Block 6

**RELIGION**

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UNIT 1 SOCIAL CONSTRUCTION OF GENDER

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1.1 INTRODUCTION

Religion is a social phenomenon believed to exist in some form across societies and cultures over the course of human history. We refer to it as a pre-eminently ‘social’ phenomenon because it is experienced by human beings as a collectivity in all parts of the world. The unit discusses the interface between religion and women’s engagement with social reality. It looks at how religion as a social institution constructs women’s subjectivity and regulates women’s lives within the spheres of family, marriage and kinship. You would have read about the construction of gendered bodies through religion in your first semester course MWG 004: Gendered Bodies and Sexualities. In this unit, we will try to achieve a sociological understanding of the ways in which the subjugation of women is linked to the regulation of women’s behavior through religion. The unit will focus on the two major religions of India: Hinduism and Islam with brief reference to other religions as well.

1.2 OBJECTIVES

After going through this unit, you will be able to:

- Define and discuss religion in relation to gender;
• Analyse how religion and gender construct each other in a social space; and
• Critically look at the representation of women within religion.

1.3 DEFINING RELIGION

Religion influences the manner in which we make sense of the everyday world and the way in which we relate to other human beings. Religion covers the entire span of human life, right from birth to death and helps individuals and groups to spell out the goals of their lives and the path to take in order to realize these goals. It contributes to social cohesion and keeping intact the values and identity of groups and communities. Religion refers to the most fundamental questions of human existence, and that is why it has a great deal of emotional resonance to followers.

At the centre of almost every religion is the idea of the ‘supernatural’. The supernatural refers to forces that are infinite, omnipotent, extraordinary and cannot be captured by mere human understanding. Religious beliefs are systems of knowledge about the ‘divine’ and its relationship to human beings. Religious traditions and customs seek to give a shape and form to this relationship and sustain it over time. Beliefs and rituals are thus an integral aspect of religion. Rituals are a series of symbolic actions which have a specific meaning in relation to religious beliefs, and may be performed either individually or collectively. Religion is also a source of ‘moral values’ for the community. Not only does it prescribe how humans must behave in relation to the divine, but also how human beings ought to behave towards each other. These moral prescriptions are governed by ideas of what is ‘right’ and ‘wrong’. To sum up, religion is a system of moral prescriptions, beliefs and practices, which aids a community of believers to communicate with the supernatural or the extraordinary (Unit 1,’Sociology and the Study of Religion’, ESO-15, IGNOU, 2004).

Religions include local systems of belief which are culturally specific and have only a small group of followers, such as tribal religions and also complex philosophical systems with elaborate traditions, scriptures, and a large following which spans cultures and nations. Christianity, Islam, Judaism, Hinduism, Buddhism are examples of such ‘world religions’.

The Universality of Religion

The study of religion is a challenging task as it involves matters of individual and collective belief and sentiments. Scholars of the humanities and social scientists alike have found it to be an extremely interesting area of enquiry. The Greek scholar Herodotus, who is regarded as the founding father of the study of history, noted way back in the 5th century B.C. the similarities amongst the gods and goddesses of fifty societies he travelled to, and
pointed out evidence of the diffusion of religious worship. Sociologists define religion as a cultural system comprising shared rituals and practices that provide meaning to what we call sacred and supernatural (Giddens, 2006).

Scholars have offered many theories to account for the universality of religion. Carol R. Ember and Melville R. Ember (1977) identify the important needs or conditions that have provided the building blocks for theorizations about religion.

a) **The Need to Understand:** One of the first social scientists who put forward a theory regarding the universality of religion was Edward Tylor (1832-1917). Tylor’s well known theory of ‘animism’ (1871) suggests that the earliest form of religion originated in humans’ belief in spirits and souls which manifest themselves in dreams. It implies a dual existence of the physical, visible body and the psychic, invisible soul which, after the death of the body, continues to exist. Scholars like R.R. Marett argued that it was the belief in impersonal supernatural forces that preceded the belief in spirits. Human characteristics are given to supernatural events which are otherwise incomprehensible. Thus, a natural disaster or calamity which is beyond human comprehension is given supernatural causality, as human beings need to understand why things happen the way they do.

b) **Reversion to Childhood Feelings:** Sigmund Freud (1856-1939), the father of psycho-analysis, located the origins of religion in act of ‘parricide’ (killing of the father) by young males in early human groups. Freud speculated that these early rituals gradually developed into systems where the god or deity was constructed on the lines of the powerful father. Social scientists however completely reject Freud’s explanation as it is not based on any tangible evidence.

c) **Anxiety and Uncertainty:** Social anthropologists like Bronislaw Malinowski (1884-1942) held that religion had a functional relevance as it helped human beings to deal with stress and anxiety, which are part and parcel of human existence. However advanced our knowledge and skills, we still have no answers to the fundamental questions of life and the ultimate destination, death. Through religion, people find comfort and solace and are able to ‘conquer’ death by their belief in the after life. They attempt to connect with their loved ones even after death through rituals and ceremonies. Psychologists like Carl Jung, William James, Abraham Maslow and Erich Fromm have also highlighted the role of religion in giving human beings a sense of values, resolving inner conflicts and attaining self-actualization.
d) **The Need for Community:** While the above explanations highlight the importance of religion, sociologists like *Emile Durkheim* (1858-1917) studied religion as a form of social institution of the society. His work is based on the study of totemism in Australian Aboriginal societies. According to Durkheim, this was the simplest and most basic form of religion. Durkheim suggested that religion arises out of our experience of living in social groups. Beliefs and practices make people feel connected to the society, enhance feelings of community, collectivities and belongingness and affirm our place in the overall scheme of things. He defines religion in relation to the distinction between the sacred and profane. Sacred and profane are different realms; sacred objects and symbols are ‘apart from the routine aspects of existence’, or the profane world of everyday existence (Giddens, 2006, p. 538, original emphasis). In this sense, totem is the symbol of sacred, therefore, eating a totemic plant or animal is prohibited in daily life. The totem symbolizes the group or the clan and therefore, the object of worship is the society itself. Society predates and outlives the individual and thus has an identity and integrity ‘*sui generis*’, more than the sum of its individual parts. Religion involves ritual activities for which groups meet and affirms a sense of solidarity and collectivity (Giddens, 2006).

An alternative view is provided by *Karl Marx* who connected religion with social inequalities and power. His famous phrase ‘religion is the opium of people’ makes religion an ideological construct. Religious values and beliefs are used as tools to justify social action. To Marx, “religion defers happiness and rewards to the after life, teaching the resigned acceptance of existing conditions in this life. Attention is thus diverted away from inequalities and injustices..............”. Ultimately, the growth of class consciousness and revolution of the proletariat can overthrow the inequality.

(Giddens, 2006, p.537)

*Anthony Giddens* (2006) sums up the primary elements of religion, namely:

- Religion is a form of culture;
- It involves beliefs that transform into ritualized practices; and
- It provides a sense of purpose and meaning to the community and society at large.

Classical theories about the universality of religion paved the way for a vast body of literature across the humanities and social sciences exploring the various facets and dimensions of the religious experience, rites, rituals, religious beliefs and values, religious practitioners and communities and the manner in which religion intersects with other social institutions. As students of gender studies, it is of great relevance to us to understand how religion contributes to the social organisation of gender and the enforcement and maintenance of gendered norms and order in the society.
1.4 WOMEN AND RELIGION

1.4.1 Gender Constructions, Symbolism and Religion

In her insightful essay entitled “Woman” as Symbol and Women as Agents’ (1999/2009) Susan Starr Sered makes the important point that compared to other social institutions, religion has ‘behaved’ differently with regards to women’s empowerment and gender equality. She makes a distinction between ‘Women’ as agents and ‘Woman’ as a symbol. “Women as agents can demand rights, enter negotiations, and protest unfair treatment.......The second set of issues centers on Woman—a symbolic construct conflating gender, sex and sexuality, and comprised of allegory, ideology, metaphor, and fantasy. In religious interactions these two ontologically distinct categories tend to be conflated. Woman as a symbol is often associated with some of the deepest and most persistent theological and mythological structures as religious traditions, and these structures imprint the lives of women involved in those traditions” (Sered, 1999/2009, p.10). You have already read about the symbolic representations of women’s body in the Unit on Myth, Religion and Body of Block 4, MWG 004. Here, you will learn about the social organization of women’s lives within the institution of religion and to see how social structures and practices like forms of marriage are informed by religious beliefs and values.
There is a strong pressure exerted by religion upon women through the processes of socialization and enculturation to conform to the notion of ‘ideal’. In the context of Indian society, for example, we see how idealized notions of womanhood are communicated through myth, stories, songs and proverbs. The seminal essay by Leela Dube (2001) on the Socialization of Hindu girls in Patrilineal India brings out this facet in rich detail. The lives of women are thus shaped and informed by the cultural understandings of woman. Sered Elaborates how the “fuzzy meeting points of symbol and agency (Woman and women)” are the sites of greatest and possible conflicts (1999/2009, p. 11). She writes:

"From the point of view of patriarchal institutions, women are problematic symbols because they always “threaten” to turn into agents. For example, in Middle Eastern countries, virginity is an important symbol of a family’s honour, but one that can be ruined through the agency of the woman on whose body that symbol is imprinted. Because women know themselves to be agents, many cultures do things to women’s bodies to encourage or force them to internalize an understanding of themselves as symbols” (Sered, 1999/2009, p. 11). There are constructions of ‘bad’ and ‘evil’ woman in the religious prescriptions and cultural mores across different societies. As we have read in the earlier blocks of this course (Block II: Family and Block IV: Caste), women symbolize the ‘honour’ of the family, caste and community. It is important to bear in mind that the creation of symbols is linked to power and access to social and cultural resources.

The concepts of ‘women’ as social agents and ‘woman’ as idealized cultural symbol provide a useful framework to understand how gender is socially and culturally constructed in the realm of religion. In the following sections we shall read about how women are constructed in the Hindu tradition as well as in Islam. It is important to situate these religious constructions against the backdrop of a social system which is highly stratified. The notions of female ‘honour’ and ‘shame’ are linked with kinship, systems of marriage and the subordination of women in all fields of activity, economic, political, educational and religious, which you have already read and reflected upon throughout this course.

Let us briefly reflect upon Hinduism and Islam in India in order to analyse gender constructions within religion. ‘Hinduism’ as a subject has been in focus in sociological enquiry either through textual interpretations or other methods. Therefore, the sociological understanding of Hinduism “lie at the confluence of its books and world views” (Dumont, c.f. Madan, 2011, p.25). According to R. N. Dandekar, Hinduism has persisted over centuries as a distinctive religious identity (Madan, 2011). Analyzing the work of different scholars, T. N. Madan describes Hinduism as essentially a cultural tradition and thus a legitimate field of social enquiry.
Islam is a ‘world religion’ with followers across the continents. Islam “as social reality resides in the dialectic of Qur’anic traditions and the lived traditions” (Madan, 2011, p. 46). The Qur’an maintains, “Islam is a particular form of submission (al-Islam) to god’s command and guidance” (Madan, p.46). In India, Islam played an integral role in shaping history, politics and culture. India has been a place where many different strands of thought and belief have come together and assimilated over the centuries. Let us now examine how gender is constructed within the Hindu and Muslim traditions, and how these two traditions have shaped the everyday life of ordinary women.

1.4.2 Construction of Gender in Hindu Tradition

It is difficult if not impossible to identify the ‘central ideas’ or universal beliefs of a religious universe as wide and diverse as Hinduism. Susan Wadley’s (1977/1988) examination of ‘Women and the Hindu Tradition’ draws on a wide variety of textual sources including ancient and modern scriptures and mythology to paint a picture of the ‘ideal’ woman. She begins her essay with a consideration of the nature of femaleness as portrayed in Hindu ideology. The female in Indian society presents an important duality: on the one hand she is benevolent, generous, fertile; on the other, she is depicted as malevolent, aggressive and destructive. In her benevolent form, she brings good fortune, good harvests, well-being in the world; when malevolent, she brings in her wake misfortune and ruin. Wadley (1977/1988) explicates this dualism with reference to the two facets associated with woman, namely, ‘sakti’ (energy, power) and ‘prakriti’ (nature, the undifferentiated matter of the Universe).

Sakti is the creative principle that defines divinity and the powers of creation and it is a female principle. Therefore, the energy that drives the Universe is female in nature. Prakriti is the second facet of femaleness. Nature is the counterpart of the ‘Cosmic Person’ or ‘purusa’. While Prakriti represents the undifferentiated matter of nature and purusa is the spirit, the code. The unity of purusa-prakriti underlies the beliefs regarding biological conception. The woman is the earth or field. The ‘hard’ substances that structure the body like the bones and nerves are contributed by the male while the female contributes the ‘soft’ substances like flesh, blood and skin. Women represent nature and men structure or culture. However, women also represent Sakti or power/energy, and this combination of nature and energy is potentially powerful. Wadley refers to the popular myth of Kali’s wild dance after she vanquished the demons. Siva was requested by the gods to stop her. He lay down at her feet. When Kali was about to step on him, she suddenly realized that it was Siva her husband upon whom she was placing her feet. She stopped her dance and thus the earth was saved. These constructions in the myth represent the inter-connections that exist between symbol, women, nature and energy. As the female represents both
power (sakti) and nature (prakriti) she has the potential to eradicate the evil. According to Wadley, understanding ‘sakti’ and ‘prakriti’ is the framework to analyse the gender relations in the society.

We see the manner in which this ideological construct translates into social practices, for example through practices like pre-pubertal marriage, seclusion and segregation of the sexes, strict adherence to rules of hypergamy and endogamy and the social sanctions and strictures against women. Uma Chakravarti (1993) explains how caste and gender hierarchies are the cornerstones of the ‘brahmanical’ social order and how the rigid control of female sexuality is essential in maintaining patrilineal succession as well as caste purity. She elaborates upon the ideological constructs of Brahminical Patriarchy which demonises female sexuality and exhorts men to guard their wives closely. The ideology of ‘stridharma’ or ‘pativrata dharma’ came to be internalized by women who were socialized into regarding it as the ideal code by which they were to lead their lives. “The actual mechanisms and institutions of control over women’s sexuality, and the subordination of women, was thus completely invisibilised and with it patriarchy was firmly established as an ideology since it was ‘naturalised’”(Chakravarti, 1993, p. 583). Tarabai Shinde attacked the entire social pattern of life laid out for women. She questioned the notion of stridharma. As Gail Omvedt (1995) writes Ramabai and Tarabai were the early feminists who accepted puranas as stories and analyzed them from a gender perspective.

