to substitute the other. Children are distressed when their parents divorce. Children under the age of five may react with rage and grief. The

older children grasp the situation better, but sometimes tend to blame themselves. The adolescents, who themselves are in a situation of identity crisis; feel socially embarrassed by the breakup.

This deprivation of an affectionate relationship is most damaging in early childhood. Deprivation can ruin the self-concept of the child in childhood. It can show its implication in late adulthood too. Like a person who is hungry for food, a person starving for affection becomes irritable and unreasonable. Sometimes, these emotional behaviours vary from mild irritability to severe psychoses.

The specific effects of emotional deprivation have been reported to be:

Physical – The physical symptoms are restlessness, loss of appetite, quietness, general apathy and psychosomatic illness.

Social – The social behaviour of the child gets affected, which results in handicaps in learning how to get along with people, lack of responsiveness to the advances of others, lack of co-operation and hostility towards others.

Emotional – The children of the divorced parents lack emotional responsiveness. They sometimes develop deep related feelings of insecurity, anti-social behaviour, restlessness, anxiety, temper tantrums and many other forms of maladaptive behaviours. Apart from these, many delinquents are found to be children from broken homes.

ii) **Effect on the Partners**

As stated earlier, divorce causes a devastating experience for both the partners. The two persons, who have been hitherto sharing a common goal, separate, which gives an emotional as well as social shock to both of them. Emotional shock in terms of the habit of staying together, fulfilling the needs of each other, caring and the bond of love, which suddenly comes as a shock. Though the capability of adjusting oneself to a particular situation is a typical feature of the human species, divorce takes time and many a times, the vacuum remains for a lifetime.

In Indian society, divorce is not welcomed whole heartedly by most people. The process of divorce for a middle class family becomes socially intolerable. Among the lower socio-economic strata of the Indian society, divorce is not very common. Usually, people do not face the society's disapproval even if one leaves his/her present partner and starts living with another. Very often, they do not go for the legal process to obtain divorce.

For middle class people, informal sanction of the society becomes very important. Queries about partner and children can be a source of mental tension for some time.

iii) **Effect on the Family**

Divorce is predominantly an urban phenomenon. Regarding marriage, Kirkpatrick says, "the essence of the contract is consent with full expectation of exclusiveness and indissolubility". In other words, the idea of marriage as sacred made it dissoluble. Though divorce takes place

between the two partners, who united as a result of marriage, the family is also affected in the process.

The growing rate of divorce and the breaking down of the family unit is posing as a societal threat. Family, which is the basic unit of the society, is negatively affected by the quitting of the partners from the marriage bond.

Children, an important part of the family, are the worst sufferers of divorce. Even the parents of the divorced partners also face difficulty to cope up with the situation.

Other than the causes discussed above, some other factors like migration and subsequent separation also lead to divorce. In the following subunits, we will examine these factors.

Check Your Progress III

Note: Use the space provided for your answers.

- 1) What are the behavioural changes, which take place in a person due to a divorce?

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- 2) What are the specific effects of emotional deprivation?

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1.5 MEANING AND CAUSES OF MIGRATION AND SEPARATION

Migration

Migration is ordinarily defined as the relatively permanent movement of persons over a significant distance from their place of residence – usually place of birth. With respect to international migration, the United Nations has recommended stay for one year or more as “permanent” migration, while a stay for a shorter period is classified as a visit. In most of the supposed models of migration, it is presumed that movement is generated mainly by economic forces, and job opportunities. In both national and international movements, adolescents and young adults dominate. The young not only adapt easily to a new environment, but can more readily take advantage of new opportunities.

Due to migration, there has been a significant increase in the urban population over the years. In recent decades, the urban population has grown at an accelerating rate. Urbanization has been a contributing factor to divorce. There are various causes for which migration and separation take place. Let us see the causes of separation and then we will analyse the consequences:

Causes of Separation

i) Economic Factors

India has been a country of villages. Where there are no other means of improving one's economic condition other than the traditional ways and means of livelihood, one may opt for migration. People find better options for the betterment of one's economic conditions in the cities.

ii) Opportunities

More and more young people are migrating to urban places where they can utilize their potential and earn more. Job opportunities and choice of a job of one's interest are more readily available in urban areas.

iii) Modernization

Most of the people residing in the villages are bound by the family traditions and customs. In order to adapt to changed outlook and break away from customs and traditions, some people migrate.

iv) Job Transfers

Job transfers are also a major cause of migration or separation, especially for employed people. In most cases, when job transfers in government services and allied sectors like the banking sector take place, the employees have to leave behind the spouse and children and occasionally visit them. The family life gets disturbed and transfers also affect children's education.

Difference between Separation and Bereavement

Death of spouse or bereavement is surrounded by rituals, ceremonies and obligations in part because death has always been viewed as an unwilled intrusion, an unwanted tragedy. Unlike divorce, bereavement does not create hostility toward the former spouse.

Bereavement is a natural phenomenon, whereas separation from one's spouse is intentional and has specific implications. Separation can take place due to many factors.

a) Job Transfers

Separation due to transfer happens in most of the cases. The jobs, which demand transfers, are with Government as well as in private sector. It is not always possible to take the family along while on transfer. For example, in the armed forces, the individuals are transferred to non-family stations, which keep the person away from his/her family.

b) **Procedure before Divorce**

It is a legal procedure that a couple has to remain separated for a particular period of time before actually obtaining divorce. This is known as intentional separation. During this period, effort also can be made to reunite the couple.

c) **Mental Incompatibility**

With growing urbanization and changes taking place in societies, lots of changes have occurred in lifestyles, expectations and aspirations, which lead to separation. This changing attitude in one's life has a negative effect on the lifestyle of people, especially in countries being affected by globalization.

d) **Job Opportunities**

With growing population, availing jobs within one's locality has become difficult due to which more and more people are migrating to different places within and outside the country. These people leave their family behind and stay alone. Some in-service personnel may go on study leave to a far away place for an year or so.

Consequences of Separation and Bereavement

Separating from anything, which is close to our heart is painful and, many a time, can be very frustrating. Separation and bereavement have many consequences, which harm a person emotionally, socially and economically. Let us study some of these consequences one by one:

- 1) It causes frustration among the partners, as absence of the other partner causes disturbances in the normal routine and also increases work load. It will also affect children's study. If one falls sick, the trauma can be worse.
- 2) There is loss of mental support provided by the other partner, thus causing stress.
- 3) Bereavement or loss of one spouse is ranked as the topmost factor causing stress.
- 4) Feeling of failure and loss of identity develop among the partners in case of bereavement.
- 5) Rise in crime among the children of the separated or divorced parents is common.
- 6) Depression
- 7) Social unacceptance to some extent
- 8) Economic troubles
- 9) Extramarital relations, which can lead to acquiring emerging and re-emerging diseases.

Check Your Progress IV

Note: Use the space provided for your answer.

- 1) List some of the consequences of separation and bereavement.

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1.6 LET US SUM UP

In the first part of this unit, you have studied how the family unit is facing a threat in the present day society. The traditional image of home and family has been seriously battered with a rise in the rate of divorce. Divorce is the social and legal dissolution of marriage. The process of divorce varies from culture to culture.

We also analyzed the causes of divorce and how divorce affects the entire system, i.e. the husband, wife and the family. The various behavioural changes, which take place as a result of divorce like stress, low self-esteem, depression, rise in the crime rate among the children, have also been described.

Another contributing factor for divorce can be migration and separation. The latter part of the unit dealt with the meaning and factors of migration and separation. Towards the end of the chapter, the consequences of separation and bereavement were listed.

1.7 SUGGESTED READINGS

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Broom, et. al, Leonard (1981), *A Text with Adapted Readings*, Harper and Row Publishers Inc., New York.

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UNIT 2 DOWRY DEMANDS AND DOWRY DEATHS

Contents

- 2.0 Objectives
- 2.1 Introduction
- 2.2 Dowry Prohibition Act,1961
- 2.3 Legislative Efforts to Curtail Dowry
- 2.4 Dowry Deaths
- 2.5 Let Us Sum Up
- 2.6 Suggested Readings

2.0 OBJECTIVES

This unit will help you to understand what dowry and dowry death mean, the important legal provisions of the Dowry Prohibition Act, 1961, certain legislative efforts to strengthen the laws meant to eliminate dowry, and the amendments made in the Indian Penal Code, the Indian Evidence Act and Criminal Procedure Code. At the end of the unit, you should be able to:

- describe the various important provisions in Dowry Prohibition Act, 1961;
- describe the important changes brought into the Indian Penal Code, Indian Evidence Act, etc. to deal with the menace of dowry and dowry deaths;
- understand the significance of Sections 498-A and 304-B of the IPC and Section 113-A & B of the Evidence Act and how the Courts have been using the same to control the evil of dowry; and
- understand a dowry related cruelty or a dowry death in your neighbourhood and what advice can be given by you to the affected parties.

