CHAPTER 3

Family Structure Based on Patriarchial Values
FAMILY STRUCTURE BASED ON PATRIARCHAL VALUES

3.1 The Strength of a nation is derived from the integrity of the family

The family is everywhere identifiable as a social group characterised by common residence, economic co-operation and reproduction. It exists in various forms and expresses different patterns of human life. Ultimately, family, as a social organisation and as a centre for the formation of religious and cultural values and personal and social identities of the members, weaves the fabric of any society.

Society has two domains of functioning. One is the public and other is the private. The private domain is considered as domestic and personal but still, as in the public domain, the functioning of private domain or the family too involves individual actions in economic and political activities. While the economic activity involves production, exchange and consumption of goods, the political activity is the co-ordination and control of the family members. The division of these activities among the members is carried out by the eldest male member.

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1Encyclopaedia Britannica, Vol 9, at 54 (1973)
the *Patriarch*\(^2\), who holds the overall responsibility of ensuring the well being of all the members of the family. He co-ordinates and maintains the economic, political, integral and cultural function of the family. Patriarchy in this sense should secure a safe protected and well maintained place to every member including those who are disabled, old and young. Equally, it also has certain negative manifestations. The issue of gender hierarchy within the family leading to less autonomy and less decision making power to the women especially when they are new entrants as wives coupled with the notion of family sanctity keep women in the family under the absolute control of men leading to abuses and exploitations. This reinforces man’s power over women and perpetuates gender inequality and discrimination. In such atmospheres, women are seen as objects rather than as humans of equal status.

In the above backdrop, abuse of women by men in the family of the later, most often by their husbands, and to the same degree, by the in-laws is one of the chief causes of injuries suffered by women all over the world. It is claimed that health care costs and hospitalization of women due to injuries caused by violence of spouse and his family

\(^2\)Paresz Patriae under Hindu Law means that King is the guardian of all who have no other protector. Similarly, the Patriarch under Patriarchy is the one who governs his family by parental right and it is always the power of the father.
members are a major part of health budgets literally all over the world³.

The systematic force and the values inherent in patriarchy is the fountain head of gender discrimination, which is woven into the fabric of all social, political, and economic institutions. The desire for supremacy, the psychological pleasure of power and male fear of female sexual and reproductive capacity are identified as the motivating forces of patriarchy. Laws governing reproduction, sexual assault, and pornography are viewed as extensions of patriarchal control over female sexuality, with violence against women reinforcing this control⁴.

Worst of all manifestations of patriarchy is the abuse and exploitation of women more specifically violence directed against their wives⁵. Violence committed against women are tolerated as familial consonant with the domesticity, or sacredness of the family privacy. Everything that happens between the four walls is kept as secret. The concept of domesticity understood as the family's awareness of itself as

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In the patriarchal family all power is vested in the male head who can do no wrong, who can use violence to get his way. Every family member especially girls and women must work for him, catering to his wishes and obeying his commands.

⁵R E Dobesh, R Dobesh “Violence against wives” New York Free Press (1979)
a precious emotional unit that must be protected by privacy and isolation from outside intrusion, sealed of the affairs of the family from interaction with the surrounding world.

3.2 Family Privacy

"A house is built by hands, but
A home is built by hearts"

The term 'Family' is defined according to its composition as nuclear or extended. Nuclear family consists typically of a married man and woman with their offspring, although in exceptional cases one or more additional persons may reside with them. An extended family consists of two or more nuclear families. This may be either patrilocal or matrilocal depending upon whether wife goes to live with husband or vice versa. In different cultural, political and social systems, various forms of the family exist. It was believed that a model Indian family would be a type of an extended family, a joint family existing in different forms according to caste, religion and ethnicity. This impression was found to be false according to the census reports in the sociological studies. According to a survey conducted, nuclear

household consisting of a couple and unmarried children are the largest family type prevalent in India. There is also single person household to an extent of 6 percent and family of childless couples to an extent of 5 percent and single parent household to an extent of 4.5 percent. The people of India project completed by the Anthropological survey of India shows that of the 46,355 communities/castes in India 41,22 communities have nuclear family as the predominant type. According to 1991 census report only 26.13 percent of the Indian family is urban based. The overwhelming majority is still rural.