Shalini Shah (2012) elaborates upon the ideal of pativrata dharma emphasizing the manner in which it robbed women of their individuality and made selfless service of their ‘lord’ their sole purpose for living. While in the Vedic texts, woman is depicted as ‘patni’, it is in the epics that her role as ‘pativrata’ is systematically elaborated. The epics became the vehicle through which pativarata dharma became the duty to be performed by the wife (p. 80). Elaborating upon the role of this ideology at the socio-structural and psychological levels, Shah (2012) notes that it was used to ensure compliance with patriarchal norms.

1.4.3 Representations of Women and Social Practices

We will now consider how these symbolic depictions of ‘Woman’ translate into socialization practices which set the normative standards and shape ‘proper’ behaviour of women in patriarchal society. For this purpose we shall refer to the well-known essay by the sociologist Leela Dube, ‘On the Construction of Gender: Socialization of Hindu Girls in Patrilineal India’ (2001), which you have briefly studied in the unit on Labouring Body, MWG - 004: Gendered Bodies and Sexualities. Dube locates socialization practices within the intertwining systems of family, kinship, caste and religion. Religious
rituals and practices are laden with meaning; they structure relationships between individuals, communities and of course, the gender relations. Dube explains how religious ceremonies like Durga puja in Bengal and Gauri puja in Katnataka, Maharashtra and other regions convey the message that the natal home is only a temporary residence for the young girl; her ultimate destination is in the home of her husband. The goddesses are welcomed to the natal home with joy and sent off with tears and a heavy heart. The transfer of the young bride to her husband’s home is also accompanied by a variety of wedding rituals.

Purity as a value has great salience. Pre-pubertal girls (kanya) are endowed with this quality and thus given an important place in rituals in various communities. The custom of worshipping and ritual feeding of virgin girls (kanya puja) is widespread. The situation changes dramatically once she attains puberty. The onset of puberty is traditionally marked by various rituals, feeding of special foods and a ritual bath in many parts of peninsular India. Certain restrictions are placed on the girl’s everyday activities as menstruation is believed to be ‘polluting’ or ‘impure’. The girl’s changed status places her in a situation of great vulnerability until the time she is ‘safely’ married and sent to her conjugal home. The management of a girl’s sexuality is thus tied to her future as a wife and mother. There are a great many injunctions and restrictions pertaining to the manner in which a girl is to conduct herself with regard to her speech, dress and deportment.

With regard to education and training, Dube notes there is gendered division of labour and training in skills and tasks in Indian homes irrespective of socio-economic background and social status. She also notes there is inculcation of the value of ‘sewa’ or service in girls, specifically with reference to the serving and distribution of food. Dube writes: “the structuring of women as gendered subjects through Hindu rituals and practices is fundamentally implicated in the constitution and reproduction of a social system characterized by gender asymmetry and the overall subjugation of women” (Dube, 2001, p.113). The symbolism of Hindu marriage rituals designed to define, interpret and rationalize the coming and going of women between varnas. For instance, kanyadan symbolizes the gift of a virgin woman. In this sense, women are seen as transmitters of varnas/lines and never accepted in the family as the carriers of a line (Chakraborty, 2003, p. 29). Endogamous marriage practice has its reference in Dharmashastras and Ramayana. In Kamban Ramayana, Lord Rama declines the marriage proposal of Surpanakha with the initial argument that a brahmana woman cannot marry a Kshatriya man which is a ‘pratilomic’ form of marriage as you have read earlier in the course. Similarly, in the Valmiki Ramayana, it is stated that “Sita was duly handed over to Rama in marriage according to the Brahma form” which is the highest form of marriage types (Chakraborty, 1993, pp.32-33).
The social structures in which women are constantly engaging with emerged from prescriptive texts and eventually social norms such as endogamy and arranged marriage are seen as normative and appropriate structures to maintain the social order. However, this is not to say that women are totally devoid of agency or are passive victims. “It is within these limits that women question their situation, express resentment, use manipulative strategies, utilize their skills, turn deprivation and self-denial into sources of power, and attempt to carve out a living space”(Dubey, 2001, p.113).

There are women who have reinterpreted traditions and created a space for themselves. Gail Omvedt (1995), cites the case of Kishanin Sabha, a woman’s front in Maharastra that fought for women’s land right, attacked male polygamy and asserted that women should be respected even if they did not produce children. Within this alternative discourse of tradition, “Sita was viewed as a woman who acted on her own.............on her own decided to go” (Omvedt, 1995, p.31).

Differential locations on the axes of caste and class play a major role in determining the life chances and opportunities available to women. Women who labour in fields and factories, hawk their wares in rural and urban marketplaces, assume the role of the head of the household when menfolk migrate in search of jobs would appear to have been ‘liberated’. However, they are subjected to oppression of another kind, namely poverty, insecurity and lack of support structures to tide them through difficult times. The ‘stay at home’ wife enacting the traditional role is thus seen as occupying a higher status than the labouring woman who has to struggle to make both ends meet. This further reinforces the belief in ‘separate spheres’ and the ideology of female seclusion from the public domain.

The following section examines the social organization of gender relations in the Muslim community.

1.4.4 Islam, Women and Social Practices

The anthropologist Patricia Jefferey (1979/2000) undertook a study of women of the community of ‘pirzade’ who live in the vicinity of the dargah or shrine of Hazrat Nizamuddin Auliya in Delhi. Since the mid 1970s when the book was written, the situation of Muslims in India has come into even sharper focus. Even though women and men have equality in the religious sphere, they have different functions in society. For moral and social health and well-being, it is expected that women will primarily concern themselves with home and family, while the man will be the bread-winner. Jefferey cites the writings of Maulana Maududi, a theologian from the subcontinent. Maududi is concerned with the ‘laws of nature’ and the social system of Islam, which he believes is founded on the social separation of men and women.
Seclusion and purdah system are not only central to Islam, but such practices can be found in many societies. Purdah system is central to the sex role allocation and is a salient feature of the social structure. According to Hanna Papanek (1971), it is closely associated with the Muslim society but different variants of purdah system exist among Hindu groups also. Purdah system relates to the aspects of status, division of labour, social dependence and social distance.

According to Papanek (1971), purdah system is based on two principles: 'separate worlds' and 'provision of symbolic shelter'. Separate worlds relate to the idea of division of labour between women and men. The symbolic shelter describes the conflict between the kinship unit and the outside world. Purdah system places woman as an important unit of the family and the vulnerability of women increases when they move outside the family. Within Islam, the degree of seclusion varies across countries and has a different impact on the women. It places restriction on social interaction between women and men outside certain well defined categories. Muslim purdah system doesn’t apply to the nearest kin but Hindu purdah system is based on the rule of avoidance between a woman and her male affines.

There are two social instruments through which the purdah system is executed and these social instruments regulate women’s lives both in the public and private spaces. The first instrument is the separate allocation of space for women and men, and the second instrument is the burqa or veiling. The practice of observing purdah has been debated as both liberating and oppressing for Muslim women. “It can be considered a liberating invention, since it provides a kind of portable seclusion which enables women to move out of segregated living spaces while still observing purdah” (Papanek, 1971, p. 520).

Reverting to Jefferey’s ethnographic study, she writes that since women undergo the physiological processes of menstruation, pregnancy, childbirth and lactation, they must not be expected to face the rigours of life outside the four walls of the house or be forced to earn their living as per the Islamic world-view. The division of labour between the sexes based upon their supposed physiological and psychological differences is institutionalized through education and training; as women’s ‘natural’ domain is the home, they must be schooled in the domestic arts (2000, pp.21-22).

However, the subject of seclusion of women is open to various interpretations needs to be seen in the context of historical, socio-economic and political factors. Some of these include systems of agriculture, laws of inheritance, ownership of property, political alliances and diffusion of cultural practices through history. Gender constructions in reality determine the social positioning of women outside the private space. Apart from religious constructions, the aspect of identity formation among the Muslim women significantly contributes to their use of agency. However, understanding
Muslim women as a diverse category can reveal multiple interpretations of the gender construction. Flavia Agnes argues that the position of Muslim women is superior by highlighting the importance of *mehr*. “Mehr is the sole right of the wife and the husband cannot have any claim over it once the marriage is consummated. It is usually determined depending on the means of the husband and the status of the wife” (c.f. Sanyal, 2011, pp. 351-352). Such examples highlight the progressive aspect of the Muslim personal law. Intersectionality is an alternative method to study gender identities, religion and socio-economic empowerment.

1.4.5 Everyday Lives of Muslim Women

In the work of Jefferey (2000), purdah is the symbolic manifestation of the separation of the private and public spheres that characterizes the Pirzada community of Nizamuddin village. The world of the home and hearth is the domain of women, who spend their days within the four walls attending to domestic duties. The world of the shrine and the businesses around it are the domain of the men, who spend most of the day. Their income is earned through the donations of pilgrims at the shrine, selling flowers, or guiding and counselling pilgrims. They control the ‘purse-strings’ and generally do most of the shopping at the local bazaar. As they constantly need to invest in their businesses or in maintaining contacts with patrons, their income does not really reach the hands of their women. Pirzada women are thus effectively excluded from the life and livelihoods of the shrine. They are by and large unaware of the complex systems of rights and duties and financial benefits and obligations that their community is vested with. They are thus excluded from their legal rights (haq) to their ancestral property. The Quran Sharif meticulously lays down women’s entitlements to inheritance, maintenance and settlement at the time of marriage about which you will be reading in unit 3 of this block. However, on the ground, these entitlements seldom accrue to pirzada women, and their dependence on their menfolk is absolute. The daily life of pirzada women thus centres around housework; the preparation and serving of food, washing clothes, sewing and childcare.

With regard to marriage, Jefferey noted that the social separation of males and females ensured that many of her older respondents had absolutely no idea what marriage entailed. However, the winds of change were blowing at the time of Jefferey's field work in the 1970s; the Family Planning programme was in full swing at the time and the subject of discussion in the village. Marriages were arranged strictly in accordance with the wishes of the male head of the household, with the women playing a major role in social sphere. Self-choice or rejecting the choice made by one’s parents was considered shameful behaviour for both men and women. The pirzada community denotes itself as ‘Syeds’ hence a good deal of importance is attached to the ‘purity of blood’ of the new bride. Pure Syed status is taken as an indicator of ‘good breeding’, and since the mother gives the children
‘mysaj’ or character, and ‘akhlaq’ or morality, her breeding is of great importance.

Marriage and motherhood are regarded as the destiny of all the young women and they are socialized to accept this value. Thus, mothers socialize their daughters into a role of dependency. Jefferey draws our attention to the self-perceptions internalized by women regarding their lack of power vis-a-vis men. In particular, the notions of ‘izzat’ (honour) and ‘sharam’ (shame) kept cropping up in their discourse. These two notions are central to the perceptions regarding right and proper conduct between the sexes. They take the form of bodily concealment (by wearing a dress that conceals the female body) and adopting a manner of reserve and modesty in their deportment and ‘body language’. There are clear-cut social rules and expectations about how a woman is to conduct herself with men in the family and unrelated ones. These rules and customs underscore the ideological and religious construct of woman as the emblem of her family and community’s pride and honour.

**Check Your Progress**

*How can we relate symbolism, gender and religion? Give one example.*
1.5 WOMEN AND OTHER RELIGIONS

Let us briefly discuss the construction and organization of women’s social lives in relation to other religions. Within Christianity, one of the significant debates is on the exclusion of women from Churches and denominations. Giddens states that in these organizational hierarchies, women are excluded from the power. Elizabeth Cady Stanton, an American activist, viewed that the deity had created women and men as equal and it is essential that Bible needs to reflect this fact (Giddens, 2007, p.552). In the year 1870, the Church of England formulated a Committee to revise the Biblical texts, but Stanton claimed that there was not a single woman in the committee. In response to this, Stanton organized a Women’s Revising Committee in America and prepared the Woman’s Bible in 1895. Though the Church is primarily dominated by men, it has begun to change. Giddens writes, between the years 1987 and 1992, in the Church of England, women were allowed to be deaconesses even if they were not permitted to function as priests. In 1992, the governing assembly in the Church of England decided to make the priesthood open to women. In the year 2005, the Church allowed women to become bishops in spite of strong resistance from different members and groups. These are some of the women’s questions raised within Christianity and the change within the organizational structure corresponds to the change in gender relations in the society.

Let us now see the construction and representation of gender relations among the tribal communities of India. Myths, rituals, and beliefs are useful sources to analyse the gender relations among the tribal communities. The recent work of Subhadra Mitra Channa (2013) on the gender construction and cosmology among the tribes of the Himalayan border is a good example. Her work is focused on the pastoral tribal community, the ‘Jad Bhotiyas’ of Uttarkashi region of the Himalayas. The author argues that among the Jad community, women are identified with culture and men with the wild and nature. Women are seen as central to the social life (rishte) and men are located in the wild space (khoon). The association of women with culture and men with nature is drawn from their cosmology. In reality, the status of women is not reversed in the Jad community as they consider nature superior to culture. Therefore, men travel long distances to the mountains by carrying their ‘pure body’ and women are confined to the village as they are seen as ritually inferior to men (p.178-179).

Folk tales have been an effective instrument for providing insight into the gender relations in every religion and cultural traditions. A variety of popular religious songs are connected with goddess Ai, Lakshmi or Apeswari and they symbolize cultivation and curing illness. For instance, Lakshmi symbolizes paddy and Apeswari is a form of fairy invoked at the time of children’s illness (Goswami, 1959, c.f. Deka, 2013). Folktales and songs are interesting
areas for interpreting gender constructions and investigating the social position of women.

1.6 LET US SUM UP

The above descriptions on the construction of women in Hindu and Muslim traditions and their ramifications on the everyday lived experiences of women reflect the simultaneous elevation and devaluation of women. Their ‘natural’ capacities to bring forth life and nurture it are valorized but their ‘dangerous’ sexuality is sought to be harnessed and placed in the service of patriarchal structures of dominance and control. Women’s confinement to the domestic space, seclusion and purdah reflect this ‘duality’ and construct them in ways that emphasize their dependence. The ideal of ‘pativrata-dharma’ illustrated earlier is taking new forms in spite of liberation and empowerment of women in spheres like education and the job-market. Interestingly, we find this ideology assuming a new ‘avatar’ in the age of globalization and the information age, as witnessed by the popularity of ‘Karva Chauth’ rituals in which a woman fasts for the long life of her husband. Practiced earlier in certain communities of North India, the ritual has become a pan-Indian phenomenon due to the impact of ‘Bollywood’ films and the homogenization of ‘Indian’ culture. As mentioned earlier in the Unit, the power and salience of these ideological constructs demands careful analysis and critique.