2.1 INTRODUCTION

Dowry is a deep-rooted evil in society. In the olden days, it was customary to give presents to the bridegroom and his family at the time of the marriage. This used to be a provision for the couple to fall back upon in case of need. This system started at a time when girls were generally not educated or employed and had less opportunities to supplement family income. There was also another reason for giving such customary gifts. As girls were not entitled to the share in the family property, the father, out of affection and other considerations, used to give some cash or kind to the daughter at the time of marriage. Unfortunately, slowly a new practice of demanding such gifts by the boy or his family evolved as a matter of right.

The Dowry Prohibition Act, 1961, was an effort by the government to curb this custom, but the evil has increased to alarming proportions. After the dismal performance of the Dowry Prohibition Act, the Government made certain amendments in the Indian Penal Code and Indian Evidence Act to bring the guilty to the book. This unit will be looking at the important provisions of the Dowry Prohibition Act, the relevant sections of the Indian Penal Code and the Evidence Act, giving you the exact provisions as given in the statute books as well as examples on how the courts have dealt with dowry related cruelty and suicides/deaths.

2.2 DOWRY PROHIBITION ACT, 1961

The object of this Act is to prohibit the evil practice of giving and taking dowry. Since the problem is basically a social one, the government has tried to tackle it by conferring improved property rights on the women by Hindu Succession Act, 1956. However, need for a law was felt to make the practice punishable and, at the same time, ensure that if any dowry is given, then its benefit goes to the women. This Act also aimed at educating the public and eradicating the evil of dowry system.

What is Dowry?

Section 2 of the Dowry Prohibition Act (Act for short) defines dowry to mean any property or valuable security given or agreed to be given either directly or indirectly by one party to the marriage to the other party to the marriage or by the parents of either party or by any other person to either party to the marriage or to any other person at or before or any time after the marriage in connection with the marriage of the parties. But this does not include dower or mahr in case of Muslims.

Therefore, dowry means any property or valuable security given or agreed to be given either directly or indirectly by one party to the marriage to the other party or by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person at or before or any time after the marriage and in connection with the marriage of the parties. It does not include dower or mahr of Muslims.

It is either cash or jewelry or valuables, given at the time or before or after the marriage to one of the parties to the marriage, generally to the bride, by the parents or relations of the bride, in connection with the marriage.

Penalty for giving or taking dowry

- 1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term, which shall not be less than five years, and with fine, which shall not be less than 15,000/- or the amount of the value of such dowry, whichever is more.
- 2) However, nothing shall apply to, or in relation to:
 - a) Presents, which are given at the time of a marriage to the bride, provided that such presents are entered in a list maintained in accordance with the rules made under the Act.

- b) Presents, which are given at the time of a marriage to the bridegroom, provided that such presents are entered in a list maintained in accordance with the rules made under this Act.

Dowry and Central Government Staff

The Central Government staff has been barred from giving or accepting dowry. The following rule prohibiting the taking or giving of dowry was incorporated in February, 1976, in the Central Civil Services (Conduct Rules, 1964, w.e.f 13.2.1976).

No government servant shall give or take, or abet the giving or taking of dowry or demand, directly or indirectly, from parents or guardians of a bride, any dowry.

Any violation of the provisions of this rule will be good and sufficient cause for taking disciplinary action against government servants.

Penalty for Demanding Dowry

If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride, as the case may be, any dowry, he shall be punishable with imprisonment for a term, which shall not be less than six months, but which may extend to two years and with fine, which may extend to ten thousand rupees.

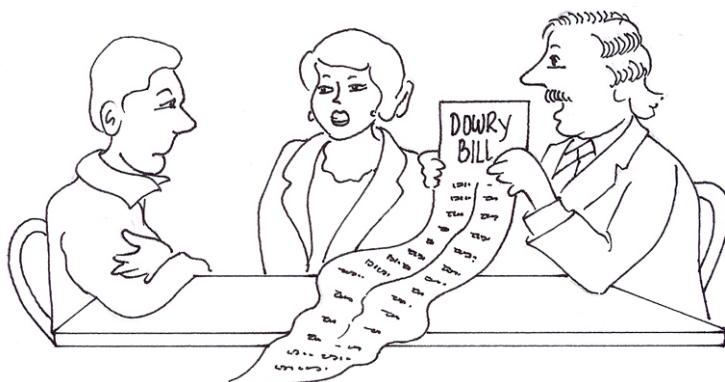
Ban on Advertisement

If any person offers, through any advertisement in any newspaper, periodical, journal or through any other media, any share in his property or of any money or both or a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative, he shall be punishable with imprisonment for a term, which shall not be less than six months, but which may extend to five years, or with fine, which may extend to fifteen thousand rupees.

Section 5 of the Act declares any agreement for the giving or taking of dowry to be void.

The Beneficiaries of the Dowry

Section 6 states that dowry is given for the benefit of the wife or her heirs.



Major Problems in Marital Life

Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman:

- a) if the dowry was received before the marriage, within three months after the date of the marriage; or
- b) if the dowry was received at the time of or after the marriage, within three months after the date of its receipt; or
- c) if the dowry was received when the woman was a minor, it must be given to her within three months after she becomes eighteen years old, and pending such transfer, shall hold it in trust for the benefit of the woman.

Punishment

- 1) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefore or as required by sub-section (3), he shall be punished with imprisonment for a term, which shall not be less than six months, but which may extend to two years or with fine, which shall not be less than five thousand rupees, but which may extend to ten thousand rupees or with both.

In case of death

When the woman is entitled to Dowry property under sub-section

- 1) When she dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

Provided that where such woman dies within seven years of her marriage, such property shall-

- a) if she has no children, be transferred to her parents, or
- b) if she has children, be transferred to such children and pending such transfer, be held in trust for such children.

Right of Court

Section 7 of the DP Act provides as to who shall take cognizance of the offences

- 1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973:
 - a) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First class shall try any offence under this Act;
 - b) no court shall take cognizance of an offence under this Act except upon—
 - i) it's own knowledge or a police report of the facts, which constitute such offence, or
 - ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organization.

- c) it shall be for a Metropolitan Magistrate or a Judicial Magistrate of the First class to pass any sentence authorized by this Act on any person convicted for any offence under this Act.

The Act also provides for the appointment of Dowry Prohibition officers, lays down their jurisdiction and their duties and the power of the Central Government to make rules for the purpose of carrying out this Act.

Most of the States have made their own amendments to this Central Act to effectively face the local situation. All of them have made the provisions more stringent. However, the incidents of harassment, torture, abetted suicide and dowry deaths continue unabated. Lack of education and economic dependence of women have encouraged the greedy perpetrators of the dowry crime.

The Dowry Prohibition Act of 1961 has been amended from time to time, but this piece of social legislation does not appear to have served much of the purpose, as dowry seekers are hardly brought to book and the convictions are rather few.

Check Your Progress I

Note: Use the space provided for your answers.

- 1) Describe what is dowry.

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- 2) What is the penalty for demanding dowry?

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2.3 LEGISLATIVE EFFORTS TO CURTAIL DOWRY

The subject failure of the Dowry Prohibition Act to eradicate or even to curtail the evil prompted our legislature to enact The Criminal Law (Second

Amendment) Act, 1983. In order to deal effectively not only with cases of dowry death, but also with cases of cruelty to married women by their in-laws, amendments were made in the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act.

Section 498-A IPC

Put in a simple language Section 498-A of IPC means:

Cruelty to a woman by her husband or any relative of the husband is punishable (a) with imprisonment for a term, which may be extended to three years and also (b) with fine.

Cruelty means:

- 1) willful conduct of such nature by the husband or any relative of the husband that is likely to drive the woman to commit suicide, or cause serious physical or mental, moral injury to her, and
- 2) harassment of a woman by her husband or any relative of her husband, with view to coercing her or any of her relatives to meet any unlawful demand for property.

The offence is cognizable if information relating to the commission of the offence is given:



- a) to the officer in charge of a police station
- b) by the victim of the offence
- c) or a relative of the victim of the offence
- d) or in the absence of any such relative, any public servant authorized in this behalf by the state government.

A Court shall take cognizance of the offence upon—

- a) a police report or
- b) a complaint made by the victim of the offence,
- c) or her relatives or any person related to her.

