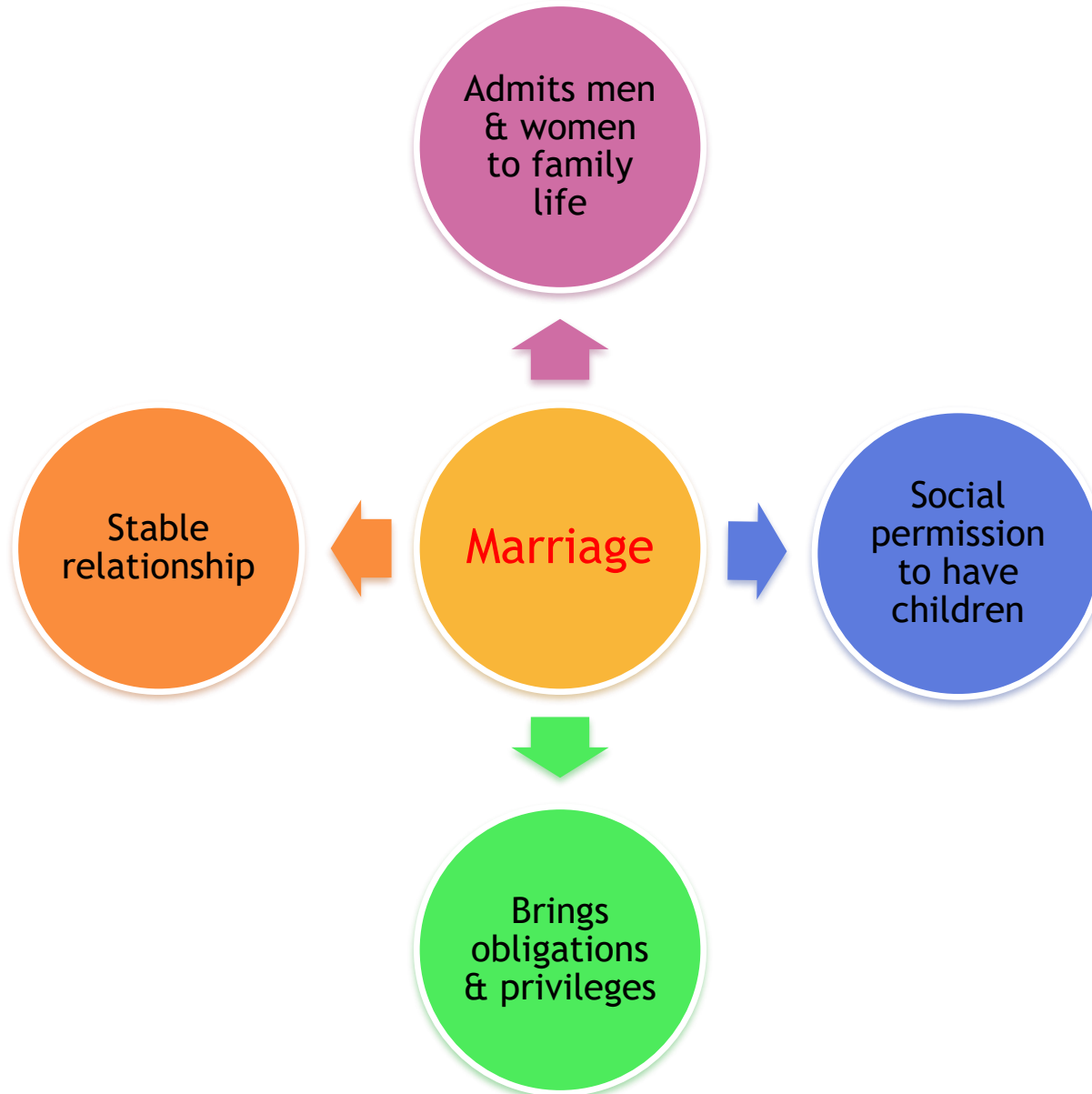


EVOLUTION OF THE INSTITUTION OF MARRIAGE

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MARRIAGE: AN IMPORTANT SOCIAL INSTITUTION



MARRIAGE: DEFINITIONS

◎ *Edward Westermarck -*

Marriage is more or less durable connection between male & female, lasting beyond the mere act of propagation till after the birth of offspring.

◎ *Lowie -*

Marriage is a relatively permanent bond between permissible mates.

◎ *Horton & Hunt –*

Marriage is the approved social pattern whereby two or more persons establish a family.

MARRIAGE: DEFINITIONS

◉ *Mazumdar H T –*

Marriage is a socially sanctioned union of male & female OR as a secondary institution devised by society to sanction the union & mating of male and female for purposes of establishing a household, entering into sex relations, procreating & providing care for the offspring.