1.7 UNIT END QUESTIONS

1) What is religion? How do gender and religion connect with each other?
2) Write an essay on the social construction of gender.
3) Social practice influences gender constructions. Discuss in the context of religion.

1.8 REFERENCES


UNIT 2  IDENTITY AND COMMUNALISM

Namrata R. Ganneri

Structure

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2.1 INTRODUCTION

The growth of fundamentalism and identity politics have been crucial issues in South Asia affecting women’s lives in multiple ways. The most obvious manifestation is the increasing violence against women. Factors including multiple interpretations of historical facts, political myths and socio-cultural stereotypes have disturbed the religious equilibrium of India (Oommen, 2008). In a society based on ‘institutionalised inequality’, the notions of composite culture and diversity in religion still need a concrete theorisation. Western colonialism, presence of interest groups and the building of nation-state based on identity have accelerated the growth of counter culture and cultural nationalist movements in India under which ‘women’s question’ has remained a less significant area of research enquiry. With this background, this unit sets to map out several dimensions of women’s issues in the context of identity and communalism.
2.2 OBJECTIVES

After reading this unit, you will be able to:

• Understand construction of identities in the context of religion in India;
• Comprehend how gender and religious identities intersect with reference to identity politics and communal mobilisation; and
• Critically analyse the responses of the Indian Women's Movement(s) to communal mobilization and identity politics.

2.3 DEFINING IDENTITY AND COMMUNALISM

Communities are described as an amalgamation of people who share a common living place. With the wake of capitalism and other new global forces, the concept of community has become a significant category in the establishment of consensus, rights and interests. For example, minority communities, ethnic communities, LGBT community etc. Every community functions with its social network or structure. According to Mary E. John (2000), from 1920-century onwards, liberal nationalists describe communalism in relation to discrete religious communities; Hindu, Muslim, Christian, Sikh and so on. According to her, “the meaning of ‘communalism’ changed dramatically and came to be conceptualised in zero-sum terms, in a relation of opposition to a much narrower definition of nationalism” (p. 3825). She presents another dimension of communalism, i.e. the language of minoritism and majoritarianism which grew in relation to the idea of a new ‘purified nationalism’ (p. 3825).

T.K. Oommen (2008) in his book on ‘Reconciliation in Post-Godhra Gujurat’ discusses two aspects of communalism, namely, communal conflict and communal harmony. Communal conflict belongs to the phenomenon described as “those patterns and regularities that are the deliberate products of human design” (p.16). Communal harmony is an intervention towards reconciliation process at the grass roots. Identity, communal conflict and harmony are interrelated aspects of social reality. For instance, religious identity as a principal aspect of human life sometimes invokes conflict irrespective of the contexts. While understanding reconciliation process and conflict in a conceptual framework, Oommen (2008) identifies factors such as identity/diversity, exclusion, inequality and hierarchy that can contribute to the rise of communalism.

There is a constant interplay between identity, state, religion and communal conflict in which the women’s questions are often not discussed. Therefore, it is important to understand the interplay of gender, identity and communalism in the context of different social, religious, cultural and political spaces.
The past few decades have seen the rising political prominence of religious actors and movements in many countries. In the South Asian region, especially, this has been accompanied by unprecedented religious rhetoric and the articulation of community-based identity. There have been other significant transformations. These are (i) the introduction and hegemony of neoliberalism (ii) the failure of the post-colonial state in tackling poverty and ensuring social justice to citizens (iii) the role of transnational networks of finance and diaspora in strengthening the religious actors and movements (Razavi & Jenichen, 2010, p. 834).

Political movements are invariably preoccupied with community identities, religious traditions, and cultural practices, which in turn have deep implications for women. On one hand, women have been treated as the repositories of beliefs, purity, and integrity of the community; on the other, they have engaged in mobilisation within and against ‘communal’ politics. Thus, religion and gender have become particularly intertwined in the political arena (Razavi and Jenichen, 2010; Jeffery and Basu, 1999, p.4; Hasan, 1994, p. viii).

2.4 THE INTERPLAY OF GENDER, RELIGION AND POLITICS

In the colonial period, following the work of Indologists and Orientalists, religion and communities were adopted as unit of analysis to study India. The religious community was viewed as a cultural unit and so the idea that India was a society of different organically linked communities gained ground (Joseph, 1993, p. 807). Common beliefs, value systems, and modes of living, signified culture of the community. Membership of the community holds the primary identity for all its members. Since, only members of the community could understand its culture, community leaders were considered authentic interpreters and interlocutors of the traditions. These assumptions must be understood as ‘common sense about religious communities’ in the Gramscian sense. According to Gramsci, common sense refers to largely unconscious way in which people perceive the world. It includes myths, symbols, ideas, and experiences. Its social function is to help to reproduce structures of dominance by encouraging an uncritical acceptance of an existing state. In this context, religion and culture have been closely interlinked in India. The religious community is often described as a cultural community, organised around common beliefs, value systems, and modes of living. Preservation of culture then becomes essential for maintaining the community and social structure. They continue to exist in the post-colonial period and guided the state, especially in the discourse of political arena.
The organic character of the religious-cultural communities is represented in Islam and Hinduism as a way of life and is deeply ingrained in popular perceptions. In India, Vedas, epics and religious texts were central to reformulations of Hinduism in the colonial period. When an identity gets constructed in the context of religion, cultural communities and politics, the position of women gets articulated in a specific manner. (Chhachi, c.f. Hasan, 1994, p. 78).

Further, the ‘woman question’ was central to the codification of personal laws, which you have earlier read in the second block of this course. A process of selection was adopted by the Indian state in the codification and implementation of personal laws. To quote, “while a common criminal code exists for every Indian citizen, areas of marriage, inheritance, divorce, etc. are governed by separate personal laws for Muslims, Christians, and Hindus” (Chhachi 1989, p. 571). Thus, codification of behaviour is inherent to every religion by which gender identity gets constructed and created, as you have read in the previous unit on ‘Construction of Gender’. These reflected the differences that exist in community identities and will help us to understand how ‘issues of religious identity are tied so-closely with the regulation of relations between men and women’ (Chhachi, 1989, p. 571). The assumption that different communities form an organic whole and were open to self-regulation, implied that the rights of citizenship end at the boundaries of the community. Let us now understand how the interplay of religion and identity politics has specific implications of women.

### 2.4.1 Women, Religion and Identity

Codification of personal laws was based on the specific interpretation of religion, and incorporating understanding of colonial administration and community representatives. According to Amrita Chhachhi (1989), prior to 1941, customary laws existed within caste and communities; however the Draft Hindu Code was a reflection of Brahmanical interpretation. In 1943-44, Hindu Code Bill which sought to regulate Hindu personal affairs was introduced in the Central Legislature. The Bill was first debated in Central Legislature in 1943-44 and then a revised draft was debated in the Constituent Assembly in 1951. After a great deal of opposition, some parts of this bill were passed in 1956 granting women their right to property, divorce, etc. even though the original bill had sought to overhaul all personal laws. But neither Muslim nor Christian personal laws were amended. It is believed that the Muslim Personal Law was left untouched to reassure the communities who were recovering from the wounds of partition.

In 1972 ulamas of Deoband organised the ‘All India Shariat Convention’ and passed a resolution that any change in Muslim Personal Law was a direct interference in the religion. Thus, adherence to Shariat became the central
symbol in maintenance of community identity. In such a situation any attempt to reform the personal laws was seen as interference on the community (Hasan, 1994, p.63).

According to Chhachhi (1989) as a process of secular reform, the Uniform Civil Code (UCC) was destroyed on the grounds of “political expediency although the ideal of a uniform civil code was enshrined in the Directive Principles of the Constitution” (1989, p. 571). The concept of UCC aimed at two dimensions: uniformity between communities and uniformity within communities (between men and women). Amidst opposition from majority and minority communities, the debates around UCC were limited to a single aspect, i.e. uniformity between communities. The gender-just aspect in UCC could have accommodated both these above-mentioned dimensions or “it could end up as a code for the uniformity of male privileges” (Karat, 2008 p. 436). This historical account shows how the aspect of women’s right and women’s engagement with reality got subsumed under the debates over religion, community identity and differences.

Now let us look at the Muslim Women’s Bill Campaign and the campaign against Sati to reflect more on these links between gender construction and identity politics.

2.4.2 Muslim Women’s Bill Campaign and the Campaign Against Widow Immolation (Sati)

To contextualise the above arguments, we focus on two episodes involving both Muslim women and Hindu women, which highlight the mutual complementarity of the state in reinforcing community identity while subordinating the women’s question.

Box 2.1: Shah Bano Case

Shah Bano, a 75 year old woman, was declared eligible for maintenance from her husband, Mohammad Ahmed Khan by a five member bench of the Supreme Court on 23rd April, 1985. The application for maintenance under Section 125 of the Criminal Procedure Code (this section entitles divorced and deserted women facing destitution to seek support from husbands) was first filed in the Indore Magistrate Court in 1978, when her husband who had paid her Rs 200 per month for two years after forcing her out of the house, abruptly stopped payment. While her application was pending in court, her husband divorced her using the Triple talaq. Her husband went on appeal to the Supreme Court arguing that the High Court judgement exceeded its jurisdiction and violated Muslim personal law as stated by the Shariat. The assumptions were: that as a Muslim he was bound primarily by Islamic law; that as maintenance is related to the laws
Indeed the distinction between maintenance on destitution (Criminal law section 125) and maintenance on divorce (personal law-civil law) was unclear and the question of female destitution was itself placed outside the purview of the court. Shah Bano’s counsel argued for maintenance and a humane reading of *Shariat*, and Justice Chandrachud of the Supreme Court supported this reading, upheld Section 125 as transcending the personal laws of religious communities, was critical of position of women and urged the government to frame a Uniform Civil Code (Kumar, 2008). Though support to neither Section 125 nor UCC were particularly novel yet comment on *Shariat* or advocacy for UCC for national integration were seen as unnecessary. While the judgement was criticised, Muslim religious leaders saw this as an ‘attack on the community’. The *ulema* (scholar-priests) issued a *fatwa* (proclamation) that it was against the teachings of Islam and the whole issue took the form of a communal agitation.

Meanwhile, campaigns and counter campaigns followed while feminists demanded justice from the State. Amidst an intense situation, the government itself introduced a bill to deny women’s access to Section 125. On 25th February, 1986 the Muslim Women (protection of Rights on Divorce) Bill was introduced which excluded divorced Muslim women from the purview of Section 125, stating that the obligation of their husbands to maintain them ended with a three months *iddat* period. The Bill was passed in the Parliament on 6th May 1986. Although there was the discourse of opposition to State intervention in the ‘internal affairs of the community’ this Bill implied greater State intervention in the management of internal affairs within the Muslim community (Kumar, 1989, pp. 160-181).

We now turn to the second case that clearly entangled women’s rights vis-a-vis the ‘community’ rights in the context of Hindu women.

**Box 2.2: The Practice of Sati**

In September 1987, a young woman Roop Kanwar became sati, that is, was immolated on the funeral pyre of her dead husband in Deorala, a village in Rajasthan. There were indications that sati, always a public spectacle, was well planned, though Roop’s parents were never informed. Local authorities did nothing. Naturally no arrests were made. But immediately thereafter, worship was organized at the site
of immolation, donations collected and a trust formed to run the site which had become a pilgrimage spot, with associated paraphernalia—stalls selling stickers, mementoes, and audio cassettes, parking lots, etc. It seemed the practice of sati ‘permitted the production of a ‘sacrifice’ for profit’ (Kumar 1989, p. 175).

Some feminist groups organized agitations throughout the country opposing sati and the glorification of this act. Opposition to sati came from a variety of sources like Hindu reformers, anti-caste movement in Maharashtra and within Rajasthan from rural women who joined anti-sati demonstrations (Kumar, p.180). In Jaipur, a Sati Dharma Raksha Samiti (Association to protect sati dharma), composed of professionals and businessmen was formed. They organized processions to celebrate sati while the state government officials remained as mute witnesses despite court orders forbidding the same.

This was so because the whole issue was now being perceived and projected as that of maintaining the community’s identity. So, the rhetoric suggested that while Rajput men died in battlefields fighting for their honour, the women did so by killing themselves. Sati began to be projected as exemplifying ‘true Rajput identity’. The act towards maintaining community identity was soon appropriated as an element of Hindu culture. This delimited the efforts of the state to legislate in the private sphere. In the nineteenth century, the fate of women was symbolically intertwined with fate of the nation, community and culture. The debates on sati, zenana system and widow remarriage were seen as the framework to counter the colonial rule. Women came to represent ‘tradition’ (Mani, 2006, p. 118). Women viewed as victims of tradition need to be reformed or women as bearers of tradition need protection. According to Lata Mani (2006), ‘tradition was thus not the ground on which the status of woman was being contested................. women in fact became the site on which tradition was debated and reformulated’ (p. 118). This shows how the notion of woman is intimately interwoven with tradition which is inherently patriarchal in nature. Interpretations for women are changed in accordance with the contexts.

Both these cases reiterate the notion of ‘identity of communities’. In fact many women were part of the pro-sati agitation, further complicating women’s question. In both the cases, women became the ground/site either to preserve community identity or reformulate tradition. Similar inference can be drawn in cases of honour killing which are prevalent in the contemporary Indian society and you have already discussed these issues in your first semester course MWG 002 and in Unit 1: Gendering Caste, Block IV of this course. Eventually, feminists were successful in getting a Bill passed against sati, but ineffectual in getting all their suggestions incorporated into the Bill. Both the campaigns were marked for attempting to subsume women’s rights within the rights of the religious communities.
Check Your Progress:
What is Uniform Civil Code (UCC)?

2.5 COMMUNAL IDENTITY: ISSUES AND QUESTIONS

Communal identity politics poses one of the biggest challenges to the State as well as the women’s movement. Let us understand the interface between identity politics and women in the following sections.