Section 113-A of the Evidence Act (Presumption As to Abetment of Suicide by a Married Woman)

According to section 113 – A of the Evidence Act:

- 1) if a woman commits suicide within a period of seven years from the date of her marriage, and
- 2) it is shown that her husband or any relative of her husband had subjected her to cruelty. In this case, the court may presume that such suicide had been abetted by her husband, or such relative of her husband.

2.4 DOWRY DEATHS

In Indian society, woman has always been viewed as an ideal . She is the ultimate force in the family and also the protector of culture, heritage and religion. But in reality, this image has been shattered due to the unfortunate and disturbing phenomenon of incidents of bride burning that are on the increase at an alarming rate.

In most of the cases, the harassment and killing of the bride can be traced to the abominable practice of demanding and extracting dowry and the failure on the part of the bride’s parents to adequately satisfy the greed of the husband’s people. Nothing can be more barbarous and more heinous than this kind of murder.

Dowry killing is also a crime of its own kind. It becomes an immediate necessity for the husband and his family members to make the groom available in the marriage market. Thus, inconvenient brides have to be eliminated if they cannot feed the greed and avarice of their in-laws.

In a murder, there may be a motive or not. But in dowry deaths, it is inherent. The courts only have to examine as to who translated it into action.

In a Delhi case (Laxman Kumar Vs State (Delhi Admn), the hon’ble High Court pointed out that “once economic independence comes to women, the evil of dowry will die a natural death. Without education, the economic independence cannot be achieved. And therefore, education at all levels of the society is a



must. We hear of no wife burning cases in western countries, obviously because women are economically independent”.

Bride burning is a shame on our society. Unfortunately, the price rise and ever-increasing cost of living, coupled with enormous growth of consumer goods effecting the difference between luxury and essential goods, lure the new generation to easy money i.e. the dowry. The brides are unintended victims of the glorious march of consumerism. The husband and his family members look towards the wife and her family to meet the market needs.

Nature of Death

A death can either be natural, accidental, suicidal or homicidal. It is for the court to conclude whether the death was homicidal on the basis of the facts on record.

Framing of Charges against Accused

It is the duty of the judge to consider judicially, whether on consideration of the materials on record, it can be said that the accused has been reasonably connected with the offence alleged to have been committed, and on the basis of the said materials, there is a reasonable probability or chance of the accused being found guilty of the offence alleged. If the answer is in the affirmative, the judge will be at liberty to presume that the accused has committed the offence.

The court is entitled to consider the evidence on record as to whether or not a prima facie case against the accused has been made out. The court is not expected to frame the charge mechanically, but has to exercise its judicial mind to the given facts of the case.

Discharge of an Accused

In cases of bride burning, it has become the normal practice to involve every member of the family of the in-laws of the girl even if they are not in any way connected to the offence. However, the court is not expected to be swayed by the sentiments of the complainant family and try to rope in the innocent. It is the duty of the court to sift the evidence justifying the involvement of the real culprits.

Sections 304-B, IPC & 113-B, Evidence Act

Section 304-B was inserted in the IPC by dowry Prohibition (Amendment) Act, 1986 with effect from November 19, 1986. It is a special provision inserted to deal with dowry deaths. Practically, the presumption under Section 113-B of the Evidence Act has been incorporated into Section 304-B IPC also.

Section 304-B of the IPC

Thus, if a woman dies within seven years of her marriage, and it is caused by any burns or bodily injury or occurs otherwise than under normal circumstances, and it is shown that before her death, she was subjected to cruelty or harassment by her husband, or any of his relatives for securing any property or valuable security from her or her relatives, it would come under ‘dowry death’, provided it is in connection with any demand for dowry. Such husband or relative would be deemed to have caused her death.

Whether such person is directly responsible for the death of the deceased or not by virtue of presumption, he is deemed to have committed the dowry death, if there was such cruelty or harassment, and the unnatural death occurred within seven years of the marriage. If there is proof of the person having intentionally caused her death, then it would attract section 302 IPC, which deals with murder.

Evidence of Dowry Death

Since the crimes of dowry deaths are generally committed in the privacy of residential homes and in secrecy, independent and direct evidence is not easy to collect. This is the reason why the Parliament introduced sections 113-A (Presumption as to abetment of suicide by a married woman) and 113-B (Presumption of dowry death) in the Evidence Act to strengthen the prosecution by permitting presumption to be raised if certain basic facts are established and the said death took place within seven years of the marriage.

The words “it is shown” in section 304-B places the initial burden of providing the circumstances envisaged by the section on the prosecution.

The term “soon before her death” does not necessarily mean “immediately before her death”.

The expression ‘deemed to’ has been used in the section with a view to create legal fiction.

The offence under section 304-B is triable by the Court of Session. It is a cognizable and non-bailable offence.

To draw a presumption under 113-B of the Evidence Act, the necessary ingredient is to show that soon before her death, she was subjected to cruelty or harassment in connection with the demand for dowry. Only when these facts are proved, then, by virtue of the deeming provision of section 304-B, IPC, the court shall presume that the husband or any of his relatives had caused the dowry death.

The expression “shall presume” in the section 113-B indicates that it is mandatory and obligatory for the court to draw the inference, and no option is left to the court, but to take for granted and proceed on the supposition that the husband and other relatives have committed the dowry death.

The court is bound to take the fact of dowry death as proved until very strong and positive evidence is given in rebuttal by the accused.

Check Your Progress II

Note: Use the space provided for your answer.

- 1) Write a brief note on evidence of dowry death.

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2.5 LET US SUM UP

Marriage is a social event for families and friends to come together. However, it is now used to show off the financial capacity of the families concerned. The money for this lavish show has to come from the bride's family. Huge sums are spent and money changes hands. This may be all right when the parties are well placed and the wealth so exchanged are out of good will. But today, dowry has become a curse and people from every strata suffer from this plague.

The Dowry Prohibition Act was an effort by our legislature to put an end to this social evil, but it did not succeed, as women were seen as economic liabilities. Parents of girls considered them to be burden to be got off from their backs at any cost. The unnecessary expenses on the occasion of marriages are considered as a prestige issue for the bride's family. The groom's family insists on a lavish party and the number of persons to be invited keeps increasing. If any gifts are given voluntarily to the bride or the groom, the same are welcome. However, as soon as there is an element of compulsion, it becomes anti-social and illegal. The Dowry Prohibition Act provides various punishments for demanding, giving or taking dowry. It clearly states who the beneficiaries should be in case there is voluntary dowry given to the bride. This has been an absolute failure as social sanctions did not accompany the provisions of law.

Dowry harassment, mental and physical cruelties, bride burnings and murder of the wife for the simple reason that she is unable to bring more dowry, so that the man can marry again for more dowry, etc. has become a cruel joke of daily lives. Sections 498-A IPC, dealing with cruelty and 304-B dealing with dowry deaths, etc. are efforts by the legislature to bring an end to the curse. However, the growing consumerist needs will only increase the dowry demands, as the groom's family see the bride as a source of income to meet all their material luxuries.

Only education of girls and their economic independence can change this situation. It is also important to see women as human beings worthy of dignity and respect. Our socio-religious attitudes and the media play a big role in this regard. Marriage should be treated as a holy bond or sacrament or an alliance of two persons for life. If one looks at it as a business deal aiming at maximum profits, then the legislature or the police and the courts together cannot save the society from the scourges of dowry curse. The change in social and personal attitudes will be the real answer to the dowry problems, as we witness today.

2.6 SUGGESTED READINGS

Dayal R. (1995), *Law relating to dowry*, Premier Publishing Company, Allahabad.

Mayne John D., *Mayne's Hindu Law and Usage (Revised by Justice Alladi Kuppaswami, 13 ed 1993)* Bharat Law House, New Delhi.

Purohit Nishi (1998), *The Principles of Mohamadan Law* (2nd ed), Orient Publishing Company, Allahabad.

UNIT 3 LEGAL ISSUES INVOLVED IN MARRIAGE

Contents

- 3.0 Objectives
- 3.1 Introduction
- 3.2 Christian Marriage Law
- 3.3 Muslim Marriage and Divorce Act
- 3.4 Special Marriage Act, 1954
- 3.5 Hindu Marriage Act, 1955
- 3.6 Let Us Sum Up
- 3.7 Suggested Readings

3.0 OBJECTIVES

Times are changing and what was sacred in earlier times, no more has the social sanction to retain that position any longer. Marital relations break up faster today and it throws up various issues that need to be settled in a definite manner. The widespread breakdown in marriage relations make it necessary for us to know and understand the painful situations one may have to face in married life and what are the remedies available to the parties in law. After studying this unit, you will have a clear picture of certain problems that may crop up in marriage and how they are taken care of by laws. The unit will help you to:

- understand the provisions in the Hindu Marriage Act, 1955;
- understand the provisions in the Christian Marriage Act, 1872;
- understand the provisions of Special Marriage Act, 1954; and
- understand the issues regarding Muslim marriage, divorce and custody of children.