Almost all individuals are members of the family during their lifetime and a significant portion of their activity take place within the context provided by the family. Family as such is a community in itself where members are related to each other in the most intimate way, bound together by the most personal aspects of life who experience amongst them the whole range of human emotions, who are united by the ties of marriage, blood, adoption or consensual unions. They share the same source of pleasure, the same joys, the same source of profound conflict. Degrees of agreement and degrees of violent disagreement are

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worked out amongst them. The same losses and the same grief are shared. One common aspect of the family life stressed in every definition and description is "the sense of belonging in the minds of the members of the family and to protect its privacy".

Therefore, Family is considered the most basic unit of the society and described as anchor in human lives. The year 1994 was celebrated by the United Nations as the International year of the Family with the slogan "Building the smallest democracy at the heart of society". Family is the natural and the fundamental unit of society and is entitled to protection by society and the state. Women play a critical role in the family and contribute heavily to its welfare and development of society.

Acquiescent with the facts that the institution of family satisfies certain universal needs of an individual like sexual satisfaction, procreation, economic survival, personal and cultural identification, child rearing and education, it is within the family that most fundamental appreciation of human qualities and values take place. Family as a social institution and part of the community maintain formal rules and regulations for the fulfilment of societal needs, and it plays a crucial role.

role in the socialisation patterns of the individuals. Social relations and social forces determine to a large extent the way women experience their lives and the patriarchal construction of society has unfortunately reinforced certain basic assumptions that are unfavourable to women, that stifle their self-expression and kill their self-esteem.

3.3 Marriage - an institution of human bondage

Since time immemorial the institution of marriage in human society has been considered sacred and sacrosanct by all religions. It is a part of universal development and the matrimonial bond is always considered as invaluable in the history of civilisation. Marriage could be defined or for better, understood according to the ideas held by different cultural groups. It can be understood as creating certain rights on the parties to the marriage such as mutual right to establish the legal parentage to their children, mutual right of monopoly to each other's sexuality, mutual right towards each other's services and to establish a socially significant relationship between them and their consanguine relations.

The evolutionary theory of marriage as propounded by

"Visa Raveendran, K G Rama. Supra. note 1. p 54"
anthropologists and ethnologists considered about the probable existence of the primitive society in which human bondage was according to biological needs. According to Morgan, marriage and family developed through defined stages from an original state of total sexual promiscuity to civilised monogamous marriage.

During the primitive period, when men lived as hunters ranging from place to place there was no special legal institution for the gratification of the physical impulse of human beings. In the lower stages of civilisation sexual desire was easily gratified since the freedom of an individual was virtually unlimited. According to George Toumbounos:

"The erotic feeling in its primitive form is in its essence inconstant and demands variations."

He argues that the natural impulses, that instinctually, attract men and women to each other cannot be suited to form the basis of a lasting union as in any socially regulated institution of marriage. As Morgan says, Mating is a fact of the biological order but marriage is the creation of human society. It is only with the transition from a

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13 George Tambours, Supra, note 38, at p. 79
nomadic life to agriculture when there was need for firmer organisation as that of family to provide a settled dwelling place and also when the cultivation of the soil required increased working power, it became an economic necessity to produce off-springs. Thus marriage is contracted in order to procreate progeny for the family. Marriage became a legally regulated relation of life and constituted a lasting union of the man and his wife. In essence marriage is an interpersonal relationship legally regulated for the deliberate purpose of raising legally recognised offspring. Marriage is also for the sake of life in common as Aristotle says, "The labour is divided between them, the husband has his tasks, the wife hers and thus they supply each other's wants each putting his or her special capacity into the common stock. There is then in this friendship between husband and wife which exists by nature, both usefulness and pleasure. The children too may be a bond between husband and wife. The children are a good possessed by both parents in common and property hold people together".

Promiscuity gave way to group mating producing what are

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14 Ibid
15 Nicomachean Ethics, VIII, 12, 7 ff. Ibid
called as communal families. In the earlier forms of mating, a child would know its own mother but not its father and descent would be first counted through females dividing people in matriarchal groups.

Promiscuity and group mating had then given way to individual mating producing the barbarian family which in turn had been succeeded by the marriage of one man to several women. This emphasised the importance of the senior male or patriarch who was accompanied by the tracing of descent through males and produced the patriarchal family. Marriages assumed social significance, because of the public participation in declaring the legality of the union. In some societies it involves union of two families or communities and develops relationship between the whole group of people.