2.5.1 The Question of Identities

All individuals possess multiple identities and different ones come into play at different times. These multiple identities are selectively mobilised as a response to economic, political, social and cultural processes. They are therefore shifting not only historically but also at a given point of time. Identities are therefore not primordial but they are constantly being created and constructed. The playing out of identities by individuals has to be seen in relation to biographical histories and social contexts. Some identities are adopted through self conscious choice, and these are called identities of affinity. They are “a self concisely constructed space that … (affirms)… on the basis of conscious coalition, of affinity, of political kinship.” In this case people may choose either communal or non communal identities (Haraway quoted by Chhachhi, 1994, p. 76; Ganneri, 2013).
The subjective assumption of an identity is not always an option available to an individual who may articulate, underplay or stress a particular identity. There is thus a difference between an identity which is forced and an identity which one assumes through political consciousness. This distinction is useful in relation to construction of political identities in South Asia.

Women in particular are subject to contradictory social and economic pressures. They have defined themselves and have been defined and redefined. For example, the pressures of belonging to a minority community forced two Muslim women in India, Shehnaaz Sheikh and Shah Bano to temporarily suspend taking up the issues of divorce and maintenance on the secular grounds. This means that we need to locate women’s identities within power relations and recognise that people have multiple identities (Chhachhi, 1994, pp. 74-95). Structures of the state, community and kinship also construct and reproduce identities. In fact ‘Identity politics’ are often a reaction to or result of the state processes.

However, in understanding identities of affinity, we require more scholarship to reflect upon the inter-linkages between gender, identity and feminist engagement.

2.5.2 Constructed Identities and Bearing Violence

Identity-based politics adversely affect women’s quest for equality and justice. Identity politics in its extremist versions has serious implications for women’s lives. Communal identity, operating within patriarchal structures of power, implies the advocacy of violence, often sexual violence towards women (Jayawardane and De Alwis, 1996, p. xvii). The most discussed aspect is indeed rape, although communal violence also seeks to mark women’s bodies in particular ways. Testimonies of Partition victims record abductions of women, cutting of women’s breasts and tattooing of their bodies. In many places women were killed by their families, in others, they took their own lives (Butalia, 1993). Other kinds of violence were dislocation, refugeeism, forced migration, destitution, and dealing with destitution, deaths and loneliness (Anon, 2003).

Women’s bodies symbolise the community as a whole. This means that violence committed against women is directed against the physical and cultural integrity of the group. The rape of women of a community can be regarded as a symbolic rape, and is a repeated reminder of the vulnerability of the community.

Rape converts the victim’s suffering into a display of power, and is an attack on the self and the dignity of a person. Thus sexual assaults are culture destroying acts committed for strategic reasons in different forms of conflict as far as gender arrangement is concerned. In communal violence or any other forms of violence, women’s body is seen as the site of
community’s honour. In the context of sexual violence Tanika Sarkar refers to three patterns by which women’s body is violated; woman’s body is seen as a site of innovative forms of torture; sexual and reproductive organs are targeted; and their children born or unborn share the attack (International Initiative for Justice 2003 p. 34, c.f. Oommen 2008, p. 67).

One must also note the long term impact of violence on the physical, reproductive and psycho-social health of the survivors. Further, the sense of insecurity and the overtly sexualised rhetoric of violence translate into traditional practices, such as early marriage, restriction of their mobility, withdrawal of girls from schools, colleges and work, retracting years of slow and painful progress made in the realm of women’s rights (Anon, 2003).

In fact, the very language of traditional ideologies singles out women as the symbolic repository of group identity (Hasan, 1993, xii). Since women are located in the private domain, they are expected to live and abide by religious norms, hence become the basis for the judgment of community identity as a whole (Hasan, 1993). Women become custodians of cultural identity, and control over their bodies, behaviour and conduct is a mark of ‘community purity’. Hence, policing female bodies through imposition of strict dress codes or even policing their sexuality through control over their friendships with the opposite sex and marriage with men of another community ensures that the community boundaries are maintained. We must read contemporary newspapers which report violence over inter-religious marriages or issuing threats to couples in the context of transgressing the community boundaries of caste and religion. Because of their biological role in reproduction, the burden of maintaining boundaries between groups (be that caste or religion) falls solely on women (Yuval-Davis, 1996).

2.5.3 Women as Agents in Identity Struggles

Women’s support to and participation in communal conflict has manifested itself in myriad ways (Sarkar 1991; Sarkar and Butalia, 1995; Ramachandran 2002; Sen 2008; Bhatia, 2009; Parashar, 2010; and Menon, 2012). These are (i) Offering tacit support to the movement, through carrying out mundane everyday activities like cooking, cleaning and preaching ‘communal hatred’ to their children, and arranging marriages within community boundaries (ii) Performing nurturing roles in communal movements (iii) Participating in mass agitations and popular violence as spokespersons and interlocutors (vii) Funding communal organizations under female leadership to encourage activism and formulate campaigns. Women in identity-based political organizations see ‘secularism’ rather than ‘patriarchy’ as an opponent (Parashar, 2010, pp. 445-6). Hence, women’s engagement with issues related to communal conflict and identity reflects the notion that ideal woman’s place is the home, and reproducing and nurturing the nation/community is their primary goal.
Yet participation in communal struggles accords a political visibility to women and movement outside the domestic realm. Their mobilization is achieved by invoking categories like ‘community’ ‘religion’ ‘identity’ or ‘nation’. Since each of these categories is seen as an extension of the family, the traditional domestic role of women is not seen to be eroded when they cross the boundaries of their homes and enter the extended space in the public domain. Participation of women in times of ‘crisis’ when the community, nation or religion is in danger does not take them away from their essential familial context.

Academic literature suggests that Hindu ideology envisions women as matrishakti/empowered mothers (Sarkar and Butalia, 1995). Cultural nationalism in pre-independence times considered women as symbols of cultural purity. These constructions have been part of the political mobilization and discourse. The conception of feminist agency is guided by the ideal of narishakti (woman power) unlike narimukti/emancipation of women. Women’s role is thereby seemingly expansive, going beyond the family to embrace the nation.

So, there are opportunities available to women to participate in public debates and politics that shape the lives of people and the state. The aim of such politics needs to ensure a gender-just state and societal system, where women are not domesticated and silenced. The critical question then is about the kind of agency and empowerment that all women may exercise.

2.5.4 Questions of Agency and Empowerment

Feminist scholar Tanika Sarkar (1991) in her pioneering work ‘The Woman as a Communal Subject’ has pointed towards the ambivalences within women affiliated with the communalism. She argues that in activist roles, women attain self confidence and release frustrations built up as a result of having been marginalised members of orthodox families. Nonetheless, this empowerment is constrained within a mainstream patriarchal frame where women’s roles as defenders of tradition wipes out any discussion on gender oppression, the notion of equal rights and the question of basic poverty which remains unchallenged in the lives of women in reality. Indeed Amrita Basu’s (1995) analysis of the sadhvis shows that while individual women may have advanced their personal agendas, their activism has also created spaces for diverse gendered imagery. For instance, while Hindu women are dominantly envisioned as matrishakti/empowered mothers, other models are those of celibate ascetics, female warriors and chaste wives. The notions of equal rights take a back seat for women in the face of community supremacy or authority. We need to go beyond the simple model of agency and empowerment to understand the social complexities within which women function.
2.6 INDIAN WOMEN’S MOVEMENT AND ITS RESPONSE

The Muslim Women’s Bill agitation and the campaign against sati both provoked unprecedented attacks on Indian Women’s movement. A precedent was set for doing away with any checks on mistreatment of women under personal law. This reached its logical culmination in demands to legalise sati, seriously undermining feminist agendas.

The essentialisation of religion and women’s active involvement in violence especially against other women led to considerable questioning and debate between activists. The autonomous women’s movement, for instance, always emphasised on the commonality of all women’s experiences, and argued that all women were oppressed and hence could come together to resist patriarchal oppression. Ratna Kapur (2012) comments that though the autonomous women’s movement has gradually recognized the influence of
the community and its rights, it remains reluctant to surrender or significantly restructure its universal feminist foundations and hence is unable to effectively counter this influence (Kapur, in Loomba and Lucose, 2012, p. 339). Feminists were also disheartened to note the appropriation of some of the key feminist slogans ‘hum bharat ki naari hain phul nahi chingari hain’ by politically mobilised women. These developments led to the recognition within the women’s movement that there is no such thing as a common category of women, because they are differentiated by caste, class and community, and therefore any definition of rights had to be based on these differentiations. This thought then also severely curtailed the possibilities of joint action in the future. Simultaneously, the so called ‘secular character’ of the Indian Women’s Movement began to be interrogated through a deconstruction of its pervasive dominant imagery and symbols, which had been uncritically accepted in the early days of the movement. Eventually, a debate on the movement’s relationship with organized religion was also initiated.

The agitations definitely thwarted developing critiques of personal law and moves towards Uniform Civil Code (UCC). Yet, over the years feminist positions on UCC have evolved. There are however disagreements over the means to achieve this objective, whether through a state sponsored civil code or internal reform. In the light of the political conflicts, the women’s movement has moved to a more nuanced position which combines the options of reform from within personal laws, with the formulation of gender just laws deriving from the concept of a common civil code. This change is most evident in the All India Democratic Women’s Association (AIDWA) which now favours gradual change rather than a UCC. In fact some important gender just changes relating to matrimonial property and custody of children have already been made in Christian Law.

Another response that has emerged from the Muslim community has been that of Muslim women’s activism seeking to promote Muslim women’s rights rather than concentrating only on personal law reform. As the largest minority, the community faces systemic neglect in education, employment and access to welfare programmes. The everyday struggles and problems of Muslim women are glossed over. It is hoped that eventually a broad based legal reform will emerge from within the community.

Some Unresolved Issues

Women’s groups in South Asia have been deeply perturbed by the challenges that politicized religion poses for feminist activism and for women’s rights in the region. The efforts to argue for universal human rights norms have been going on in multiple fronts and feminist discourses. Women’s rights tend to feed into community conflicts, suggesting that internal reform is the best way forward to make laws of religious communities ‘woman friendly’.
Do alternate/women friendly readings of religious texts uniformly get accepted by the religious establishments world over? Can women centred interpretation of religious laws be considered as a component of more holistic social change? Can transnational feminist alliances parallel the existing robust transnational religious-political alliances? (Razavi and Jenichew, 2010, Introduction). Finally, some questions still remain: How should feminists take the religion question on board? What possibilities emerge if we see religion differently than as a non-negotiable patriarchal domain?

2.7 LET US SUM UP

The relationship of women to identity based politics is paradoxical and quite complex. The unit discusses that the basic needs of women are not only linked to class and patriarchy and other related categories. Religion and community, the third aspect of this trinity also plays an important role in determining culture and social location of women.

The unit tried to explore women’s questions which are deeply embedded in the social categories. Women’s multiple and often overlapping identities -class, community, caste and religion come into play at different times and in direct interaction with wider economic political and social forces. Hence, women’s collusion with communal forces are not simply a result of patriarchal choices, rather have brought their movement into the public sphere. Yet they ultimately remain circumscribed within the overall patriarchal frame.

2.8 GLOSSARY

Identity Politics: Identity politics refers to movements, campaigns, party strategies and group assertions that mobilise political support around caste and religious identities to gain access to political power and public goods, services and resources of the state.

Communalism: Communalism has been defined as a discourse based on the belief that because a group of people follow a particular religion, they have as a result, common social, political and economic interest. People perceive themselves as belonging to a particular religious community. This community identity becomes the basis for social, economic and political demands, and for political mobilisation around these demands.
Communal violence: Communal violence refers to murderous violence unleashed by people belonging to one religious community on those of another by staging large-scale riots within the territorial jurisdiction of the same state system.

Personal Laws: In India, four religious communities, the majority Hindu, and the minority Muslim, Christian, and Parsi communities, have their own personal laws (other religious groups such as Sikh, Buddhist, Jain, and tribal and scheduled castes are subsumed under Hindu law). Personal laws operate in matters relating to inheritance, marriage, divorce, maintenance, and adoption, which are regarded as “personal” issues, understood to be matters that relate to the family or “personal” sphere. No one is exempt from or may opt out of a religious identity (Indians may choose, however, to be married under a nondenominational Special Marriage Act).

2.9 UNIT END QUESTIONS

1) ‘Women’s and minority rights are used instrumentally within the politics of religion so as to sideline the agenda of women’s equality’. Do you agree with this statement? Discuss.

2) Comment on the feminist response to communalism.

3) Discuss how women embody the identity of the religious community to which they belong. Substantiate your answer with suitable examples.

2.10 REFERENCES


Jayawardane Kumari and de Alwis Malathi (Eds.). *Embodied Violence: Communalising Women’s Sexuality in South Asia*. New Delhi: Kali for Women.


**Web Resources**

http://www.posterwomen.org/Posterwomen/?category_name=religion_communalism.

www.siacwi.org

www.wluml.org

www.musawah.org

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### 2.11 SUGGESTED READINGS


Hasan Zoya (Edt.) (1994). *Forging Identities: Gender, Communities and the State*. New Delhi: Kali for Women
3.1 INTRODUCTION

This Unit explores the debates on personal laws in India. It analyzes the historical construction of personal laws and their changing facets in relation to the institution of marriage and divorce. It attempts to map the nature and context of the Hindu, Islamic, Christian and Parsi personal laws. It engages with the aspect of personal laws and feminist interventions on those laws. Thus, it examines how Indian feminists are challenging these laws by claiming equality, justice and liberty. In turn, it deploys the intersections of customary laws and their impact upon women. You will introduced to various aspects and debates related to Hindu, Islamic, Christian and Parsi laws in this unit. The major arguments that you will read here have been drawn from the work of, Flavia Agnes (2011), Family Law: Family Laws and Constitutional Claims, Vol. I.

3.2 OBJECTIVES

After completing this Unit you will be able to:

- Know the feminist discourse on law and the state;
• Explore information about personal laws such as Hindu, Muslim, Christian and Parsi laws; and
• Discuss the relationship of personal laws with customary laws such as marriage and divorce.

### 3.3 FEMINIST DISCOURSE ON LAW AND THE STATE

In post-independent India, the women’s movements have constantly and consistently engaged with the state and raised the question of women’s equality and rights. They demanded employment, wages and reservation for women in parliament and also launched campaigns against sexual violence, rape, dowry, sex selective abortion, property rights and various issues which you have read about in your first year courses, MWG 001, MWG 002 and MWG 004. The women’s movement has posed the fundamental question of women’s rights in connection to citizenship and the Indian state. For instance, the Shah Bano case (see previous unit of this Block) in 1986 brought the discourse of Criminal Procedure Code and maintenance of Muslim women. It became controversial by promoters of Muslim personal law and challenged the Indian polity. It also postulated the problem of Indian feminists and their political positions by engaging with the Uniform Civil Code (UCC) debates about whether women from all communities require the UCC or not which you have also read in unit 3, block II of this course. Reference to UCC was also discussed in the previous unit of this block. As you read in the unit: Gender and Law, Block 4 of MWG 002, the law as an institution and machinery of the state is supposed to be gender neutral but in reality it is gender blind. The earlier unit had already introduced personal law in the areas of marriage, divorce, adoption and succession and here in this unit we are going to study the interface between feminism and personal law.