3.1 INTRODUCTION

Marriage is treated as sacred by our society from ancient times. Strict rules were laid down about female morality, kinds of marriage, marriage ceremonies, monogamy as a rule, marital duties, roles and duties of sons, etc. by the Hindu society. After India became independent in 1947, various laws were enacted by our Parliament to amend and codify laws relating to various groups within the country. The important ones amongst the said Acts are:

Indian Christian Marriage Act, 1872

Muslim Dissolution of Marriage Act, 1937, etc.

The Hindu Marriage Act, 1955

Special Marriage Act, 1954

Divorce Act, 1869 (Previously known as Indian Divorce Act)

Parsis Marriages and Divorce Act, 1936

Of these, the Hindu Marriage Act is definitely the most important in its reach, as it governs more than 85 per cent of our population. It covers all people who are not Muslims, Christians, Parsis and Jews. Issues that come up for consideration under this Act are: Restitution of Conjugal Rights, Judicial Separation, Divorce, Maintenance, Custody of Children, etc.

3.2 CHRISTIAN MARRIAGE LAW

The provisions of Christian personal law in regard to marriage are to be found in the Indian Christian Marriage Act, 1872. The Act applies to all Christian marriages solemnized in India, whatever be the nationality or domicile of the parties. Section 4 of the Act provides that every marriage between persons “one or both of whom is or are Christian or Christians” shall be solemnized in accordance with Section 5 of the Act. Otherwise, the marriage shall be void.

Persons Authorized to Solemnize Marriage

Marriages under the Indian Christian Marriage Act, 1872 can (under Section 6) be solemnized–

- a) by a person who has received Episcopal ordination,
- b) by a clergyman of the Church of Scotland,
- c) by a licensed Minister of religion,
- d) by a Marriage Registrar appointed under the Act, or
- e) by a person licensed under the Act to grant a certificate of marriage between Indian Christians.

Forms of Marriage

A reading of several provisions of the Indian Christian Marriage Act will show that the Act contemplates forms of marriage, which are purely religious or purely secular, as well as marriages, which are of a mixed character.

Marriage Registrars

The State government appoints one or more Christians either by name or by office, to be Marriage Registrar for any district under the Indian Christian Marriage Act.

Place of Solemnization

The Act, as such, does not lay down the place of solemnization. However, since the marriages of certain categories are solemnized according to the rules, rites, ceremonies and customs of the particular Church by clergymen, those marriages will be solemnized only in the Church.

Check Your Progress I

Note: Use the space provided for your answer.

1) Who can solemnize a Christian marriage?

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3.3 MUSLIM MARRIAGE AND DIVORCE ACT

In general, Muslim law is applied to every Muslim by the courts. A Muslim is one who believes that there is only one God and that Muhammad is His Prophet.

Marriage: Concept and Ceremonies

In Muslim law, marriage or nikah is a civil contract, which has for its object the procreation of children. Marriage, according to the Mahomedan Law, is not a sacrament by a civil contract. All the rights and obligations it creates arise immediately and, are not dependent on any condition precedent, such as payment of dower by a husband to a wife.

Ceremony

The essential ceremony of a Muslim marriage is a proposal from one side and its acceptance by the other side (*ijab wa Kabul*), or declaration and acceptance. The proposal and acceptance must be made at one and the same meeting. No particular form is prescribed for the proposal and the acceptance. The proposal and acceptance can be made orally.

Religious Ceremonies

No religious ceremonies are required for the legal validity of a Muslim marriage, though it is a usual practice to recite some verses from the *Quran*.

The presence of a priest is not essential for a Muslim marriage. A Muslim marriage is not required to be registered.

Witnesses Necessary for Solemnizing

According to the *Hanafi* school of Muslim law, witnesses are required. They must be two males, or one male and two females. A marriage not solemnized in the presence of witnesses is “irregular”, though not invalid. The irregularity is cured by consummation. According to the other schools of Muslim law, the presence of witnesses is not essential.

Rules as to Polygamy and Polyandry

A Muslim male can have four wives. This is the legal position. However, there are religious mandates that the husband should treat all his wives equitably and if that is not possible, he should not have more than one wife. A Muslim female cannot have more than one husband.

Annulment of Marriage

Though there is no Muslim Matrimonial Causes Act as such in force in India, a spouse, who can prove that a marriage is void by reason of some rule of Muslim law, can file a civil suit in the competent civil court for a declaration to that effect. The right to get such relief is conferred by the Specific Relief Act, 1963.

Judicial Separation

Muslim law does not provide for such a relief, and there being no statutory provision to that effect applicable to Muslims, it is believed that a court cannot grant a decree of judicial separation to a Muslim wife or husband.

Divorce

Muslim law as administered in India provides for:

- a) extra-judicial divorce at the instance of the husband unilaterally and without requiring any ground;
- b) extra-judicial divorce at the initiative of the husband under the “constructive” category;
- c) extra-judicial divorce by mutual consent as confirmed by statute – the Dissolution of Muslim Marriages Act, 1939; and
- d) judicial divorce at the instance of the wife, on grounds specified in statute – the Dissolution of Muslim Marriages Act, 1939.

Extra-judicial divorce at the husband’s instance – category (a) above – is popularly known as *Talaq* and has received the widest notice. In several oriental countries, restrictions have been placed on this right of the husband.

Formula for Pronouncing *Talaq*

Talaq is generally described as in approved form (*Talak-i-sunna*) or in unapproved form (*Talak-ul-bidaat*). But the approved form of divorce itself has two sub-soecues – *ahsan* (simple) and *hasan* (not so simple). The unapproved form also has many varieties. A Muslim wife cannot divorce the husband by *Talaq*. The forms of divorce described in Muslim law as *Khula* and *Miebaraat* provide for divorce by mutual consent. Conversion from (Islam) automatically result in the dissolution of marriage in the case of the husband.

This position continues even today. In the case of the wife, by Muslim law, it ended the marriage. But now, she has to sue for divorce under the Act of 1939 and must prove a ground laid down in that Act. The Muslim wife can sue the husband for divorce in the competent court under the Dissolution of Muslim Marriage Act, 1939.

Custody of Children on Divorce

The Dissolution of Muslim Marriages Act, 1939, though provides for judicial divorce at the instance of the wife, does not empower the court to pass orders regarding the custody of children of the marriage. For getting such relief, the party interested in getting custody will have to move the competent court separately by way of a petition under the Guardians and Wards Act.

Temporary Marriage

Shia law permits a male Muslim to contract a Muta marriage with a Muslim female, or with a female who is a Kitabia or a fire-worshipper. A Shia woman may contract a Muta marriage with a Muslim male only. The period of cohabitation should be fixed (a day, a month, a year, or a term of years), and in some, dower should be specified. A Muta marriage creates no rights of inheritance between the spouses. The children conceived during Muta marriage are legitimate and can inherit from both parents.

3.4 SPECIAL MARRIAGE ACT, 1954

Special Marriage

A special marriage (popularly known as a civil marriage or a registered marriage) is a marriage solemnized under the Special Marriage Act, 1954. The main object of the Act is to provide a form of marriage, which is secular in character. Its ceremonies do not depend on the religion of the parties. The entire law relating to the marriage can be gathered from the Act, and there is no need to consult the religious law for deciding questions as to the validity of the marriage or the availability or matrimonial relief. Marriage under the Act is:

- a) secular;
- b) statutory;
- c) uniform throughout India; and
- d) uniform for all persons who avail themselves of the Act, whatever be their race, religion or caste.

A person marrying under the Special Marriage Act cannot have any other spouse, while the marriage is subsisting. The marriage can be terminated only by a petition to the court filed on one of the specified grounds. Remarriage after death of a spouse is, of course, permissible. Persons belonging to different religions can marry under the Special Marriage Act. Persons belonging to the same religion can also marry under the Special Marriage Act. Persons within

prohibited degrees of relationship cannot marry. Now such marriages are permitted by an amendment made in 1976. The minimum age of marriage under the Special Marriage Act for bridegroom is 21 years and for bride 18 years. Breach of this requirement renders a special marriage null and void (apart from its being an offence under the Child Marriage Restraint Act).