There is also a different theory according to which the legal institution of marriage embodies a practice which existed not only among primitive men but even among apes and various other animals. According to them animal marriages were through natural instincts monogamic. It is only broken at a latest stage when men driven through economic motive wanted more manpower for agricultural and pastoral work acquired more wives and procured more children. Many wives and children formed a valuable property and it enhanced the position of the owner. Thus the primary function of a wife came to be that of a
lucrative domestic animal, and her sexual functional became subordinated. Men’s control over women was affirmed which gave power to her husband to divorce his wife, but not for a wife to leave her husband. In such a culture a man can have relationship with any women who is not a wife of another man. Only with the intrusion of religion infraction of marriage law was blamed on the ground of taboo or sin rather than of property. Sexual relation outside marriage was considered as an offence against the God and for the same reason divorce became in admissible. Marriage became a sacrament and therefore life long.  

3.3.1 Hindu Marriage  

Marriages according to Ancient Hindu sages satisfied two primary purposes viz. the acquisition of merit by the performance of religions duties and of progeny. Marriage is a status fulfilling a contract. It sometimes signifies the ceremony or event by means of which the common intention of a man and woman to marry is publically contracted, that is to say acknowledged and announced. A man is considered as complete only after marrying and a wife is called Jaya because the husband was born in the wife as her son.

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17P. V. Kane, *Supra*, note 47, at p 88  
Wife is indeed half of one's self. All available literature eulogises the Grahasthashrama. Marriage is considered as the most important of all samskaras. It is the union of two souls creating the strongest of all human bondage between a man and a woman. In the Tandya Mahabrahma, it is said,

"Heaven and earth were once together but they became separate" then they said let us bring about a marriage, let there be cooperation between us. The marriage rites as given in Asvalayana Grhyasutra is as follows.

"Leading the bride thrice round the fire and water jar, he (the bride groom) murmurs, "I am ama (this) thou art sa (she), thou art sa, I am ama. I am heaven, thou art the earth, I am the saman thou art the rk. Let us both marry here. Let us beget offspring. Dear to each other and having well disposed minds, may we live for a hundred years.

Jaimini establishes that husband and wife have to perform sacrifices together and not separately and Apastamba Dharmasastra emphatically says that there can be no separation between husband

\[19 \text{ Vol VII.10.1} \]
\[20 \text{ I.7.3-1.8} \]
\[21 \text{ VI. 1.17. ff} \]
\[22 \text{ II 6.13. 16-17} \]
and wife for since marriage they have to perform religious acts jointly.

The ideal of 'Ekapatnivrata Pativrata' is nothing but the institution of marriage in which both the partners practise life long mutual mental and physical fidelity. Pativrata is not a slave or sex object. She is exclusively devoted to her husband, is totally involved in him and his welfare. She shares his happiness, and unhappiness, her mind does not think of any one else in his place. In whatever situation he may be he is dear and desirable to her He is her closest friend and nearest relative as well as her collaborator in achieving dharma. But the necessary concomitant of this ideal is that of Ekapatnivrata

Itihasas say that, the wife is the husband’s best friend ordained by destiny and one’s dear wife is greater than one’s life. Without her he would find even heaven with its nymphs desolate. He would not even think of enjoying any woman excepting his own wife and if she were to predecease him he would remain chaste. According to Tiruvalluvar, the great Tamil Poet, Ekapatniivrata exemplifies noble manliness, 'real heroism' and perfect virtue

As Mahatma Gandhi said, marriage is a sacrament, love can marry only once. The primary aim behind the partnership in the life of man and woman as husband and wife is physical enjoyment. However Hinduism has tried to teach in its place, the practice of self-control or
say rather that all religions have done so. If the husband is Brahma, Vishnu and Maheshwar so is the wife. A wife is not a servant, she is a friend with equal rights, partner in Dharma. Each is the guru of the other. A husband and a wife have equal rights in what either earns. The husband earns with the wife's help even if she does no more than cook for the family. A wife has the right to live separately from her husband if he ill-treats her. 