One of the significant legal interventions feminists are struggling and seriously questioning the State is on the rape laws. For example, the 1979, ‘Mathura rape case’ in which four teachers who are Indian citizens wrote an open letter to Chief Justice of India and raised the fundamental premises that links ‘women’s rights are human rights’. They stated that the judiciary itself is biased while delivering justice to the most marginal sections. In the case of Tukaram Vs State of Maharashtra the position of the tribal girl became vulnerable due to her social identity. Since then the Ramja Bi, Bhavri Devi, Maya Tyagi cases have addressed the questions which are crucial to the legal system in India. The most recent ‘Nirbhaya case’ of 16th December, 2012 brought in the new discourse about rape laws with the recommendation of the Justice Verma Committee. The committee also recognized the category of marital rape which can be viewed as a landmark intervention for the feminist movement. These interventions at the formal level reflected the nature of social change which has been brought by the
institution of law and its impact on gender equality. Let us now study about personal laws and their emergence in India.

### 3.4 DEFINING PERSONAL LAWS

The personal laws have to be explicated in order to begin a debate on family laws. The historical context which determined the nuances of personal law is vital in any of such ventures. It is misconstrued that personal laws are created on the basis of religious texts. Human relationships within the institution of family are embedded within diverse customary practices. These can be interpreted in the light of divine laws by scholars. These interpretations later underwent modifications during the colonial and post-colonial periods (Agnes, 2011, p. 2). According to Flavia Agnes, “the term ‘personal law’ was first introduced in the Presidency of Calcutta, Bombay, and Madras in the late eighteenth century, when the pre-colonial, non-state arbitration were transformed into state-regulated and state-controlled adjudicative system.” The transformation was at two levels: (i) through the introduction of a legal structure modelled on English courts which were adversarial in nature (that is, Anglo-Saxon Jurisprudence); and (ii) through principles of substantive law which were evolved and administered in these courts (that is, Anglo-Hindu and Anglo-Mohammedan laws” (Agnes, 2011, P. 5). Hence, the initial genealogical moments of personal laws are the product of colonial interests that were subsequently codified.

### 3.5 THE COLONIAL DISCUSSION ON LEGISLATIVE REFORM

The British entered India and critiqued Hindu religion by pointing out the deplorable status of Indian women. It has become the major soteriological (dealing with religion) challenge and many Hindu reformers responded to this dialogue between domain of Hinduism and Christianity. As a result, protests against the practice of Sati, child marriage, and age of consent and so on took place. This resulted in judicial and legislative procedure such as The Sati Regulation Act, 1829, Widow Remarriage Act, 1856, Age of Consent Act, 1860 and 1891. Intellectuals who believed in the revival of Hindu religion opposed the raising of age of consent to twelve. According to them, such a legal move hindered essential cohabitation between husband and wife which has to be started immediately when the wife reaches puberty. Forty four women doctors demonstrated that rape is the cause for death of child-wives. Consequently, the Age of Consent Act was amended and age of consent for sexual intercourse was increased to twelve years in 1891 (Agnes, 2011, p. 17). It is opined that the act protected married/unmarried girls from ‘premature prostitution’ and ‘premature marital cohabitation’. You have read about some of these Acts in the courses MWG
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001 and MWG 002. Let us quickly revisit some Acts to contextualize the process of institutionalization of law specific to women in India. Child marriage remained as an ignominy in the Indian conscience till the social reformer Rai Saheb Harbilas Gour Sarda initiated ‘Child Marriage Restraint Bill’ in 1927. It was argued that marriage of the girls below the age of twelve should be restrained. However, the first ‘All India Women’s Conference’ held in Pune argued that marriage should take place only after the age of fourteen years and there must be a ban on child marriage. It demanded that marriage below fourteen years should be outlawed. The Sarda Act was passed in the year 1929. The Prevention of Child Marriage Act (2006) also was ratified to challenge the menace of child marriage (Agnes, 2011, p. 18). One of the significant features of this new Act was to incorporate the specific offence for an adult male to marry a minor. The famous *Rakhmabai Case* was path breaking and testified the assertion of her individual rights in the domain of family.

**Box No. 3.1: Ramkhambai Case**

Rakhmabai was married at the age of 11 years to an elderly person called Dadaji Bhikaji. She refused to cohabit with him. The case was filed in Bombay High court in the year 1884 for restitution of conjugal rights. According to historian Sudhir Chandra, this case is a “unique event in colonial India” (Chandra, 1998, p. 1). It was argued that Dadaji Bhikaji did not take this case to the Caste Panchayat where the women had the right to decide whether to stay with the husband at his home or not. Hence, he brought the case to the British court. The colonial court gave a judgment in favor of the husband by granting conjugal restitution rights. Rakhmabai said she would prefer to go to the prison rather than staying with Dadaji Bhikaji. Interestingly, the case was dissolved with payments of money to her husband since she refused to stay with him.

*Sati Regulation Act, 1829*

The missionaries and reformers like Raja Rammohan Roy criticized the practice of *Sati* which was steeped in scriptural doctrines. The authenticity of the practice of *Sati* drew upon Brahmanic Scriptures which became central to ongoing debates (see previous unit). However, the British government decided to ban the *Sati* system in 1813. When the British Empire reached its peak of imperial power in 1829, the Act on Sati Regulation came into existence (Agnes, 2011, p. 16).

*The Age of Consent Act, 1861* fixed ten years as the minimum age for the consent to sexual intercourse. In other words, if a male initiates sexual intercourse with a girl who is below the age of consent, this act was considered as rape according to Indian Penal Code of 1861. The following section deals with the colonial debates on legislative reforms.
3.6 DEBATES ON PERSONAL LAWS

3.6.1 Hindu Laws

Diversity of laws, customs and a non-state legal edifice are the characteristics of ancient India. “The original texts were of Aryan origin but the assimilation between Aryan and non-Aryan tribes led to an amalgamation of customs and practices” (Agnes, 2011, p. 11). In the early period, the scriptural law was the earliest legal system and there was an association with religion, morality and law which was believed to have divine sanction. It is known collectively as *Dharma*. *Dharma* has three main sources, *Shruti*, *Smriti* and *Sadachara*. *Shruti* evolved with the divine revelations or utterances, primarily the *Vedas*, *Smriti* with ‘the memorized word-the *dharmasutras* and *dharmashastras*’ and *Sadachara* with ‘good custom’ (Agnes, 2004, p, 12). However, the Hindu marriage and family laws are rules through the medium of *Smritis* and *nibandhas* (commentaries and digests). As many scholars pointed out, Hindu laws are codified by the *Vedas* resulting in the foregrounding of Hindu laws. During the 8th century BC to 5th century AD, extensive guidelines were recommended on how the social relation can be
drawn on the basis of *Smriti*. The *Smritikars* were the teachers, thinkers and philosophers who endorsed the idea of particular context to govern the religious as well as day to day life in society. In a similar way, the *dharma*shastra*tras* teach the ethics, law and morality. “While some fifty-five rules were mandatory, others were directory and hence were not binding and could be treated as mere guidelines” (Agnes, 2011, p. 11). These texts were not in written forms and followed with an oral tradition via Brahminical priesthood from one generation to another as *guru*- *shishya parampara*. Every generation has interpreted the texts according to societal contexts. It can also be confronted again by *Smritikars*. Thus, *Smritis* are always interpreted based on old formulations with contemporary forms and every time the interpreters considered this model of *nibandhas* whenever *smritis* were interpreted (Agnes, 2011, p. 11).

The two prominent schools of thought under the Anglo-Hindu law were ‘*Mitakshara*’ of Vijnaneswar (Eleventh century) and *Dayabhaga* of Jimmutavahan (Twelfth century)*. But, there were variations at the local level. For instance, the *Dayabhaga* was followed in West Bengal and on the other hand, *Mitakshara* was followed in Mithila, Benaras, Bombay and Dravida schools.

Marriage is conceptualized as an important obligation in *Smritis*. It is central to pious and religious life and considers one’s debt to ancestors by giving birth to children. The ‘wife’ was conceived as an amalgam of identities such as that of wife (*grihapatni*) and on the basis of divine union (*dharma*patni). Wife is also constructed as a part or half of the husband and called *Ardhangini*. Marriage is linked to the idea of rebirth. *Smritis* provided space to notions of chastity and virginity of women. The advent of the ‘*Hindu Marriage Act*’ in 1955 questioned the application of the notion of purity to women and monogamous nature of marriage. Two bills radically changed the lives of women in India. G.V. Deshmukh was instrumental in designing and initiating the Hindu women’s Right to Divorce Bill in the year 1938. Hindu women’s ‘Property Bill’ was introduced in the year 1937. These are significant legal interventions in the spheres of family and marriage.

Hindu women achieved the right to divorce in a similar way to that of men due to the introduction of *The Hindu Marriage Act, 1955*. It added a contractual and dissoluble dimension while maintaining the sacred and ritual character of the institution of marriage. It relied on ‘the capacity to marry’ (section 5) and ‘ceremonies of marriage’ (section 7) It was criticized for introducing ‘western model of family law’ and ruining the character of Hindu law (Agnes, 2011, p. 23). Concurrently, the western idea of formal equality that is enshrined in the ‘*Hindu Marriage Act*’ justified the legal duty of the Hindu women to carry out the relation with her husband. It was pivotal in converting the nature of marriage as ‘status’ to ‘dissolvable
contract’. Nevertheless, it failed to neutralize the brahmanical and scriptural implications of the contract.

The law of property was embedded in a feudal, agrarian, patriarchal ethos. Ownership of property was confined to males and practiced according to birth under the ‘Mitakshara law’. It is emphasised that ‘Smritikars’ such as Manu and Gautama and sages such as Narada, Yagnavalkya and others debated and provided alternative opinions on ‘Stridharma property’ or women’s property which is affiliated to descent (Agnes, 2011, p. 31).

3.6.2 Islamic Laws

The Sharia is central to Islam and exists as a main reliable medium of ethics. The notion of law is contested according to modern sensibilities. Fiqh is known as Islamic jurisprudential law. The knowledge of jurisprudential is taken from the Quran, Sunna, Ijma and Qiyas (Fyzee, 1974, pp. 16-18).

However, unlike Hindu personal laws, Mohammedan laws underwent significant changes with time and these changes have been accepted by the respective schools of law and society.

According to Agnes (2011), the Quran or the word of God, is recognized as the prime realm of law. It is described as ‘revealed law’ and connotes ‘recital’ or ‘reading’. The Quran stands for the will of God send to the Prophet via Angel Gabriel. It abounds with six thousand verses in which two hundred verses engage with law, and eighty verses explicate contours of the institution of family. The Caliphs or the successors of the Prophet played a vital role in dealing with the disputes of the people. They deployed Quran and practiced old Arab system of arbitration and customary law. It is contended that “Quran cannot be construed as ‘law’; it is the source of law. Divine law cannot become a legal system in its own right. It requires human intervention by way of interpretation or application” (Agnes, 2011, p. 41).

Interpretation or practice is considered as the ‘human intervention’ that is essential for the structuring of a law. This understanding generated debates to accommodate different sources of law. ‘Sunna’ (means ‘compacted path’) or tradition is the secondary realm of Islamic law. The etymological shifts of the word ‘sunna’ has to be understood in this context. The changes in the meaning of the word introduce us to the use of that particular word. It was earlier applied to refer to the cultural ream of the pre-Islamic tribes and Muslims of the seventeenth century. Later, it was used to signify the ‘practices or precedents’ of the prophet called ‘the Hadis’. It is also considered as pivotal as principles of Quran. It, thus, transformed into core doctrine of the traditional schools of eighth century. It is perceived as the existing culture of the schools as well as the institutions of the Prophet in the contemporary context. The tertiary realm of law ‘ijma’ stands for the
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consensus among the scholars of the law of any particular period. It was based on the ‘Hanafi doctrine’ which argued that law should alter according to different periods. It was also determined by ‘Maliki dogma’ which premises on the relations between newness of facts and decisions. The principle of ‘Itijihad’ stands for the essential conditions which rest on reason to generate the Shariat law.

It emerged as a part of the agreement which was used to construct Islamic law and also witnessed limits related to employ reason. Afterwards, it relegated to the sole field of renowned scholars. The fourth and final arena of Islamic law is ‘Qiyas’ which espouses ‘reasoning by analogy’. Qiyas is the ways that condition the interpretation. The application of the principle is conceptualized in a different fashion. Through using logic and reasoning, it can be practiced in other situation. The rule that is part of the law dominates if there are contradictions exist between the situation and language of the text. Qiyas became the type of law through particular agreement between schools of Shafii and Malikki. The diverse arenas of law called ‘talfiq (patching)’ is discussed in relation to aforementioned debates. It stands for the ‘blending of desirable rules’ from plural areas of law, for Derret and Mensky, which comes under the rubric of Islamic school of legal thought. The legal stand points of scholars and judges, for Hidayatullah, called ‘The Fatwas’ also contributed to principles of law (Agnes, 2011, pp. 41-42).

The Shia and Sunni are two major sects within Islam. The Hanafi, Maliki, Shafii and Hanbali are four known laws under Sunni laws. The Hanafi School is established by Abu Hanifa (AD 699-767). It is called as Kufa school. It has its roots in Iraq and extended to Afghanistan, Syria and other parts of the world. Shia school was founded by Imam Jafar. The Ithna Ashari, Jaffariya and Ismaili are Shia schools of law. The Bohras and Khojas are Ismaili groups (Agnes, 2011, p. 42).

Islam: Rights of Women

The premise of Shariat laws has to be understood in the background of tribal Arabia. The law of contract was mastered by Arabian traders in private and public life and was applicable to social relation and marriage. In Islam, ‘marriage is civil and dissoluble contract’. During the time of polygamy the Prophet limited the number of wives to four in which he clearly said that every wife needs to be treated equal with respect and love. There was a system of bride price of tribal Arabia which was known as mehr. Mehr is provided at the time of marriage and is considered as a protection to the women. The woman has the right to half of the share of her male counterpart (Agnes, 2011, p. 43).
The right to enter into a pre-marriage (pre-nuptial) agreement (qurarnama or kabir-nama): These agreements relate mainly to two aspects: (i) regulation of matrimonial life, and (ii) stipulations regarding dissolution of marriage. This can be an effective way of controlling polygamy” (Agnes, 2011, p. 44). Women can demand individual residence if the husband decides to undergo a second marriage and they can seek divorce if the husband does not act according to the agreement.