Formalities

A special marriage is solemnized after 21 days' notice is given, so that objections, if any, to the proposed marriage may be considered by the Marriage Registrar. Thereafter, the marriage is solemnized in the presence of witnesses by the Marriage Registrar by requiring both the parties to sign the statutory declaration.

Registration

Registration of a special marriage is automatic at the time of its solemnization, since a certificate is issued on its solemnization.

Annulment of Marriage

A special marriage may be annulled by the court on the grounds of impotency, insanity, pregnancy of wife at the time of marriage, coercion or fraud.

Restitution of Conjugal Rights

The aggrieved party can file petition for a decree for restitution of conjugal rights. Such a decree calls upon the other party to resume cohabitation. Non-resumption of cohabitation after such a decree becomes a ground for divorce in itself if one year has elapsed since the decree.

Judicial Separation

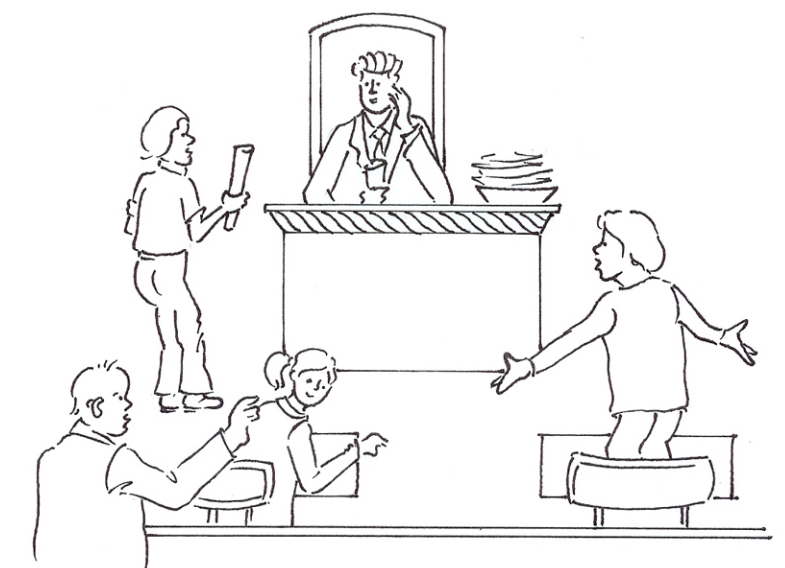
A wife or husband, who does not want immediate dissolution of the marriage but desires to live separately, can seek judicial separation through court, instead of seeking divorce. The grounds for judicial separation under the Special Marriage Act are generally the same as the grounds of divorce.

Grounds for Divorce

Under the Special Marriage Act, divorce can be obtained by one spouse through court on the ground of the following types of conduct or circumstances of the other spouse:

- 1) adultery;
- 2) treating with cruelty;
- 3) desertion for at least two years;
- 4) incurable insanity or mental disorder (as defined in the section) being such that the petitioner cannot be reasonably expected to live with the opposite party;
- 5) leprosy not contracted from the petitioner;

- 6) venereal disease in a communicable form;
- 7) opposite party not being heard of for seven years;
- 8) opposite party undergoing a sentence of imprisonment of seven years or more for an offence under Indian Penal Code;
- 9) non-resumption of cohabitation after a decree of judicial separation, for at least one year;
- 10) non-compliance with a decree of restitution of conjugal rights, for at least one year;
- 11) husband being guilty of rape or unnatural sex after marriage;
- 12) husband failing to pay the wife maintenance ordered by a court.



Divorce by Mutual Consent

Divorce by mutual consent is available under the Special Marriage Act, 1954. The parties must present a joint petition to the competent court and must have lived apart for at least one year. On such a petition, the court does not grant divorce immediately. The court has to wait for the specified period and the parties must then again apply to the court for the grant of divorce and, in that matter, re-affirm their joint determination to end the marriage. On these formalities being completed, the court can dissolve the marriage by a decree of divorce.

The court must be satisfied that consent to divorce has not been obtained by force, fraud or under influence. The second motion must be made not less than six months and not less than 18 months after the initial petition.

Jurisdiction of Courts

A petition for matrimonial relief under the Special Marriage Act can be filed in the competent court within whose jurisdiction the marriage was solemnized, or within whose jurisdiction the spouses reside together. In addition, if the opposite party (respondent) is residing outside India or has not been heard of for seven years, the petition can be filed in the competent court within whose

jurisdiction the petitioner resides.

Appeals

Against the decree passed by the competent court (granting divorce, judicial separation, restitution of conjugal rights or nullity of marriage), an appeal can be filed before the High Court.

Maintenance of Spouses

A court competent to grant matrimonial relief under the Act is empowered to award maintenance (interim or permanent) in favour of the wife and against the husband for such sums as the court thinks reasonable in the circumstances. Such an order can be passed by the court whether the relief claimed is annulment of marriage, restitution of conjugal rights, judicial separation or divorce.

Children

Under the Special Marriage Act, the court has jurisdiction to make suitable orders regarding the custody, education and maintenance of children, and also orders as to who shall bear the expenses of maintenance.

Check Your Progress II

Note: Use the space provided for your answer. .

1) Mention a few grounds for divorce according to Special Marriage Act, 1954.

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3.5 THE HINDU MARRIAGE ACT, 1955

The Hindu law of marriage is contained in the Hindu Marriage Act, 1955, which is an Act of the Parliament of India. The Act came into force on May 18, 1955.

The Hindu law does not allow polygamy or polyandry. After 1955, no Hindu male can have more than one wife and no Hindu female can have more than one husband.

Other Acts governing Hindu way of life are the following:

- 1) The Hindu Succession Act, 1956
- 2) The Hindu Adoption and Maintenance Act, 1956

3) The Hindu Minority and Guardianship Act, 1956

There are other enactments in the States as well, apart from the above Acts and local customs. Under this Act, the expression, "Hindu" includes any person who may not be Hindu, but may be a Sikh, Jain and Buddhist. It leaves out the Muslims, Christians, Parsis and Jews from the Hindu fold. Marriage under the Hindu Marriage Act (HMA) is both a sacrament and a contract and it can be solemnized in accordance with customary rites and ceremonies of either party to the marriage. Monogamy is the law and bigamy is punishable under the penal code. Prohibited degrees of relationships are illustrated and marriages that are null and void are clarified. As the marriage is sacred, the law enjoins the spouses to have the company of each other.

A Hindu and a non-Hindu cannot marry under the Hindu Marriage Act. But they can enter into what is popularly known as a "civil marriage". This is performed by the Marriage Registrar appointed by the State Government under the Special Marriage Act, 1954.

The Hindu Marriage Act applies to Jains, Buddhists and Sikhs also. However, the Act itself permits customs to operate regarding marriage ceremonies.

The bridegroom should have completed 21 years and the bride 18 years of age at the time of marriage. However, violation of this condition does not invalidate the marriage, though the persons infringing the law become punishable in a criminal court.

Parties are free to perform *Sastric* ceremonies or to follow any customary ceremony, which prevails in the caste or community to which, one of the parties belongs. If the *Sastric* ceremonies are followed, performance of *saptapadi* (taking seven steps) is essential and the marriage becomes binding on taking the seventh step.

A Hindu marriage need not be registered except in those States where the State Government has made it compulsory. Even in such States, non-registration does not invalidate the marriage, though it may attract criminal penalties.

Restitution of Conjugal Rights

Section 9 of the Hindu Marriage Act deals with the situation when either the husband or the wife withdraws from the company of the other without reasonable cause. As marriage is sacred, the Hindu law enjoins on the spouses to have the company of each other. Section 32 of the Divorce Act and Section 22 of the Special Marriage Act deal with the same situation. The term "Restitution of Conjugal Rights" in the normal sense means restoration of conjugal rights, which were enjoyed by the parties previously. Whether there was reasonable excuse to withdraw from the society of the other is to be proved by the party who withdraws. This withdrawal involves a mental process besides physical separation. Failure to render conjugal duties, refusal to stay together or have marital intercourse with the other person would normally constitute the withdrawal from the society of the other spouse.

What would be a reasonable excuse cannot be reduced to a formula. It would vary with times and circumstances and it has to be decided in each individual

case. The expression, “any other justifying cause” used in Hindu Adoption and Maintenance Act, 1956, and “just ground” used in Section 125 of the Criminal Procedure Code, are relied upon in the interpretation of “reasonable excuse”. Under the old Hindu law, the husband was the breadwinner and the wife used to look after the household duties. The wife used to move to the husband’s family from the time of marriage and the husband used to decide matrimonial home. But times have changed today and now both the husband and the wife have to earn their bread, some times working in different places. This leads to tricky situations as to matrimonial homes and the withdrawal without reasonable excuses.