3.3.2 Muslim Marriage

Marriage or Nikkah under Islamic jurisprudence can be better understood by knowing the kind of family relationship that existed during the period before the prophet and the improvements brought by the prophet during his life time.

In the beginning in pre Islamic Arabia, family relationship was regulated by the Arab tribal system, which accepted several kinds of sexual unions like, baal system of marriage wherein a man was a master of several wives or polygamous marriage, matriarchy wherein a woman continued to live with her kin entertaining the man in her tent, temporary union (nikahul-muta) where it was purely a personal contract

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23 The collected works of Mahatma Gandhi, Supra, note 20. at p 15, Vol 16 at 50.
founded on consent between a man and a woman without any
intervention on the part of the woman’s kin. There were also marriages
by capture and marriages by purchase. There were also practices of
concubinage with slave women. Whether the marriage was performed by
contract, purchase or by capture, the nature of the matrimonial
relationship between the spouses was one of owner and the property or
one of master and the slave. The husband was known as her “lord” or
“owner”, who was supreme.

The purpose of marriage is to legalise generation. It is a special
contract promoting basic human interest, when entered between two
adult members requires for its validity their legal consent. In all the
marriages equality of parties is stressed because the desirable ends of
marriage such as co-habitation and society. Friendship cannot be
completely enjoyed by persons who are not each others equal.

As to the capacity of the women, it is stated “in marrying,
the woman has performed an act affecting herself only and to this
she should be fully competent as being sane and adult and capable of
distinguishing good from evil. Whence it is that she is by law

14Zeenat Shaukat Ali, “Marriage and Divorce in Islam. An appraisal” Bombay,
Jasico Publishing house, Bombay (1987)
15Charles Hamilton, “The Hedaya Commentary on the Islamic Laws” Vol 1 New
Delhi, Kitab Bhawan, at 110
capacitated to act for herself in all matters of property and likewise to choose a husband, neither does a woman require her guardian to match her nor any other reason than she may be by that means avoid the imputation which might be thrown upon her modesty if she were to perform this herself, for all which reasons, a woman contracting herself in marriage is valid.

After the prophet, radical reforms were made in family matters. New family law as revealed by the Quran was an improvement in the status of women. The concept of marriage was turned into a relationship binding human beings in permanency with love. The emphasis was then on compassion, companionship and understanding. Only a permanent marriage contract ensuring love and security, not only to the couple concerned but also to the offspring was regarded as valid under Islam.

Such a marriage fostered both respect and responsibility in the marital status. As such, in a Muslim marriage, a man and woman enter into a Mithaq-e-Ghalid (a solemn pact) for life. Sexual relation was sanctioned between two individuals of the opposite sex with a view to the procreation of the human species, restraining men from debauchery, encouraging charity, promoting love and establishing lineage and fixing

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28 Ibid at 61.
descent. Muslim marriage is a civil contract only in its form which is non-ceremonial but it is based on mutual consent and the relationship it creates in substance is sacred. In several places the Quran speaks of the marriage alliance, making the point that marriage, one of the prime and original necessities of man, is made for the solace of life; that man and woman are created to live in marital bliss, tranquillity, and mutual understanding. The deep love in such a close bond is evolved through a union of life long affiliation, not merely a scintillating spark wearing away with time. This affection which should ideally permeate a Muslim marriage is described in several verses of the Holy Quran: "It is He who created you from a single person and made his mate of like nature in order that he might dwell with her (in love)."

And among His signs is this, that the created for you mates from among yourselves, that ye may dwell in tranquillity with them and he had put love and mercy between your (hearts)."

Islam considers a wife as most valuable in man's life. The world and all things in it are valuable, but the most valuable thing in the world is a virtuous wife. A virtuous wife is a man's best treasure, but Islam, a

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27 Ibid at 63.
28 Holy Quran 7:189
29 Holy Quran 10:21
religion of nature cannot ignore the natural metamorphosis of man and woman and man getting upper hand of woman and surpassing her in certain attributes and capabilities. As a wife, a Muslim woman does not lose her personal rights after marriage, whatever she brings with her as her property remains her own and whatever she secures after marriage also remains her own. In the life time of her husband, she is entitled to maintenance. But Islam is very strict as to the freedom and personal rights of its women and especially a wife. There was even the practice of inheriting a wife after the death of the husband. In the Jahiliyya when man's father or brother or son died and left a widow, the dead man's heir, if he came at once and threw his garment over her, had the right to marry her under the dowry (mahr) already paid by her deceased lord (sahib). Islamic injunctions have been also manipulated to suit male chauvinist interests regarding practice of polygamy and maintenance etc. A wife's foremost duty is to obey to the commands of her husband and be ever ready to satisfy to his demands. Her failure to discharge such duties would enable her husband to totally discard her from the matrimonial bond through unilateral divorce and her right to maintenance will also be stopped after her Iddat period. Muslim women