The right to individual allowances or maintenance also plays an important role. The perspectives related to the share of Muslim men and women is based on the one third rule related to ‘testamentary succession’. Making of wills is impossible on the basis of ‘legal heirs’. It states that a person who practices Islam can not ‘will away more than one third of the property’. It should be according to the rules of succession related to Shariat and inheritance should be premised on those rules. Nevertheless, it is analysed that share of women is not tantamount to men on the basis of Islamic law and women has the right to possess half of the property of the male. Thus, it reflected the idea of equity. Thus, Mehr had to be given to the wife and unmarried daughter as per his “share of inheritance” (Agnes, 2011, pp. 41-42).

The origins of Indo-Islamic rule can be understood through engaging with historical perspectives on the advent of Islam to India. It is argued that Islam became a part of India through the Arabs who came to India via Arabian sea for trade. In eighteenth century, they resided in Malabar coast. They espoused ethos of the natives. It is observed that ‘Moppillahs’ of Kerala and Lakshadeep were not practicing their religious life as per Shariat. On the other hand, ingrained ‘matrilineal systems’ existed in that particular region (Agnes, 2011, p. 45).

The emergence of Shariat was in the Sultanates of Afgan and Turk. In India, it was observed in the twelfth or thirteenth century. Hanifs, the Muslim Sultans who entered India depended upon Ullama which acted as the higher body of legal and religious negotiations. Sharia, the fundamental law was followed by them according to the Ullama’s delineations in the royal courts. Muslims in India were classified as groups of nobility, peasantry and the artisans. It was observed that artisans imbibed the mélange of Hindu and Muslim traditions. Practices such as property systems based on joint family and caste segregation were followed by those who converted to Islam. In this context, the personal law was constructed in reference to other social categories including caste. Thus, it developed in the mixture of local as well as cultural values.
Box No. 3.2

East Indian Company diwani rights during Mughal era in Bengal, Orissa and Bihar, resulted in new legal dynamics. It provided the East India Company the power to mediate disputes related to ‘natives’. Native personal law thus got translated into English. For instance, Sir William Jones translated Muslim law of inheritance called Al Sirajiyah. The Hedaya, the Arabic work was translated in to English by Charles Hamilton. Drawing on Fatwa-e-Alamgiri that was codified during the rule of Aurangzeb, Neil Baillie developed the Digest of Mohommudan Law. These translations were happening under the guidance of Hastings in the year 1791. In order to develop Anglo-Mohammedean Law, colonial courts deployed these translated works. Islamic Jurisprudential law or Islamic Fiqh was enriched by the contributions of Islamic jurists such as Ameer Ali, Asif Ali Fyzee and so on. Currently, it is called as ‘Indo-Muslim law’ or ‘Indo-Islamic law’ which is a part of higher level legal discourses in India. It is also formed through engaging with legal expertise of muftis, quazis and ullamas (Agnes, 2011, p. 46).

The perception of marriage in Islam is that of ‘civil contract’ which ordains procreation through sexual relations. ‘Nikah’ represents ‘contractual union’. The notion of qubul stands for ‘free consent’. The consent of the parties is considered as vital in this particular process. ‘Ijab’ stands for recommendation for marriage. ‘Witness’ is an integral part of marriage. The guardians are called ‘Walis’ who act as protectors for the minors who wish contractual marriage. ‘Nikhanama’ is the document that captures the contract related to marriage. Islamic law also prescribes certain conditions for marriage called ‘aqd-e-nikah’ which guarantees circumstances of marriage. It connotes ‘conditional stipulates’ which happen during marriage and govern the husband.

In order to understand the conceptualization of Marriage in Islam, one has to unravel certain categories. For instance, ‘Mehr’ is an ‘economic safeguard’ for women. It shows reverence for wife and the problems which wife undergoes through the law of inheritance. Islamic law of marriage also provides rules related to dissolution. It can occur by ‘judicial verdict’, ‘act of the parties’ and demise of a partner. The death of wife or husband death can cause dissolution. After the death of wife, husband can marry earliest and wife has to finish four or ten months of Iddat.

As per Islamic law, husband and wife have to follow equal rules of ‘dissolution of marriage’. Divorce by the husband involves rules such as Talaq. When the husband decides to dissolve the marriage it is known as talaq. While Talaq includes various modes of marriage dissolution, there are two major
ways of talaq such as talaq-al-sunna and talaq-al-bida’a. “The major difference between the two modes is that the first mode provides for repentance, retraction and reconciliation, while in the other form talaq becomes irrevocable when it is uttered and does not allow for a period of retraction and reconciliation” (Agnes, 2011, p. 55). The first form is considered as legitimate based upon the principles of Prophet Mohammed. The second form is not approved and talaq is declared three times in one sitting. Zehar is a form in which pledge is taken by the husband on the premise that he considers his wife equivalent to his sister, mother and any female in his family. Another form of marriage, Mubaraa happens through the agreement between husband and wife. Marriage is also dissolved through certain judicial processes. These are called as Lian and faskh. In lian, wife can proceed for divorce if there is disprovable accusation by the husband such as blaming the wife for infidelity. Faskh stands for the ways of seeking divorce through ‘Muslim marriages Act’ (1939) in India.

3.6.3 Christian Laws

The nature of Christian law has to be analysed to understand the way in which it determines the deep questions related to law in India. According to Flavia Agnes, certain paradoxes and non linear developments are embedded within the field of Christian law. Path breaking statutes that radically influenced Indian personal laws have also structured the levels of reforms within diverse religious groups and also remained ‘static’ in comparison to groups who had to face multiple drifts related to matrimonial laws. Foregrounding of ‘Anglo-Saxon jurisprudence’ by the British and French and Portuguese’s practices of ‘Continental systems’ in their geographical regions have structured the laws that are applied to Christians. Christians comprise 2.3 percent of the Indian population according to the 2001 census. The groups among Christians in India do follow plural mores. Three of the major ones are as follows: one is based on the orthodox churches which are rooted in West Asian cultural practices that comprise Syro-Malabar, Mar Thoma Church, Syro-Malankara and so on. Another is the Roman Catholic Church ground in Latin Rites. The third tradition is that of reformist churches founded on Protestant tradition. They are integrated into the Church of North India (CNI) and Church of South India (CSI).

The question of liberated identity of women under the period in which pre-Christian Roman law was practiced is contested. It is argued that they enjoyed certain independence related to ending of their state of being married. It coexisted with the evolution of marriage to that of ‘private contracts’. However, the Church gained some power with regard to marriage during the emergence of Christianity in Europe. Church was also instrumental in converting marriage in to the category of holy unions. It is asserted that Roman Church gained control over the marriages in the twelfth century. The Church of Rome also achieved prime priestly power in the issues related
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Marriage, for Church, connotes “the husband and wife were made of one flesh by the act of God, marriage being a holy tie, a sacrament” (Diwan and Diwan, 1997, p. 21, cited in Agnes, 2011, p. 67). In turn, the notion of divine wedlock attributed a sacramental tinge to the institution of marriage. The institution of Church legitimized the ‘solemnization of marriage’. Permission from the church to get married and public ceremony linked to marriage were considered as essential requirements of the solemnization of marriage. For instance, marriage which was arranged without elders, bishop and priest was prohibited in AD 802. The Church, which intervened in marriage, tried to prevent licentious and extramarital relations. It resulted in the deification of church as an essential part of the marriage (Agnes, 2011, p. 67).

The circumstances that lead to the formation of Christian personal law help us to understand the transformation of local mores that existed before and after the conversion. Converted Christians indulged in native cultural mores in property related acts and marriage up to nineteenth century. The British and Portuguese administrators started legal interventions and Christian personal law came into existence during the later half of the nineteenth century. The Christian sects in India were situated in a cultural mélange of Eurocentric thoughts as well as the native cultural approaches. It is argued that converted Christians maintained caste ideology of pre-conversion social life (Grafe, 1982; Thekkedath, 1982; cited in Agnes, 2011, p. 66).

The manner in which the category of divorce has been conceptualized in the legal domain raises major questions for the communitarian perceptions of divorce. Divorce on the basis of mutual agreement is very much part of Indian matrimonial statutes. However, the couples need not establish the fact of ‘matrimonial fault’. It is argued that Christian couples had to face problems in availing this particular right unlike other communities in India. They had to re-register their marriage as per Special Marriage Act (Agnes, 2011, p. 71). It persuades us to enquire about the role of Christian women related to reform of laws. The debates that arose in context of ‘Christian Marriage and Matrimonial Causes Bill’ by the Law Commission in 1960 were intended to reform the archaic laws pertaining to Christians in India. Based on the letters of Christian women about their oppressed conditions, the Law Commission was forced to advise the government to amend the section 10 of the Indian Divorce Act. After prolonged and vibrant legal interventions in India, a bill was passed by parliament that demands the amendment of archaic nature of Indian divorce act. It helped Christian women and men to seek divorce on the grounds of cruelty, adultery and desertion. Divorce
became easier by consent than the divorce doctored on untrue grounds (Agnes, 2011, pp. 72-75).

### 3.6.4 Parsi Laws

The Parsi (Parsee) community in India is numerically very small. The 2001 Census shows that India has a Parsi population of 76,000. The community has its genesis in Iran. “In AD 636, when the Arabs invaded Persia and Caliph Omar defeated the Parsi king Yezdezind, they sailed off in boats in search of a new land to escape persecution, carrying with them their sacred fire” (Agnes, 2011, p. 75). In the same year Arab Caliph Omar conquered Persia. The Parsi king Yezdezind lost his kingdom and left the country in search of a new land through the sea route and landed at the south of Daman. According Flavia Agnes, they sought refuge from the local king, Jadao Rane. They assured the local king that they would enhance the land (Agnes: 2011, p.75). The king gave refuge to them under five conditions; they should accept the vernacular language and they render their holy text into vernacular language. The Parsi women changed their dressing style and wore local saree. The marriage ritual included the tying of sacrosanct knot and retreat from the activities related to the arms (Agnes, p.75). The local king permitted the Parsi community to build the fire temples near Diu which is named as Navsari. Gradually, the Parsis adopted local customs. The community has two sects, Shensoys (or Shuhursaees) and Kudmis. During the British regime, the Parsis got exposed to education, trading, business and so on.

The Parsi legal discourse has to be reflected within the colonial context. In case of civil laws, all the British laws were applicable to Parsis. However, Parsi communities still maintain their distinct identity in terms of marriage and bigamy. In 1778, they filed the petition to William Hornby that Parsi Panchayat should be recognized legally. Eventually, they got permission to exercise the customary practices. The Parsis were keen to protect the two doctrines which were different from British laws, namely, “The English Statute of Distribution in case of intestacy” and “The English common law relating to husband and wife denied married women independent control over property during converters” (Agnes, 2011, p. 78).

In 1850, a Parsi lady litigated against her husband for a decree of restitution of conjugal rights in the Court of Bombay. There were no clear guidelines for the matrimonial suit of the Parsi. So the court applied the Ecclesiastical jurisprudence or the English Christian laws. But, the jurisprudence was challenged by the Privy Council. And the Supreme Court also says that Ecclesiastical jurisprudence cannot be implied to Parsis. In light of this case, the Parsi community in Bombay demanded a separate legislative act to regulate Parsi marriage and divorce.
On 20th August, 1855 in the central hall, a call was given by Parsi community to discuss about the fire temple in which independent laws of Parsis were also demanded. A committee was nominated to draft the Code of Laws. December 5th 1859, the Managing Committee of the Parsi Law Association set up and approved the name ‘A Draft Code of Inheritance, Succession and Other Matters’ (Agnes, 2011, p. 79). On March 31st 1860, Draft Code was handed over to the Select Committee and on 10th August, 1861, the Select Committee of legislative council presented their report and recommended to Bombay Government may appoint a commission to look into primary examination in the context of standard laws by the Parsis of India.

Thus, in 26th December 1861, the Bombay Government appointed the commission in which evidence was recorded both written and oral by the Parsi community. As a result, inheritance, succession and property between husband and wife were addressed. The mofussil Parsis yet refused to have a right of females to inherit family property after the death of husbands and also in the terms of rights of married women throughout ‘couverte’ to grasp or ‘dispose to their separate property’. There were diverse opinion about the inheritance, succession and property by the Bombay Parsi and mofussil Parsis. The mofussil Parsis argued for two separate inheritance laws and it was rejected by the Commission on 13th October, 1862. In 1864, the Parsi Law Commission based on its report in 1865; introduced two bills, Parsee Marriage and Divorce Bill, and the Parsee Succession and Inheritance Bill (Agnes, 2011, p. 79).

The Parsi Marriage and Divorce Act is significant because it is the first codified matrimonial law in India. It has safeguarded the customary Panchayat, along with jury and seven members of the community. Thus, it holds the Anglo-Saxon courts framework. However, in the 1930s, Parsis also began to bring changes and in 1933, Parsee Law of Succession was passed with the aim to improve the conditions of daughters and widows under the statute and share in the parent’s property. The changes were integrated into the Indian Succession Act of 1939 where the chapter about Parsi Act of Succession has been mentioned (Agnes, 2011, pp. 80-81).

Inevitably, the British were in process of modifications of law in Britain for women. The Parsi community was impacted by it. In 1936, the joint select committee passed the bill to reform the scope of dissolving marriage considering various grounds such as insanity, pre-marriage pregnancy, grievous hurt and desertion. The women’s movement in India experienced a new phase in the 1980s. The Bombay Parsi Panchayat had taken a lead on two bills which were recommended by 110th Law Commission Report. It recommended amendment of the reforms in the personal laws of Parsis. The Parsi Marriage and Divorce Act was introduced in 1986 in both houses and amended finally in 1988 after the President’s sanction. Now the major changes in Marriage and Divorce Act were almost like Hindu marriage act.
Divorce with mutual consent, the division of the right of legitimate and illegitimate children were eliminated. Also in the Succession laws, in 1991, the male-female discrimination on descendants was also resolved (Agnes, 2011, p. 82). On the other hand, women from the Parsi community were missing in the entire discourse and procedures while negotiating the laws for women. It is contended that the absence of women in such crucial moments of law making signify the prevalent patriarchal tensions that existed in the community.