Cruelty, both mental and physical, will be reasonable excuses under this section. From the behaviour of the husband, if the wife fears for her life, it amounts to reasonable excuse. Impotency of the husband or the refusal of the wife to have intercourse with him are just grounds under this section.

The aggrieved party can file petition for a decree for restitution of conjugal rights. Such a decree calls upon the other party to resume cohabitation. Non-resumption of cohabitation after such a decree, becomes a ground for divorce if one year has elapsed since the decree.

Judicial Separation

A wife or husband, who does not want immediate dissolution of the marriage but desires to give to the other party some time, can seek judicial separation (through court) instead of divorce. Under the Hindu Marriage Act, the grounds of judicial separation are the same as the grounds of divorce.

After a decree of judicial separation, the parties are not bound to cohabit with



each other. The marriage as a legal relationship continues, subject to the above modification. If there is no resumption of cohabitation between the parties for one year after the decree of judicial separation, then either party can petition the court for divorce. This time, no other ground of divorce need be proved and the non-resumption of cohabitation itself constitutes a ground of divorce.

Grounds for Divorce

Under the Hindu Marriage Act, divorce can be obtained by one spouse through court on the ground of following types of conduct or circumstances of the other spouse:

- 1) adultery;
- 2) treating with cruelty;
- 3) desertion for at least two years;
- 4) conversion to another religion (of the other spouse);
- 5) incurable insanity or mental disorder;
- 6) incurable and virulent leprosy;
- 7) venereal disease in a communicable form (not contracted from the petitioning spouse);
- 8) renouncing the world and becoming a Sanyasi;
- 9) not being heard of for seven years;
- 10) non-resumption of cohabitation after a decree of judicial separation, for at least one year;
- 11) non-compliance with a decree of restitution of conjugal rights for at least one year;
- 12) husband being guilty of rape or unnatural sex after marriage;
- 13) husband failing to pay the wife maintenance ordered by a court; and
- 14) mutual consent.

Besides the above, there can be customary divorce.

Explanation of the Terms Used

Adultery

“Adultery” means voluntary sexual intercourse between persons not married to each other.

Cruelty

“Treating with cruelty” is a ground for divorce. Cruelty is not defined in the Act. However, according to current judicial interpretation, it means the conduct of a spouse, which is of such a nature that the other spouse cannot be reasonably expected to live with him or her. Cruelty can be physical or mental. It is not

necessary that there should be danger to life or limb. Trifling acts in isolation may not amount to cruelty, but, in their totality, they may.

Conversion

If one spouse, who is a Hindu, embraces any other religion, the other spouse can petition for divorce on that ground. The converted spouse cannot remarry unless divorce is granted to the other spouse. The reason why conversion is recognized as a ground of divorce is that the entire personality of a person undergoes change after conversion and it would not be reasonable to expect the other spouse to live with him or her after conversion.

Mutual Consent

Since 1976, a Hindu couple can, by mutual consent, obtain divorce through court. The parties must present a joint petition to the competent court. Divorce is not granted immediately. The court has to wait for the specified period and then, the parties must again apply to the court for grant of divorce, i.e. they must reaffirm their determination to seek divorce. Once this is done, the court will grant a decree of divorce.

The district court is the competent court for divorce and other matrimonial proceedings. In cities where there is a City Civil Court, that court is vested with this jurisdiction. The State Government can, by notification, invest courts subordinate to the district court with this jurisdiction.

A petition for matrimonial relief can be filed in the district court within whose jurisdiction the marriage was solemnized, or within whose jurisdiction the spouses reside or last resided together. Besides this, if the opposite party (respondent) is residing outside India or has not been heard of for seven years, the petitioning party can file the petition in the district court within whose jurisdiction the petitioner resides.

A party whose marriage is dissolved under the Hindu Marriage Act can remarry after the period of appeal against the decree has expired. If an appeal has already been filed, the party cannot remarry until the appeal is disposed of.

Against the decree of divorce, judicial separation, restitution of conjugal rights or nullity of marriage passed by the district court, an appeal can be filed before the High Court.

Against the appellate decree passed by the High Court, there can be an appeal to the Supreme Court in certain cases. The High Court must have certified that the case involves a substantial question of law, which needs to be decided by the Supreme Court. Alternatively, the Supreme Court must have given special leave to appeal.

Maintenance of Spouses

While passing any decree for matrimonial relief (divorce, judicial separation, nullity of marriage or restitution of conjugal rights), the court can make appropriate orders regarding the maintenance to be paid by one spouse to the other.

On the grant of divorce or other matrimonial relief, the court can order either the husband to pay maintenance to the wife or the wife to pay maintenance to the husband, taking into account their respective circumstances.

In making an order for maintenance (in a proceeding for divorce, etc.), the court takes into account the financial capacity of the parties (income as well as property), ability to pay, needs of the respective parties, their conduct, etc.

The Hindu Marriage Act does not lay down any limit in this matter. The amount depends on the circumstances of the case.

Maintenance orders can be varied or rescinded by the court on a change of circumstances. This can be done at any time.

An order for maintenance can be rescinded by the court if it is shown that the party in whose favour such order was made has remarried, or is leading an immoral life.

If an order for maintenance is not complied with, an application can be made to the court for executing the order by attachment and sale of the property of the person bound to pay maintenance under the order.

An order for maintenance by a matrimonial court can be passed only against the spouse. Where maintenance is ordered, its payment can be secured by the court by ordering that the amount ordered shall be charged on specified immovable property of the party ordered.

The Hindu Marriage Act empowers the court to direct that during the pendency of the proceeding, the wife or the husband shall pay to the other party as interim maintenance such amount as the court considers reasonable in the circumstances. The amount can be varied if circumstances change.

Custody of Children

Under the Hindu Marriage Act, the court has jurisdiction to make suitable orders regarding the custody, education and maintenance of children, and also orders as to who shall bear the expenses of maintenance.

The paramount consideration according to current judicial attitudes is the welfare of the child. The court will take into account to which parent the child is deeply attached, which parent will be able to bring up the child properly, what are the facilities available for looking after the child, and so on. If the child is old enough to express its preference, the court will take into account that preference, though the court is not bound to follow it in every case. It is permissible to ask for the child to be produced in the court for the purpose.

The court will have to take into account all the circumstances of the case before awarding custody to any parent. There are no hard and fast rules.

The court sometimes makes an order that while the child will remain in the custody of the mother, the father will have a right to visit the child (say, once a week and spend few hours with the child) or vice versa. This is called the right of "visitation" or "access" to the child.

Major Problems in Marital Life

All orders of the court regarding custody, education and maintenance of children can be varied or rescinded if there is a change in the circumstances. The paramount consideration is the child's welfare.

The Hindu Marriage Act provides that the annulment of a marriage does not make the children already born or conceived illegitimate. But such children cannot inherit the property of any person except the parents whose marriage is annulled.

Proceedings

The court is required by the Hindu Marriage Act to attempt reconciliation between the spouses (who are parties to a matrimonial proceeding), consistently with the circumstances of the case.

Under the Hindu Marriage Act, the court must sit behind closed doors if either party so desires or the court so orders. When the court sits behind closed doors (*in camera*), the press cannot publish the proceedings without prior permission of the court.

Family Courts are special courts to be established under the Family Courts Act, 1984. They are intended to be manned by specially experienced judges expected to follow a less formal approach than ordinary courts. When a family court is established for an area, the jurisdiction under the Hindu Marriage Act will be transferred to that court.

The creation of a family court does not enlarge the grounds of divorce as available under the law. It only modifies the jurisdiction and procedure as explained above.

In family courts, lawyers can appear only with the permission of the court.

Check Your Progress III

Note: Use the space provided for your answers.

- 1) Which are the religious communities to whom the Hindu Marriage Act, 1955 is applicable?

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- 2) What do you understand by restitution of conjugal rights?

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3.6 LET US SUM UP

In these unit legal issues involved in marriage was examined. The main focus of the discussion was centered on the Hindu Marriage Act, 1955. Some of the main aspects examined included the restitution of conjugal rights, judicial separation and grounds for divorce. An effort was also made to discuss the various grounds for seeking divorce. Towards that end, an effort was made to describe details regarding maintenance during the care and expenses involved for proceedings. A brief note on permanent alimony and maintenance as well as custody of minor children was another feature of the discussion.