10 Zeevat Shaikat Ali, Supra, note 24, at p 134
are denied the right of socialisation and are excluded from public life due to purdah system. They remain dependent on their men and become fit only to be slaves at their homes.

Muslims in India are influenced by Hindu traditions. While there is conformity in ideals and beliefs derived from the Quran and Hadis, the general pattern of living, the social stratification, customs and attitudes regarding women have been greatly influenced by the dominant Hindu culture. Therefore the position of women in Indian Muslim society is influenced by Islamic injunctions and Hindu traditions.

3.3.3 Christian Marriage

As Hinduism or Islam, Christianity also stresses that marriage is a holy alliance till death, an alliance not broken in any crisis, sorrow or distress.11 The Indian and European Christian cultures acclaimed stable marriage as an ideal "man - woman" relationship. And it is said by Goethe that "marriage is the greatest achievement of European culture."12 Marriages are solemnised according to the marriage procedures mandatory to be followed such as the publication of notices on so many occasions and in so many places and the rules relating to the

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authority to issue marriage certificate shows that the matrimonial bonds among Christians have sacred values. As commented by Blackstone on the laws of England in 1765, "By marriage, the husband and wife become one person in law." This is explained in the words of a late 19th century lawyer as follows, "The creator took from Adam a rib and made it Eve; the common law of England endeavoured to reverse the process, to replace the rib and to remerge the personalities."

This means that the man and his wife are one single entity on marriage. The wife does not have authority over her own body, but the husband does. And likewise the husband does not have authority over his own body, but the wife does Therefore they are not to depart from each other's company.

The legal existence of the woman is suspended during the marriage or at least is incorporated and consolidated into that of the husband under whose wing, protection and cover she performs everything and is therefore called a feme-covert, foemina -viro. Cooperation is said it be covert- baron or under the protection and influence of her husband, her baron, or lord and her condition during

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4New Testament Psalms, 1 Corinthians, Ch 7, para 4
her marriage is called her coverture. Upon this principle of a union of person in husband and wife, depend almost all the legal rights, duties and disabilities that either of them acquire by marriage”.

A wife therefore makes a surrender, an absolute surrender of her liberty for the joint lives of the parties, she gives the husband the absolute right of causing her to in what place and in what manner and what society he pleases, gives him the power to take from her and to use for his own purposes all her goods, unless reserved by some legal instrument, and above all she surrenders to him her person’.

However the institution of marriage conferred upon women certain special rights which they could not possess otherwise. Marriage alone sanctions the sexual claims of women and it is only the marriage that confers upon them certain other rights such as legitimacy upon their offspring and their entitlement for economic support from their husbands. Marriage creates the family. The cherished goals of the institution of family as the smallest democracy at the heart of society”, seeks to promote the basic human rights and fundamental freedom

"William’s Cobelt, Advice to Young Men and to Young women, quoted in A Mac Fairsme, Marriage and Love in England 1300-1840 (1986)
'UN International year of the family 1994 and its objectives
among all individuals. It recognises individuals rights and responsibilities within the family.

The law relating to solemnisation of marriages of Christians came into force in India with statute 14 and 15 of Victoria Charter 40. It was supplemented by Act VII of 1852 and Act XXV of 1864, the later repealed by the Indian Marriage Act 1865. Finally, the Indian Christian Marriage Act 1872 was passed repealing the laws till then in force.