**Check Your Progress:**

*Write in your own words the interpretation of Christian and Parsi personal law.*

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### 3.7 LET US SUM UP

In this Unit, you studied about the colonial construction of personal laws and further evolution of legal debates that intersect with the issues of Muslim, Parsi, Hindu and Christian women. In the post independent period, Indian women’s movements are also confronting with laws and state to bring out the equality and justice for women through various legal interpretations.
3.8 UNIT END QUESTIONS

1) Do you agree that the Indian feminist movement has contributed to bring the gender-just laws for Indian society? Explain it.
2) Discuss the Hindu personal laws in India.
3) Discuss the Muslim personal laws in India.
4) Discuss personal laws in relation to Christian and Parsai communities of India.

3.9 GLOSSARY

Anglo-Saxon Law : It is a body of written rules and customs that were placed in the Anglo-Saxon period in England before the normal conquest. This body of law descended form Scandianarian and Germanic law.

3.10 REFERENCES


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### 3.11 SUGGESTED READINGS


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UNIT 4  NEGOTIATING SPACES WITHIN RELIGION

Structure

4.1 Introduction
4.2 Objectives
4.3 Women and Religion: An Overview
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   4.4.1 Women and the Hindu Texts
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4.1 INTRODUCTION

In this unit, we will map women’s position within some major world religions. We will observe how women’s movement is affecting both religious practices as well as the academic study of religion throughout the world. In the preceding two units, you read about how communities used religious justifications to bring in customs and norms which demarcated the social position of women both within the religious sphere and outside of it. In this unit, you will read about how religious practices shape women’s engagement with the society and how women are represented within the structures. Yet, women’s experiences within religion have not been uniformly oppressive. Throughout history, there is evidence of women’s spiritual quests within existing religious spaces and even in founding new religions.

In contemporary times, as a result of women’s movements, traditional teaching regarding status of women is being questioned in relation to religion.
They seek to break down hierarchy by seeking entrance to exclusive male spheres of religious organizations about which you have briefly read in the first unit of this Block. The concept of social justice, shaped by various political, intellectual and secular currents, has lead to re-evaluation and modification of social norms especially those concerning women’s status and roles. On the one hand, the impulse to religious reform is manifested in introducing changes in religious practices and introducing gender-just laws, on the other, questions of reform are deeply related to those of identity.

We attempt to provide understanding of and discussion on women’s negotiation with some major religious traditions within the context of major historical themes and issues.

4.2 OBJECTIVES

After reading this unit, you should be able to:

• Comprehend the diversity of women’s experiences and expressions within various religions;

• Understand the significance of women’s religious quests; and

• Explain the reasons and results of feminist intervention in the study of religion.

4.3 WOMEN AND RELIGION: AN OVERVIEW

Religious beliefs and practices are important part of human life. As we have read in the first unit of this Block, a woman’s religious participation has varied over time and depended on her social location. There are explicit teachings about women that reflected through questions such as: what is the nature of woman? What is her particular role in the family, her position in society at large, her situation in the general scheme of salvation? On one hand, these teachings reflect the actual position held by women in society at different times in history; on the other, these teachings have contributed to determining such positions by upholding a particular ideal or image of womanhood.

You have read the sociological understanding of the concept of religion in the first unit of the Block. Religion enables people (believers or worshippers) to conceive and organize the totality of their experience and respond to the universe. It helps them to deal with the most puzzling of human questions and predicaments, including issues such as the existence of evil or the inevitability of death. Religion regularly uses rituals as a means to bring the participant into contact with whatever is conceived as ultimate.
Religious experience includes feelings of awe, devotion, fear, union and even uncertainty about belief in the sacred power experienced by believers. For many believers, religious experience is, above all, what occurs within the activity of a community, whether that be in some kind of worship setting or in much more ordinary activity. This recognition is crucial since most of the times, women’s religious activity occurs in a community or domestic sphere.

In religious traditions, one’s biological sex becomes the marker for assigning particular gendered and moral roles and expectations. This leads to bifurcation and ossification of the roles, rights and privileges between men and women. Stories, folk tales and practices relating to women are totally focused on women’s bodies and reproduction (onset of menstruation, marriage, childbirth, widowhood), and their consequent duties within the household. The discourse about women, unlike that about men, is totally one-dimensional, based on gender and reproduction (Franzmann, 2000, p. 84). Within various religions, there are constructions on women’s bodies, for instance, the notion of ‘pure’ and ‘impure’ body. Impurity is caused by bodily processes such as menstruation. These expressions about women’s bodies are shared in varying degrees across religions and justify women’s exclusion from religious practices or professional hierarchical structures (Franzmann, 2000, p.91).

**Women’s Marginalization**

In most religious texts, women appear as doubtful figures or silent characters. This characterization is then used as a basis for excluding them from or relegating them to the edge of sacred space, rituals or even as professionals in the religious tradition. Women often do not occupy space in the hierarchical structures within religious organisations as leaders/ priests/heads of religious establishments as you have briefly read in the first unit of this block. Finally, the absence of women’s involvement in the world’s religions as priests or theologians and their limited role in ideological production, may indeed suggest that religion is a predominantly male domain and women have remained marginal to all major religious traditions throughout history.

However, feminist scholars of religion, Nancy Auer Falk and Rita M. Gross in the pioneering text, *Unspoken Worlds* (1989, xiv) make two important points:

i) Women have always been active in some arenas of religious life such as: (a) Domestic rituals (b) Shamanic practices (c) In ‘new’ religious movements (d) Female adepts/exceptional women/nuns.

ii) Women form the large majority of lay followers and thus constitute an important segment of the whole human experience of religion.
Women’s religious lives thus resonate with the tension between extraordinary callings and everyday concerns. Women’s religion can either pull women away from that ordinary venture or it can validate and support women in their socially constructed roles as mothers and nurturers. Some of these themes will become evident when we examine the experience of women in some of the major religious traditions (Falk and Gross, 1989, p. xvi).

4.4 WOMEN AND THE HINDU TRADITION

4.4.1 Women and the Hindu Texts

The Hindu texts range from the earliest period of written records in India (Vedas) to compendia of law and general conduct (Dharmasastras / Smritis) composed even up to the nineteenth century. Though there is some evidence of a feminine intellectual tradition through the compositions by the legendary Gargi and Maitreyi in Vedic times, the major texts have been wholly produced by men of the Brahmin caste. The texts communicated normative statements on all aspects of female life—right from the desirability of the birth of girl children to roles of mothers, position of wives, women’s education, inheritance, rights to wealth, remarriage on widowhood, ritual rights, responsibilities as women and, in particular, the essential nature of women.

An enormously influential body of historical scholarship argues for a growing restriction on women’s right to education, emphasis on early marriage and imposition of several sanctions on women and their confinement to domesticity, though only certain property rights improved from the Vedic times to the medieval period (Altekar, 1938). The image of women that comes across is that of a subservient wife and selfless mother. Women are rarely envisioned in non-familial social relationships. There is heterogeneity of the views from religious texts, the presence and readiness to consider alternate viewpoints are a proof of the vigour of the discursive tradition in India.

4.4.2 Female Divinities

Powerful goddesses are not unknown in many ancient religions, but their survival through several thousands of years into modern times is a striking feature of Hindu culture. A significant question that we consider here is whether the worship of goddesses has implications for women in everyday life.

In the Hindu metaphysical tradition, the goddess figure is viewed as the active principle of creation and source of all power, shakti. The forms and functions as well as worship of goddesses have evolved from Vedic to the Classical era. Goddesses were imagined as nurturer, protector, purifier, life
Religion
giver and mother within the Hindu religion; yet some were imagined as malicious, fierce or even malevolent (Bose, 2010, p.15).

Vedic goddesses, in their benevolent forms, Usha (dawn), Prithvi (earth), Aditi (mother of gods/ kings), Sarasvati (river), Vac (speech), Sri (glory/prosperity) and malevolent forms Nirrti and Ratri (darkness, associated with gloom and obstacles), were worshipped. We have ‘Wife Goddesses’ like Laksmi (wife of Vishnu) and Sati-Parvati (wife of Siva), Sita (wife of Rama) and Radha (Krishna’s consort). All wife-goddesses are idealized as pativratyā ( prefect wives). These goddesses became the models of social engagement and relations for women in the society.

However, the most powerful female figure in the post-Vedic pantheon, is Durga (Devi Mahatmaya of Markandeya Purana, chapter 81-93). Durga nurtures and protects the universe and destroys its enemies. Kali, is an aspect of Durga and first appears as an unattached figure with terrifying potential for annihilation. In Eastern India, Durga or Mahishamardini has been depicted in the forms of Gauri, Parvati, Uma and Lalita. Then she is transformed into the mother of two children, Ganesha and Kartikeya, in the Deopani sculpture of Assam (Deka, 2013). According to Meeta Deka the change in the representations of the goddesses corresponds to the change in the gender relations in the social structure. For instance, these depictions reflect the aspect of domesticity, loving and nurturing mother and are popularly worshipped in this form. Hinduism embodies two major cults: Shaivism and Shaktism (Saraswati, 1990). The concept of Shakti can be interpreted from a feminist perspective. Various later Vedic texts e.g. Mahabharata, Markandeya Purana, Kalika Purana and Yogini Tantra are considered to be authoritative texts and symbolised with female power. The female power embodies the ideas of fertility and motherhood and the notion of independent powerful goddesses (Deka, 2013).

In this intriguing conception of femininity, women’s ‘perceived life giving’ as well as ‘destructive powers to eradicate evil’ co-exists in the same persona (Pintchman, 1994, p.8). This reflects the devotees’ simultaneous love and fear towards the object of worship. “Liddle and Joshi’s (1986) historical analysis of female power reveals that female power is deeply rooted in history and is, therefore, strong and even seen as a threat to men”(Deka, 2013, p. 3). Further, the authors argue that the practice of male dominance has been instituted by suppressing the female power through social institutions like caste and family. Thus, women are placed within domesticity and familial relationships under the patriarchal systems. David Kinsley (1995) however states that no clear relationship between goddess-centred worship and an egalitarian society can be discerned (p.xii).
4.4.3 Women and Rituals

In Hinduism, women’s role in religious rituals was eroded from being equal partners to their husband during early Vedic period to that of assistants in cooking food and serving, etc. in later times. A systematic exclusion from ritualistic religious duties was an expression of inherent ‘impurity’ of women’s body. Yet, women remain central to home based worship. The daily puja as well as special pujas along with ritual feasting on important days of the Hindu calendar remains the preserve of women.

Vratas or religious rites, exclusively practised by Hindu women have invited attention of feminist scholars as central to women’s experience of religion. Vratas undertaken as vows are practised by women all over India, each region having its own popular vratas. Most vratas are undertaken to ensure pragmatic gains and well-being of the family, material gains or even for securing a good husband. Sanjukta Gombrich Gupta (2000) argues that this area of Hindu religiosity demonstrates autonomy of women. But since all vratas revolve around family and involve the prioritization of males, it is often difficult to characterize performing vratas as an empowering experience for women. However, Hindu women are socialized to upholding ideals of self-regulation and sacrifice, and thus they do perhaps bring in a sense of fulfillment.

Box No 4.1

| Women’s Religious lives: Historical evidence of autonomous gift giving in medieval Tamil Nadu. |
| **From a study of Tamil inscriptions between CE 700 to 1700, Orr shows that women were prominent as independent donors to Hindu, Buddhist and Jain religious establishments. The manner in which women’s gifts are made and recorded and the substance of their gifts (primarily religious images) find exact parallels in the inscriptions that record the gifts of men. Thus women were capable of possessing and alienating property. Queens, Buddhist and Jaina nuns, teachers, students, temple women, wives of merchants, chieftains were donors. Donative activity was an extremely important public religious activity in Tamil Nadu and here women’s presence was far from marginal.** |
| This inscriptional evidence stands as an important corrective to scriptural prescriptions which image women as subordinate to male kin, confined to the domestic realm or as marginalized nuns. |
| (Orr Leslie, 2000) |
4.4.4 Women Poets and Bhaktins: Religious Quest

Bhakti was a multifaceted movement which moved in continuing waves from one region to another. It began in the south in the sixth century, and spread all over western and north India, and shaped the social, cultural and religious life of people in the subcontinent. Bhakti introduced the idea of ‘devotion’, an intimate relationship between god and devotee, and found expression in devotional verse composed in regional languages.

Bhakti movements enlisted people from all castes and occupations. Every regional bhakti movement had at least one outstanding woman, considered on par with, and often superior to the men, both in her devotion and in her poetry. The bhakti traditions through an amalgam of the written and the oral traditions have preserved not only the names and life stories of many women bhaktas/ bhaktins but also their compositions.

Most bhaktins led unconventional lives. Some rejected matrimony and their husbands, to lead a life of learning. Most of them, however, had to make exceptional sacrifices — leave home, bear indignities, die young. Madhu Kishwar refers them as ‘extraordinarily courageous and creative’. Surprisingly, these women were revered in their lifetimes and incorporated into living traditions, are loved and their poetry recited till date. Bhaktins employed the traditional imagery of Indian love poetry (Akka Mahadevi, Mirabai, Janabai, Andal), others engaged in philosophical speculations (LalDed, Muktabai, Bahinabai) and still others voiced domestic concerns (Soyrabai, Nirmala). The religious path was, perhaps, the only legitimate path available to women as an escape from the narrow confines of domesticity. However in poetry we see a possibility for self-assertion and an effective mode for attaining both spiritual and social autonomy. Let us look at one imaginative song of a bhaktin.

Box No 4.2

A Song of Janabai translated from the original Marathi

Jani
i eat god
i drink god
i sleep
on god
i buy god
i count god
i deal
with god
god is here
void is not
devoid of god
dani says:
god is within
god is without
and moreover
there is god to spare

[This translation by the modern poet Arun Kolatkar is without capital letters or punctuation to stay close to medieval Marathi script (cited Eleanor Zelliot, in Bose, 2000, p 194].


Check Your Progress:

Does the presence of divine females or a ‘feminine principle’ always work to benefit women? Use any case study, stories or folktales to answer.
4.5 WOMEN IN JAINISM AND BUDDHISM

In contrast to Hindu religion, both Jainism and Buddhism allowed women to join monastic orders—the *sangha*. There are female goddesses and even a female *tirthankara* (enlightened spiritual teacher), the nineteenth *Jina* Malli. But the question of female mendicants became a point of division between the two Jain sects—*Svetamabaras* (White clad) and the *Digambaras* (sky clad). Kundakunda, a Digambara monk of the 2nd century, refuted the validity of clothed mendicancy and denied women’s access to spiritual pursuits. He stated that women could achieve emancipation only in subsequent rebirth as a man. This position reflects the aspect of spiritual inequality on the basis of gender. The number of female ascetics is very large and *sadhvis* are respected figures. However, nuns are denied leadership roles and remain subordinated to monks (Sethi, 2012).