3.7 SUGGESTED READINGS

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UNIT 4 DOMESTIC VIOLENCE : ITS CAUSES AND IMPACT

Contents

Grace Donnemching*

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Theories on Domestic Violence
- 4.3 Categories and Causes of Domestic Violence
- 4.4 Impact of Domestic Violence
- 4.5 Steps to Reduce Domestic Violence
- 4.6 Let Us Sum Up
- 4.7 Suggested Readings

4.0 OBJECTIVES

The purpose of this unit is to create awareness about domestic violence .Domestic violence is seldom reported by women who suffer silently protecting the reputation of their husband and also out of fear at the expense of their mental and physical health.

After reading this unit, you should be able to:

- understand the theories and categories of domestic violence;
- explain the impact of domestic violence; and
- describe the steps to reduce domestic violence.

4.1 INTRODUCTION

Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against by men and to the prevention of the full advancement of women...” states the United Nations Declaration on the elimination of Violence against Women, General Assembly Resolution, December, 1993.

Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, psychological violence, and emotional abuse. The frequency and severity of domestic violence can vary dramatically; however, the one constant component of domestic violence is one partner’s consistent efforts to maintain power and control over the other.

Domestic violence is a family problem affecting individuals in every community, regardless of age, economic status, sexual orientation, gender, race, religion, or nationality. It is often accompanied by emotionally abusive and controlling behavior

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that is only a fraction of a systematic pattern of dominance and control. Domestic violence can result in physical injury, psychological trauma, and in severe cases, even death. The devastating physical, emotional, and psychological consequences of domestic violence can cross generations and last a lifetime. Domestic violence can involve a wide array of physical, sexual and emotional abuse.

Domestic violence can be described as the power misused by one adult in a relationship to control another. It is the establishment of control and fear in a relationship through violence and other forms of abuse. This violence can take the form of physical assault, psychological abuse, social abuse, financial abuse or sexual assault. The frequency of the violence can be on and off, occasional or chronic. ‘Domestic violence is not simply an argument. It is a pattern of coercive controls that one person exercises over another. Abusers use physical and sexual violence, threats, emotional insults and economic deprivation as a way to dominate their victims and get their way’ (WHO, 2007).

Domestic violence is a burden on numerous sectors of the social system and quietly, yet dramatically, affects the development of a nation ... batterers cost nations fortunes in terms of law enforcement, health care, lost labor and general progress in development. These costs do not only affect the present generation; what begins as an assault by one person on another reverberates through the family and the community into the future. (Zimmerman, 1994)

In broad terms, domestic violence occurs when one person in an intimate relationship behaves in a way that causes fear or harm to another person. Within the general community this is the most common term.

Domestic violence is a global issue reaching across national boundaries as well as socio-economic, cultural, racial and class distinctions. This problem is not only widely dispersed geographically, but its incidence is also extensive, making it a typical and accepted behaviour. Domestic violence is wide spread, deeply ingrained and has serious impacts on women’s health and wellbeing. Its continued existence is morally indefensible. Its cost to individuals, health systems and society is enormous. Yet no other major problem of public health has been so widely ignored and so little understood.

The Protection of Women from Domestic Violence Act, 2005(in India) says that any act, conduct, omission or commission that harms or injures or has the potential to harm or injure will be considered domestic violence by the law. Even a single act of omission or commission may constitute domestic violence—in other words, women do not have to suffer a prolonged period of abuse before taking recourse to law. The law covers children also. Domestic violence is perpetrated by, and on, both men and women. However, most commonly, the victims are women. Even in the United States, it has been reported that 85 per cent of all violent crimes experienced by women are cases of intimate partner violence, compared to 3 per cent of violent crimes experienced by men.

Domestic violence in India is the interplay between socio-cultural factors, such as the widespread acceptance of violence as part of marital life, and of male entitlement, the equation of masculinity with dominance and control over women, and individual factors such as low self-esteem, suspicion and negativism

amongst the women. As it is not only individual men who are involved in acts of domestic violence but also female kin such as mothers-in-law, it gives credence to the power and control and the implicit mandate of the socio-economic context of power relations rather than to male violence.

4.2 THEORIES ON DOMESTIC VIOLENCE

Resource Theory

Resource Theory was first espoused by Goode (in 1971) and suggests that the more resources a husband brings to a relationship, the more power he has, but the less likely he will actually resort to violence. When, however, a man's superior power is threatened by a wife's access to educational or job-related resources, he may resort to violence to re-establish himself as dominant.

Exchange Theory

Exchange theory suggests that domestic violence will be particularly high in societies where its benefits to perpetrators are high and particularly low in societies where the costs to perpetrators are low. In many societies costs of violence are low because of inadequate social controls placed on such and because an emphasis on male aggressiveness actually encourages it.

The Patriarchal Theory

This theory submits that, throughout history, males have dominated society and women were to be treated as men's possessions. Patriarchal norms protect men's ability to control their wives and justify their use of violence to do so.

Modernization Theory

Modernization frequently leads to a valuing of universalistic over particularistic norms and achievement over ascription. Hence we expect women (and men) to be freed from traditional gender norms as a country modernizes.

Economic Dependency Theory

Economic dependency has frequently been associated with decreases in women's access to educational, economic and political resources.

4.3 CATEGORIES AND CAUSES OF DOMESTIC VIOLENCE

Although physical violence is often identified by the community as the main form of domestic violence, there are equally damaging non-physical behaviours that must be categorised as abusive and be identified. The categories of violence are:

1. **Physical abuse**

This includes directly assaulting a person like pushing, slapping, punching, kicking, choking, biting, shaking, inflicting burns, hair pulling, using a weapon, for example, belting, stoning, flogging with a stick, spearing etc.

2. **Sexual abuse**

Trying to force someone to have sex or take part in sexual acts against their will, or using an object or body part to penetrate the vagina, mouth or anus without permission or consent, injuring sexual organs, intentionally hurting someone during sex, forcing someone to have unsafe sex, without protection against pregnancy or sexually transmitted diseases, forcing someone to take their clothes off or remain naked against their will, being made to pose for pornography or being made to look at pornography against their will, being forced to watch, observe or take part in sexual activities, voyeurism or exhibitionism, criticising sexually or making sexually degrading comments or names and any other type of sexual harassment.

3. **Verbal and emotional abuse**

Verbal abuse includes the intent to humiliate, degrade, demean, threaten, coerce or intimidate, and includes the use of derogatory language or continual 'put-downs' to highlight a particular part of a person's being or their societal role. Consequently, the person may experience this abuse as an attack on their identity resulting in psychological harm. As a result, verbal abuse is closely related to emotional abuse. Emotional or psychological abuse can leave a person feeling that they are to blame for the problems in the family or in a relationship.

4. **Spiritual or cultural abuse**

It is when power and control is used to deny a partner or family member their human, cultural or spiritual rights and needs. It can also include using religion or culture as an excuse to commit particular abuses to justify the behaviour.

5. **Social abuse**

Social abuse and isolation is commonly used by perpetrators to separate the victim from supportive friends, family and community agencies. This has particular relevance for women in rural and remote areas where there is limited access to cheap transportation, where firearms are more common, there is increased isolation from neighbours and support services, and communities are small. This abuse may also be more prevalent for women from culturally and linguistically diverse communities.

6 **Economic or financial abuse**

Involves the unequal control of finances in a relationship or family and the deprivation of basic necessities.

Causes for Domestic Violence

There is no one single factor to account for violence perpetrated against women. Several complex and interconnected institutionalized social and cultural factors have kept women particularly vulnerable to the violence directed at them, all of them manifestations of historically unequal power relations between men and women. Factors contributing to these unequal power relations include: socio-economic forces, the family institution where power relations are enforced, fear and control over female sexuality, belief in the inherent

superiority of males and legislation and cultural sanctions that have traditionally denied women and children an independent legal and social status. Lack of economic resources underpins women's vulnerability to violence and their difficulty in extricating themselves from a violent relationship. The link between violence and lack of economic resources and dependence is circular. On the one hand, the threat and fear of violence keeps women from seeking employment, or, at best, compels them to accept low-paid, home-based exploitative labour, and on the other hand, without economic independence women have no power to escape from an abusive relationship. The reverse of this argument also holds true in some countries; that is, women's increasing economic activity and independence is viewed as a threat which leads to increased male violence. This is particularly true when the male partner is unemployed, and feels his power undermined in the household. Excessive consumption of alcohol and other drugs has also been noted as a factor in provoking aggressive and violent male behaviour towards women and children. The isolation of women in their families and communities is known to contribute to increased violence, particularly if those women have little access to family and local organizations.