After Independence, the 1872 Act was adapted along with other laws in force by the Indian Independence (Adaptation of central Acts and ordinances) order in 1948. It was extended to the whole of India except the states of Travancore-Cochin, Manipur and Jammu and Kashmir. The Cochin Christian Civil Marriage Act 1095 (malayalam era) passed by the Maharaja of Cochin has been in force and was adopted under art 372 of the Constitution. The law relating to solemnisation of marriages of Christians at the commencement of the constitution consisted of the Indian Christian Marriage Act 1872, The Marriage Validation Act 1892, Cochin Christian Civil Marriage Act 1095. In 1952 Madras Christian Marriage Validation Act was passed to validate certain irregular marriages solemnised under 1872 Indian Christian Marriage Act. Government introduced in the Parliament a bill called the Christian Marriage and Matrimonial cause Bill in 1992, but it could not
be passed.

Accordingly both men and women are entitled to equal allocations of family resources. Both the married parties have the right to gender equality in marriage with respect to monogamy, role, power and status. Parenting and guardianship of children, ownership, title and matrimonial home and property, dissolution of marriage and division of matrimonial property. The concept of man as the head of the family shall be replaced by the concept of the couple jointly sharing the family responsibilities.

3.4 A wife in the family

A happy wife makes the home a paradise and an educated and empowered mother lays a solid foundation for the complete development of the young ones inculcating values and ideals for the human development in them right from the cradle and thereby consolidate unity development and integrity of the nation.¹⁴

In interpersonal relationships society, had accepted both the primacy of male authority and the ideal of marriage as a practical and emotional partnership within the matrimony. Most people establish their

¹⁴K. Ramasamy Forward to Book Kande Prasada Rao. The Law relating to marriages of Christians in India. Asia law House, Hyderabad
roles somewhere between the two with the emphasis for the most part on the latter. Rights of a wife in her pursuit to individual happiness is kept in balance with the rights of the family as a collective unit. The woman as the wife has to compromise on most of occasions, her valuable individual rights for the cause of the family. The very word 'woman' (old English wifmann) etymologically meaning a wife (or the wife division of the human race, the female of the species Homo) sums up a long history of dependence and subordination.

In fact, patriarchal customs and religious influence prefer to view the women members of the family in their traditional role as mothers and housewives. Often their individual human self is ignored. A wife feels herself divided between the desire to fulfill herself as an individual and to conform to traditional, societal and family expectations.

The wife is seen as her husband’s private property. After marriage, she is expected to give herself completely to his demands and commands. Culture throughout the world has given an inferior and dependent status to wives. Roman law and English law considered that the rule of a husband over his wife was despotic, woman was to be treated like a slave, and a Chinese proverb said, Listen to the counsel of

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"Shaikh M H. Kidwai, Supra, note 33 at p 73"
your wife but act against it. In Arabia a woman after the death of her husband was treated just like another piece of property and her own son inherited her as his wife. Common law gives up the wife so thoroughly into her husband’s power that a woman who comes to the alter young, confiding, beautiful and rich may be compelled by brutal treatment. For this the law gives her no redress to quit it and after a dozen years she becomes an outraged woman, with a ruined fortune and wasted frame. “Wives are young men’s mistresses, companions for middle age and old men’s nurses” was Francis Bacon’s opinion in the 17th century. Most of the beauty of women evaporates when they achieve domestic happiness at the price of their independence and the dread of loneliness is greater than the fear of bondage. Merging her identity totally with her husband and evolving into the submissive, docile upholder of the family’s dignity became the twin doctrine of true womanhood.

Our films propagate all myths - the all forgiving woman taking the husband back despite all his extra marital flings, the battered wife worshipping the drunkard husband, the almighty sway of the

"Ibid at 18."
mangalasutra⁴¹ and its awesome importance as fact and symbol, the self sacrificing childless first wife arranging a second marriage for her husband watched approvingly by beaming in-laws⁴²

It gives an inferior role and dependence economically, physically, socially and more emotionally. Her social status is dependent upon her marital status. There is still a stigma attached to a woman who is divorced or separated from her husband. She looses her self to others in the family as she begins to see herself as a helpless victim unable to change the course of events.

All religions say a woman must be purer than purity. Patience and all sufferings and ever chast, for the honour of the man and his family. Hindu scriptures has given importance to a woman only as a wife, mother, or daughter and as wife, she is a nurse, helper, housewife and these roles have been sanctified. In Hinduism women are left entirely at the mercy of the man and have no rights and privileges. It insists in complete merging of the wife in the husband.