Buddhism recognizes equality between men and women, and both sexes are charged with the duty of following the *Dhamma*. The spiritual goals of Nirvana were seen as open to women through the *bhikkhuni* order of nuns. However women were allowed only under eight high ordinances, where even the senior most nun was subordinated to the junior most monk (Barnes, 2002, p.43). Nonetheless, throughout the history of Buddhism, women were visible as supporters and nuns, and some remarkable women like Visakha, were even venerated for their exceptional qualities.

By about 1500 CE, Buddhism disappeared from India, surviving only in pockets in the north and the east. It has undergone a rebirth in the twentieth century western India when Dr. Ambedkar converted to Buddhism in 1956 along with three million followers, most of whom were from the Dalit community. Dr. Ambedkar also radically reinterpreted Buddha’s life and teachings in his *The Buddha and His Dhamma*, which became the basis for neo-Buddhism. Now dalit women reportedly experience dignity, and social and gender equality as lay followers of this new socially progressive Buddhism.

4.6 WOMEN IN CHRISTIANITY: REPRESENTATIONS AND ROLES

Over the centuries, Christianity, a global religion, has taken a wide variety of social, historical, geographic and cultural forms, and some of these forms are the results of major splits within the church. The two major divisions—Roman Catholicism and Protestantism differ in the official locus of authority. For the former, authority is vested in the Pope and bishops, for the latter it is scripture. Thus, when feminists study ‘Christianity’ it is always helpful to remember that they are studying particular forms of Christianity and not a single, unified and univocal religious tradition. The Bible, central text of Christian tradition has been interpreted differently.
Recognizing this, women’s biblical studies have developed an interpretive strategy. They have successfully reconciled two positions—although the Bible is written in androcentric language, it has also inspired women to challenge oppression and seek liberating messages (Rosemary R. Reuther, 1983; Young, 2004). Many feminists have analyzed the construction of symbol and the gender in the Christian tradition. For instance, Jesus is central to the tradition as Christ/Messiah/Saviour. Feminists have long raised questions about using male imagery for God. Mother Mary, an important female symbol, is primarily represented as a nurturer, although she has also been a source of strength for many women and feminists.

There are indications that women occupied leadership roles in the early Christian community, were called ‘deacon’ and ‘apostle’ or were patrons of the new Christian community (Young, 2004). However with the passage of time more formal structures were put in place that tended to exclude women. Though Protestantism retrieved the positive value of marriage, women’s domestic roles were emphasised. However, in the nineteenth century Protestant women’s groups began to do various kinds of charity work, education and social reform. Churches were often the places where women first gained access to an enlarged leadership and experienced religiosity beyond the family. Subsequently, both Catholic and Protestant women became involved in missionary activities. Finally women began to be ordained in some Protestant Churches, though the Roman Catholic Church has declined all arguments in favour of women’s ordination (Young, 2004, p.175). Women’s roles within the Church itself have been transformed as well as the changing status of women within society.

In 1960, Valerie Saiving wrote ‘The Human Situation: A Feminine View’ where she opined that women’s and men’s experiences were different and therefore traditional theological definitions of sin and salvation applied to women in a different fashion. This is considered to be one of the first articles in contemporary feminist theology. Since then feminist theologians have tried to uncover liberating strands within Christianity. Feminist theologians are now making attempts to integrate their work in the mainstream theological education curriculum as well (Ruether, 1997, p. 281).

4.7 WOMEN IN ISLAM

There are two streams of thought on gender in Islam. One stream believes that women gained respect and protection after the advent of Islam and correct gender relations are vital to the social fabric of Islam and its preservation. The other stream believes that the Quran and Prophet granted rights to women and it was in latter day women’s issues are neglected. Therefore, a reinterpretation of texts would restore women’s rights. We see
an oscillation between these two positions on most issues facing Muslim women today.

Women certainly played a significant role in establishing Islam. Leila Ahmed (1992) in her book *Women and Gender in Islam: Historical Roots of a Modern Debate* stated that the early Islamic period reflected an elevated position for women in Islam. The first convert to Islam was a woman, the wife of the Prophet, who was economically independent and also involved in trading (Anjum, 2006, p. 446). In Islam, women were recognised as important sources of the early verbal texts, i.e. the Hadith literature (Anjum, 2006, p. 446). The early Islamic era had accepted women’s existence in literature and encouraged participation of women in trading and warfare. Leila Ahmed in her book emphasised the contribution of Islam with regard to prohibiting female infanticide and divorce and emphasised the fact that Islam recognised women’s right to inherit property (Ahmed, p. 110-112, refer Anjum, 2006, pp. 445-446). One position take the approach that women should be strong and active within prescribed limits, in the cause of their religion, but not outside the family. The liberals on the other hand see the first female believers as forerunners of the modern independent Muslim woman who is both rooted in her religion and reaching toward the goal of fullest participation in society.

Much attention is paid to women in the *Quran and Hadiths*, the two scriptures of Islam. Islam sought to reorganize Arab tribal society on the basis of the family unit and so male-female relations were central to this social system (Clarke, 2004, p. 198). While women especially from scholarly merchant families had access to learning, the formal offices of the *qadi* (judge) or *ijtihad* (important especially in the Shiite tradition, issuing responses based on one’s own reasoning) were not open to her. The basic rituals of Islam, namely, daily prayer, fasting during the month of Ramadan and pilgrimage to Mecca are performed by all Muslims. Clarke (2004) argues that Islam does not hold a severe attitude towards bodily impurity though menstruating women are forbidden to fast or pray. There is contestation in the case of ritual and women’s space. There are some exclusive women’s rituals, for instance, some Sufi and Shiite pilgrimages are particularly visited by women only and some rituals in North Africa performed by women.

Quranic injunctions condemn divorce, yet in actual practice men have been using this privilege while women have not been granted an equal right. A related important issue is that of the *hijab* (the veil) which we have discussed in the first unit of this block- *Constructing Gender through Religion* in the context of understanding veiling as form of socially instituted practice. Leila Ahmed analysed the practice of veiling in the contemporary discourse of gender and Islam. Traditional clothing and veil are now being accepted by young Muslim women as it symbolises resistance to hegemonic Western
modernity and is a way to resort to “pure Islam” (Anjum, 2006, p. 447). Hijab is now being accepted by many young women as a sign of their personal devotion to Islam, and/or sign of Muslim identity. It has also come to exclusively mean clothing rather than strict confinement within home, and ironically women claim that it has in fact granted them the freedom to move. There is no consensus on the meaning and interpretation of Hijab. Leila Ahmed argues in her book that it is important to think differently about Muslim history. She maintains that there has always been a tension within Islamic history between the ethical demands, such as the demand for social justice, of the core discourses, the Quran and the Sunnah, and the later interpretations of those discourses (cited in McDonough, 2002, pp. 167-8). Patriarchal attitudes rather than ethical imperatives tended to dominate after the earliest period.

**Check Your Progress:**

Discuss the gender question in Jainism and Buddhism.
4.8 CONTEMPORARY WOMEN-CENTRIC RELIGIONS

Increasingly women are creating independent religious movements to create a feminist theology and also fashioning female centred ritual practices. We will briefly introduce a few trends.

Western feminist spiritual quests centre on what is known as neo-paganism, that is the exploration and recreation or reimagining of old pre-Christian European or non-European traditions. This is not a homogenous movement and some may be interested in goddesses, others in various traditions of shamanism, witchcraft and so on. The core belief of these various groups is earth based spirituality, and therefore ecology is also a central concern.

You have read about Wicca in MWG - 004 in the context of myth, religion and the gendered body. Feminist Wicca has been constructed largely to meet the needs of feminists who found patriarchy as the cause of their oppression. The principle of gender equality is sometimes placed side by side with an essentialism that re-inscribes women as more connected to the body and nature than men.

There are many variations of Wicca, all drawing on traditions of goddess worship. The Goddess is pictured as a life giver, a universal figure much like the earth- mother goddess that was the first expression of sacred form in pre- historic communities. Some of the features of Wicca are that it is a ritual based religion rather than text based. There is an absence of a central organization and Wiccan communities connect through the internet and electronic media. Wiccans practise magic, and each member is called a priestess. They acknowledge women’s right over their bodies. Wiccans Merlin Stone, Carol Christ and Starhawk write widely on the religion and its rituals and therefore are seen as leaders of this ‘new’ religion.

One of the criticisms directed at Wicca is that it is a fairly homogenous movement comprising of White, upper-middle class fairly well educated women and thus individual fulfillment is often privileged over social change.

4.9 RELIGIOUS REFORM AND FEMINISM IN INDIA

During the nationalist movement, a considerable amount of social transformation was mediated by religious reform. These reform movements, which developed largely in response to the British colonial presence and engagement with Christianity, focused a great deal on the issues of women. The emphasis was on legislative reforms. Large scale Gandhian mobilization of women was also achieved drawing on traditional imagery of an idealized (upper caste) Hindu womanhood. In the post -independence period, the State exercised its constitutional powers to ‘reform’ Hinduism through progressive legislation. The Indian women’s movement, at first, focused on
Negotiating Spaces within Religion

women’s deteriorating economic situation, sexual exploitation, health issues and relegated reforms within religion to the background (Kapur, 2012, p. 337). In a multi-religious country like ours, religious identity was seen as a major challenge to feminist organizing. But the debate on women and religion assumed an urgency in the ongoing discussions on family laws. In the 1980s, women’s quest for legal justice was seen as contradictory to community rights. The question of working within or outside the framework of religion could not be easily settled.

In an important early article, Gabriele Dietrich (1986) argued that the mainstream women’s movement had to engage with genuine religious reform, defined as ‘such a reform which enables individuals and groups to participate in secular political processes struggling for equality of all citizens and against economic, political and cultural exploitation, without being forced to abandon the faith dimension of their religious identity.’ (p.157). While feminists continue to negotiate with religion, increasingly, faith-based feminism is also accorded some space in the women’s movement. The rise of Muslim women’s activism in the last decade is another significant development (Kirmani, 2011, p. 22). For instance, The Bharatiya Muslim Mahila Andolan (BMMA) is an organization of Muslim women working towards gender-just personal laws and other socio-economic problems of Muslim women. Women are also actively engaged in reinterpreting traditions and cultures, and such an effort can also open a space for dialogue with women in different communities.

The rationalists, dalit and tribal movements who have had an uncompromising stance towards mainstream religion need to be engaged in the interpretation of religion for women. Nevertheless, since religion continues to play a powerful role in social life across the world, it is therefore, important that women engage in interpreting it, and integrating new interpretations at the practical level. This does not mean that traditional women’s quest for empowerment would become exclusively faith-based (Zia, 2009).

A Feminist Agenda

Feminism in the study of religion has had a long history. The Woman’s Bible, an example of female hermeneutical endeavour, for instance was conceived and developed by Elizabeth Cady Stanton in 1895. Subsequently in the 1960s, with the rise of the women’s movement and ascendance of feminism in the academy, a systematic critical study of religion underlined the oppression located in religious beliefs and practices. New interpretations of religious texts were offered. You may refer to the work of Mary Daly, The Church and the Second Sex (1968). Scholars suggest that like feminist work in many disciplines, feminist studies in religion have gone through three stages. Initially, the works in the field focused on the analysis and critique of texts, institutions, and traditions. Then, there was a gradual shift toward
recovering women’s history within and outside of patriarchal traditions. Most recently, there has been a focus on the reform or transformation of existing traditions (Plaskow, 1993).

Bringing women to the centre of the discourse as well as utilizing non canonical even non-textual sources (such as funerary inscriptions) to reconstruct women’s religious lives is part of feminist work in the study of religion. In any case, we must also remember that women’s rituals and practices are not static. There are changes happening over time. So feminist critiques also engender alternative visions of religious change.

**Check Your Progress:**

*Trace the challenges before Indian women’s movement in accommodating questions related to religion.*
4.10 LET US SUM UP

In this unit, we looked at academic scholarship on women in various religious traditions. While the normative prescriptive texts of major religions suggest a marginal role for women, women’s actual religious lives are rich and varied. Feminist interventions in the academic study of religion have ensured that studies of individual religious heroines, women’s religious cults, rites and rituals constitute an integral part of the subject. Hence, our unit also exhibits this rich diversity.

The secularist approaches to religion have been that of a purely dichotomous view of faith vs. reason and tradition vs. modernity. But instead of the demise of religion, we find that religion itself has transformed with changing times, and is under great pressure to respond to aspirations of women. Women are steadily acquiring leadership roles as religious practitioners on the one hand and the position of laywomen is also improving as a result of changes in religious laws and legal codes. Yet, it seems that a dialectic between reform and tradition will characterize the immediate future of a number of world religions, and feminist engagement with religion will be rigorous in the years to come.

4.11 GLOSSARY

**New religions**: Long established religions Hinduism, Christianity, Islam, etc are referred to as ‘traditional’ religions. In ‘new’ religions, ritual, symbolism and institutional structure are radically imagined afresh. ‘New’ religions usually privilege individual experience and needs, and may even accommodate feminist aspirations. Wicca is an example of a new religion.

**Feminist Theology**: It refers to an attempt in several religions, though first found academic expression with reference to Christian traditions, to consider the traditions, practices, scriptures and theologies of religion from a feminist perspective. The goals of feminist theology may include increasing the numbers and role of women as clergy/religious heads, reinterpreting male dominated imagery and language in texts, and rethinking women’s place in religion as well as ritual. Feminist theologians work to ensure that women’s voices, bodies, and subjectivities find their place within the religious tradition. This move for gender justice eventually also redefines the meaning of theology.
4.12 UNIT END QUESTIONS

1) Enlist examples of feminist academic intervention in different religious traditions.
2) Discuss your views on faith-based feminism vs secular feminism.
3) What are your views on the founding of ‘new women friendly religions’ as responses to the patriarchal oppression implicit in traditional religions?
4) Does religious reform clash with questions of cultural identity? Cite episodes from contemporary history that demonstrate this.

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3) Feminist Theory website
   www.cddc.vt.edu/feminism/enin.html

4.14 SUGGESTED READINGS