Domestic violence against women is an age-old phenomenon. Women were always considered weak, vulnerable and in a position to be exploited. Violence has long been accepted as something that happens to women. Cultural mores, religious practices, economic and political conditions may set the precedence for initiating and perpetuating domestic violence, but ultimately committing an act of violence is a choice that the individual makes out of a range of options. Although one cannot underestimate the importance of macro system-level forces (such as cultural and social norms) in the aetiology of gender-based violence within any country, including India, individual-level variables (such as observing violence between one's parents while growing up, absent or rejecting father, delinquent peer associations) also play important roles in the development of such violence. The gender imbalance in domestic violence is partly related to differences in physical strength and size. Moreover, women are socialised into their gender roles in different societies throughout the world. In societies with a patriarchal power structure and with rigid gender roles, women are often poorly equipped to protect themselves if their partners become violent. However, much of the disparity relates to how men dependence and fearfulness amount to a cultural disarmament. Husbands who batter wives typically feel that they are exercising a right, maintaining good order in the family and punishing their wives' delinquency— especially the wives' failure to keep their proper place (WHO, 2001).

Women's Task Force Report, 2000, reveals that 'work related stresses, gambling and financial debt, the use of drugs/alcohol, and access to firearms have also been identified as additional causal factors for domestic violence, though they may also be linked to poor impulse control'. The Aboriginal and Torres Strait Islander Women's Task Force Report on violence indicated that alcohol often facilitated violence by providing a socially acceptable excuse for the negative behaviour.

Jejeebhoy (1998) is of the view that not only wife beating is deeply entrenched, but also people justify it. Thus, domestic violence is simply not a personal abnormality but rather it roots in the cultural norms of the family and the society.

Again, looking from another angle, it is found that many of the victims of domestic violence has either refused to name the perpetrator of the assault or attributed the injuries to other reasons (Daga et al., 1999).

Murthy et al. (2004) are of the view that number of family members, type of marriage and husband's education besides menstrual problems have significant influence on domestic violence.

Check Your Progress I

Note: Use the space provided for your answer.

1) Explain any three categories of domestic violence?

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2) What are the main causes of domestic violence?

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4.4 IMPACT OF DOMESTIC VIOLENCE

Violence not only causes physical injury, it also undermines the social, economic, psychological, spiritual and emotional well-being of the victim, the perpetrator and the society as a whole. Domestic violence is a major contributor to the ill health of women. It has serious consequences on women's mental and physical health, including their reproductive and sexual health. These include injuries, gynaecological problems, temporary or permanent disabilities, depression and suicide, amongst others.

Many forms of verbal and psychological abuse appear relatively harmless at first, but expand and grow more menacing over time, sometimes gradually and subtly. As victims adapt to abusive behavior, the verbal or psychological tactics can gain a strong 'foothold' in victims' minds, making it difficult for them to recognize the severity of the abuse over time. (National Centre for Elderly Abuse, 2005)

These physical and mental health outcomes have social and emotional sequelae for the individual, the family, the community and the society at large. Over both the short term and long term, women's physical injuries and mental trouble either interrupts, or ends, their educational and career paths leading to poverty and economic dependence. Family life gets disrupted which has a significant effect on children, including poverty (if divorce or separation occurs) and

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a loss of faith and trust in the institution of the family. These sequelae not only affect the quality of life of individuals and communities, but also have long-term effects on social order and cohesion (WHO, 2001). The physical health consequences of domestic violence are often obscure, indirect and emerge over the long term. For example, women who were subject to violent attacks during childhood are bothered by menstrual problems and irritable bowel syndrome in later life (WHO, 2001).

Domestic violence is the most common form of violence against women. It affects women across the life span from sex selective abortion of female foetuses to forced suicide and abuse, and is evident, to some degree, in every society in the world. The WHO (2007) reports that the proportion of women who had ever experienced physical or sexual violence or both by an intimate partner ranged from 15 to 71 per cent, with the majority between 29 and 62 per cent.

India's National Family Health Survey-III, carried out in 29 states during 2005–2006, has found that a substantial proportion of married women have been physically or sexually abused by their husbands at some time in their lives. The survey indicated that nationwide, 37.2 per cent of women 'experienced violence' after marriage. Bihar was found to be the most violent, with the abuse rate against married women being as high as 59 per cent. Strangely, 63 per cent of these incidents were reported from urban families rather than the state's most backward villages. It was followed by Madhya Pradesh (45.8 per cent), Rajasthan (46.3 per cent), Manipur (43.9 per cent), Uttar Pradesh (42.4 per cent), Tamil Nadu (41.9 per cent) and West Bengal (40.3 per cent). Even these alarming figures are likely to be significantly under estimated given that violence within families continues to be a taboo subject in both industrialised and industrialising countries (Ministry of Health and Family Welfare, 2006).

Gender-based violence imposes obstacles to the full participation of women in social, economic and political life. Illustrating the importance of this issue is the call of the UN Millennium Project Task Force on Education and Gender Equality for a global campaign on violence against women under the leadership of the UN Secretary-General. The UN Millennium Project affirms that 'freedom from violence, especially for girls and women' is a core right and essential to the ability to lead a productive life (UNO, n.d.). Gender-based violence directly jeopardises the achievement of the MDGs related to gender equality and the empowerment of women, infant and maternal health and mortality. It is in this context studies need to be conducted regarding the perspectives of women towards gender-based violence. A clear understanding of this will help in tackling the problem effectively. For decades, women's rights advocates and international agencies such as the United Nations Development Fund for Women (UNIFEM) have worked to promote a culture of zero tolerance for violence against women. An increasing number of communities, coalitions and countries are mobilising around the cause. Still the problem persists. It is the time to change the strategies to address the issue (UNICEF, n.d.).

Impact on Children

Children who have witnessed domestic violence or have themselves been

abused, exhibit un-healthy behaviour problems, including problems with their weight and their eating and sleep habits. They may have difficulty at school and find it hard to develop close and positive friendships. They may try to run away or even display suicidal tendencies.

4.5 STEPS TO DECREASE VIOLENCE ON WOMEN

Several efforts are being made to address the issue. Two important measures are legal measures and awareness campaigns targeting women asking them to develop zero tolerance. Gender-based violence is entrenched in the culture of developing nations; hence it is the time to change that culture. There is lot of awareness programmes conducted regarding the issue. In almost all the awareness programmes the contents are legal issues, counselling facilities and measures to take the support of the police. In large majority of the cases the audience is women. There is a need for change in this way of thinking and believing. In fact, the men and women are integral part of the society. Some of the steps to decrease violence on women are:

1. Attitude of men towards women

Most of the men are made to believe their masculinity is established only when they are able to achieve supremacy over the women in their lives. It is expected that the men must treat the women in their lives with dignity considering them as a separate individual having their own aspirations and choices in life.

2. Attitude of women towards men

In the process of socialisation itself women are made to accept the superiority of their male counterparts. She is always made to believe that the 'male members in her life will take major decisions regarding her life'. Women are actually responsible for their lives. It is here the change in the attitude is required.

3. Attitude of women towards women

Women are generally made to think that they are weak, they have to accept whatever their male counterparts decide. In many cases, the mothers and mothers-in-law will try to pass on such thinking's to their daughter/daughters-in-law. However, it is the responsibility of all like minded women to alter such attitudes and make the women to take responsibility for her life. More and more efforts must be made to bring changes in the said areas which will in turn reduce the rate of domestic violence.

4. Social Networks

Women's participation in social networks has been noted as a critical factor in lessening their vulnerability to violence and in their ability to resolve domestic violence. These networks could be informal (family and neighbours) or formal (community organizations, women's self-help groups or affiliated to political parties).

5. Quality of Family Life

Most important measure is to enhance the quality of family life. While discussing about the causes we have understood that individuals at times become violent due to some other stressors in life and in large majority

of the cases work life stress or economic factors. The most important things that are required in their life are proper life skills and right attitude towards life. It is in this area the people are in need of training. Hence efforts in this direction must be increased. Such changes will lay a strong foundation for healthy society where men and women treat each other with love, affection, respect and dignity. This is what is required for a healthy society. Not merely the absence of violence but the presences of positive emotions towards their female counter parts.

Check Your Progress II

Note: Use the space provided for your answer.

- 1) What are some of the steps to reduce domestic violence?

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4.6 LET US SUM UP

Women and men form an inseparable whole whether in a family, a society or a nation as a whole. Both need to work together to have a healthy family, healthy society and healthy nation. Hence efforts must be made to enhance the quality of life of the individuals which will in turn bring changes in many ways. Any other effort without doing the base work will address the issue at the surface level and the problem always persists underneath.

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