Apastamba Dharma Shastra on the duties of the wife says that,

⁴¹ Mangalasutra otherwise also called as "Thali" is a golden locket fixed in tamarind pasted thread and is tied by the bridegroom around bride's neck at the most auspicious time of the marriage ceremony. It is the token of her married status living with her husband.
It shall be the duty of the wife to obey her husband and honour him as God and not to hate him even if he be impotent, devoid of a limb or diseased, since he is the God of woman.

According to manu that a virtuous wife should serve her husband as if he were a God whether he be of evil character of lustful or devoid of good qualities.

About the relationship between husband and wife, Manu Smriti provide in three verses the following:

Husband receives his wife from the Gods, he does not wed her according to his own will, doing what is agreeable to the Gods, he must always support her while she is faithful.

Let man and woman, united in marriage constantly exert themselves that they may not be disunited and may not violate their mutual fidelity.

Let mutual fidelity continue until death. This is the summary of the highest law for the husband and wife.

The above verse of Manu about the mutual trust, bilateral respect and sympathetic understanding is still inspiring the Hindu population.

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"Manu IX: 95
"Manu IX: 102
inspite of legal reforms introduced in the matrimonial law in the later years.

Wife is taken as the Sakha (friend) of the husband at the time of marriage. Marriage creates an inseparable bond between the husband and the wife and the Shastras does not envisage the institution of any legal proceedings between husband and wife. Husband and wife must not lodge a plaint against one another, with their relations (Kula) or with the kind, when a quarrel has arisen through jealousy or scorn.

3.5 Socialisation of women in their childhood

Socialisation refers to the whole process by which a new born human child is trained to fit into group life. It teaches the person the values and norms of culture. It is an ongoing process by which a person acquires an identity of her/his own in community. Socialisation ensures the continuity of social life across generations. Various factors namely the physical environment, physiological inputs, the emotional inputs and the support and the aids to intellectual development in which a child is reared have great impact on the socialisation patterns.

Family life like political life is also about the power. Among the

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44 The Seventh step of the Saptapadi, narrated. Thou who place the seventh step by my friend and be united to me. We shall secure many sons who would live long.
members of the family, women as vulnerable members are relatively powerless due to their low socio-economic status in the patriarchal family structure. Their status and self-image varies at different stages of demographic events namely birth, puberty, marriage, parenthood, widowhood and death. Throughout, women are at a disadvantage with regard to food, medical services, leisure, education, or access to skill formation. They are socialised to accept this inferior role right from their childhood.

The physical or the biological development and physiological influence along with the cultural influence on which a girl is brought up decides what she is later in life. The girl in her childhood, adolescence and young adulthood periods is moulded in such a way that she acquires all familial norms. Till the 11 years of age, from the stage of toy selection to all her day to day activities a girl child is taught to be soft, gentle, submissive, tolerant etc. Thereafter until 17 years she experiences a period of physical and physiological change. An adolescent is in moral danger during this period because she is with a child's mind in an adult body.

Certain goals like to getting married, become mother and starting a family, to be achieved by girls in their life time are fixed by culture. Grownup girls make certain assumptions about themselves such as, the
goal of fulfilling the needs of others rather than self-fulfilment. They have no individual entity and can not survive independently. Only marriage and motherhood make them complete women and they must deny their emotions and feelings and always behave in a self-negating and responsible manner.

Familial gender socialisation moulds children to adapt themselves to gender roles, gender hierarchy and to accept gender justice or injustice from the family environment wherein the exploitation and oppression of some members by others especially women by men, young by the old, even elders by the youngers take place. There is neglect, abuse, oppression or violence against the less abled members by the able members.

3.6 Girl Child: Neglect and discrimination against women begin at birth

The girl child of today is the woman of tomorrow. The skills ideas and energy of the girl child are vital for full attainment of the goals of equality, development and peace. For the girl child to develop her full potential she needs to be nurtured in an enabling environment, where her spiritual, intellectual and material needs for survival, protection and development are met and her equal rights safeguarded. Yet there exists world wide evidence that discrimination and violence
against girls begin at the earliest stages of life and continue unabated throughout their lives.\(^4\)

A daughter is not greeted at birth. When a woman happens to give birth to two or three daughters she is subjected to humiliation, sometimes even abused by her husband and in-laws. The girl is considered as a lesser child in the society. She is a victim of social stigma. Instances are not lacking where parents leave the newly born female child at the door-steps of some orphanage or hospital or in the park and say goodbye to the child for ever. The media continue to report about the increased incidence of female foeticide and infanticide. Scanning the pregnancy and killing of babies at birth on knowing their sex through medical tests like amniocentesis has resulted in an imbalanced sex ratio. In China, in the last century, female infants were dumped on the streets so that sanitation workers can collect them the next day. The practice of female infanticide persisted in the middle ages in Europe. Hilarian in the year 1 BC said to his wife, "If it is a girl expose it."\(^5\) In India female infanticide is reported in Tamil Nadu, Bihar, Rajasthan and in resettlement colonies in New Delhi.

\(^4\)Beijing Declaration, Supra, note 54, at p 93, para 31

Demographic reports accounts for millions of missing women in India because of such a practices of infanticide and other neglects and abuses against women. A report by UNICEF titled "The Progress of Nations", says that due to the disappearing women factor India has 10 percent fewer women than would be expected in demographic terms*.

Thus the rejection of the girl child begins even before birth. After birth the female infant is again discriminated in all aspects of her life. The nutritional level of girls when compared to boys is much lower. In poverty stricken families female children become the worst affected and such malnutritioned babies when grow become weak and sick mothers again delivering sick babies. Girls are discriminated in the field of education and in the work place and they are increasingly employed in hazardous industries. Childhood is not a period of fun and learning for them. Learning for girl children is different. Since the time of Manu, women is sphere of action lay mainly at home. Their functions does require knowledge and they need not be educated but only are to be trained in the art of house keeping. Even Mahathma Gandhi who wanted women to be educated favoured a different type of education which

*Sharmila Joshi, Dowry main cause for female infanticide. The Hindu. May 16 at 13 (1995)
would help girl children to become good house wives. According to him, men and women are equals in life, but their functions differ it is woman's right to rule the home. Man is master outside it. Woman should be taught the management of the home ... such educated women think independently about the important questions affecting their sex and find it quite easy to solve many a knotty problems. Gender-based educational process, including curricula, educational materials and practices, ... reinforces existing gender inequalities. A woman is taught to be a tough and strong person but only for the benefit of her family and home and not for her own defence. Self restraint and self denial are glorified as deserving qualities. Patience and tolerance, obedience towards elders, especially to other men and mental readiness to sacrifice for her family or loved ones are inculcated in the mind of a woman from her younger days. The socialisation of girl child is mainly from her mother as girls are kept in close contact with mothers mostly and hence these children absorb elements of women's role as wives and mothers through contact with their mothers. It is normally the mother who dictates standards of behaviour for little girls and they lay down

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10 Beijing Declaration, Supra, note 54 at 93, para 261
high standards of feminine behaviour.

In most of the families the religious values restrict women and they have hardly any right to act on their own. These values continuously suppress the personality of girls. Wherever a girl goes she is hedged in by many of the "do"s and "don't"s, all of which have the so-called religious sanctions or are supposed to be supported by social mores. Isolating girls during certain periods as periods of impurity, denial of certain privileges in performing religious and other familiar functions hammers on their heads all the time that they are inferior and impure creatures. Every girl seems to hear her own echo "you are a girl!" and feel suffocated in the largely patriarchal system where she loses her identity as a human being. This is not to conclude that parents have no love for their daughters. On the other hand, they feel a daughter means a source of anxiety all her life to them. It is the great concern felt for a daughter's well-being in life and her character, that make parents anxious that no daughter be born to them. Society expected a very high moral rectitude from women and any lapse is taken very seriously. The custom of marrying girls in their early childhood was considered a way to protect the modesty of girls and this practise
is still followed in some parts of the country. With an enormous difference in age between the husband and the wife and sometimes with an old man who has lost his first wife marriages are celebrated. The result of this is that usually the husband dies long before his wife and even before she has attained the age which would allow him to exercise his rights as a husband. Infant widowhood and child-widowhood became the curse of those families. The word widow denote condemnation and her role is associated with inferior status and social rejection and this would thereafter affect her self-esteem. Girls are told to be strict as to their behaviour and to protect their modesty by not mixing with male members of the family and with any person who is an outsider. Normal socialisation is denied to these girls who grow as decorated doles but with no social awareness.

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