❖ *John Levy & Ruth Munroe –*

People get married because of the feeling that being in a family is the only proper, indeed the only possible way to live. People do marry because it is their social duty to perpetuate the institution of family OR because the scriptures recommend matrimony OR because they have fallen in love with each other OR because they lived in a family as children & cannot get over the feeling that being in the family is the only proper way to live in society.

FORM OF MARRIAGE:

Pattern for guiding marriages

Choice of mates

**Wrong choice - may bring
sadness forever**

**No standards of choice by
community**

Choice is entirely individual affair

Rules to regulate selection

MARRIAGE:

RULES TO REGULATE SELECTION OF MATES

Marriage outside
The group

Exogamy



Marriage within
the class

Endogamy



Mate selected by
Parents/elders

**Selection by
parents**



MARRIAGE:

RULES TO REGULATE SELECTION OF MATES

○ Selection by parents

Being experienced, better evaluate

Often moved by own caprices

Neglect wishes of mates

Should consult their children

○ Selection by self

Love marriage, generally unsuccessful

Youngsters strongly desired for perfect marriage

Want everything they expect

Fail to see reality & put blame on partner

MARRIAGE IN INDIA: UNDER TRADITIONAL HINDU LAW

Marriage

- A sacrament
- Not a contract

marriage

- Sanskara or purificatory ceremony
- Obligatory for every Hindu

marriage

- Religious duty
- Unmarried man cannot perform certain imp rites

Marriage

- Sacred and indissoluble union
- Continues even after death of husband

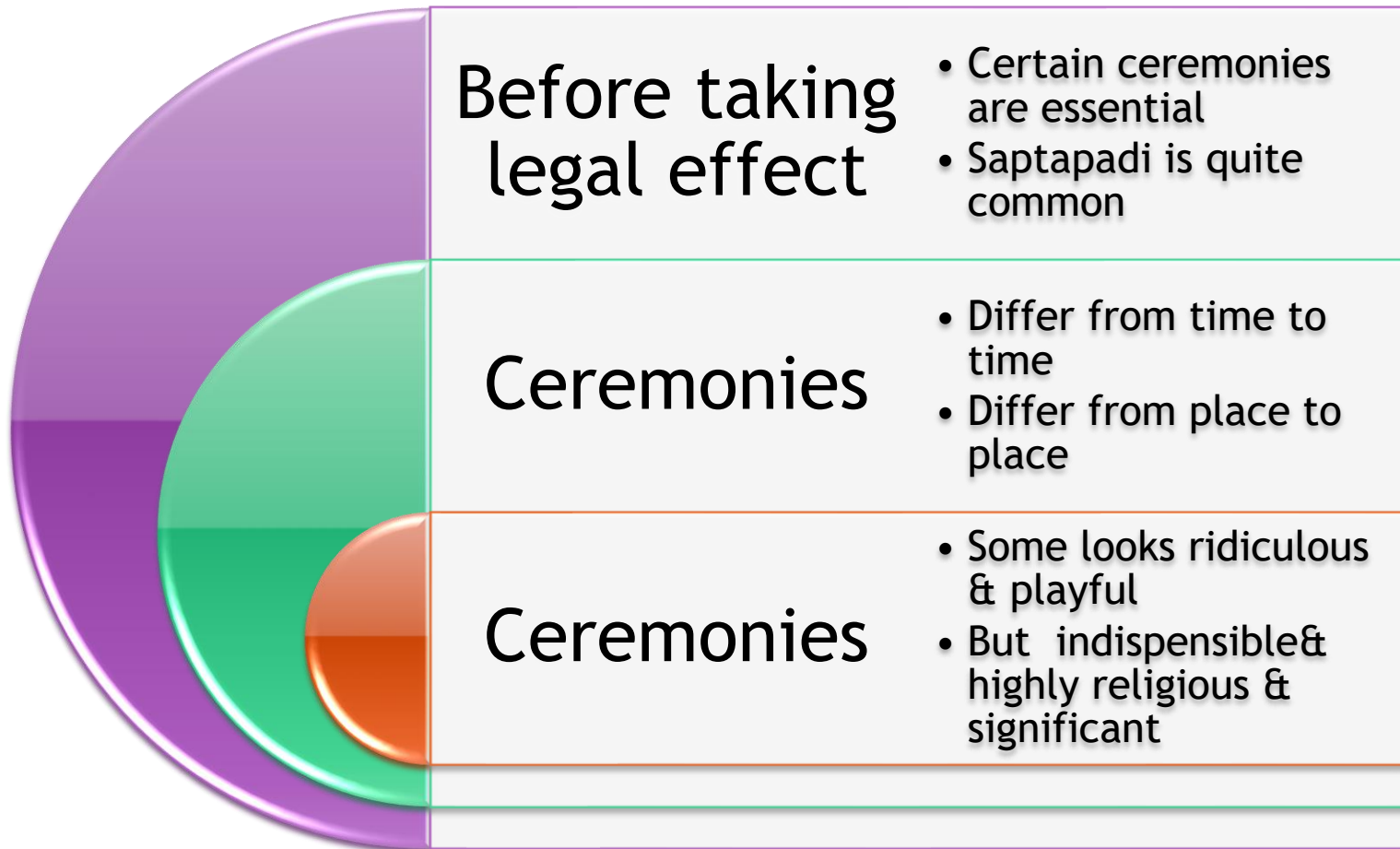
Marriage

- Union of two people
- Union between two families

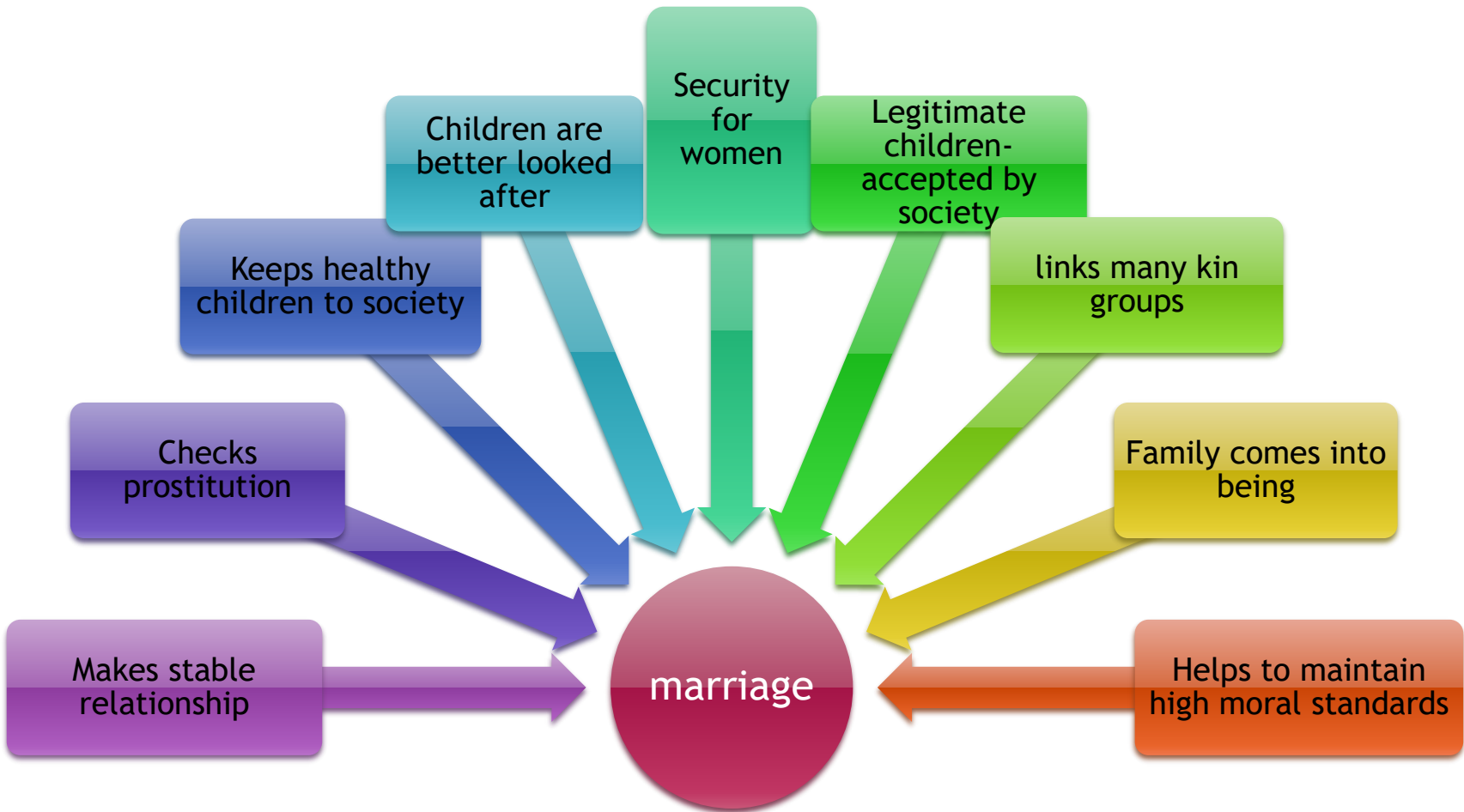
marriage

- During Vedic time, choice was left to the parties
- Samhitas- practice of dowry and bride price

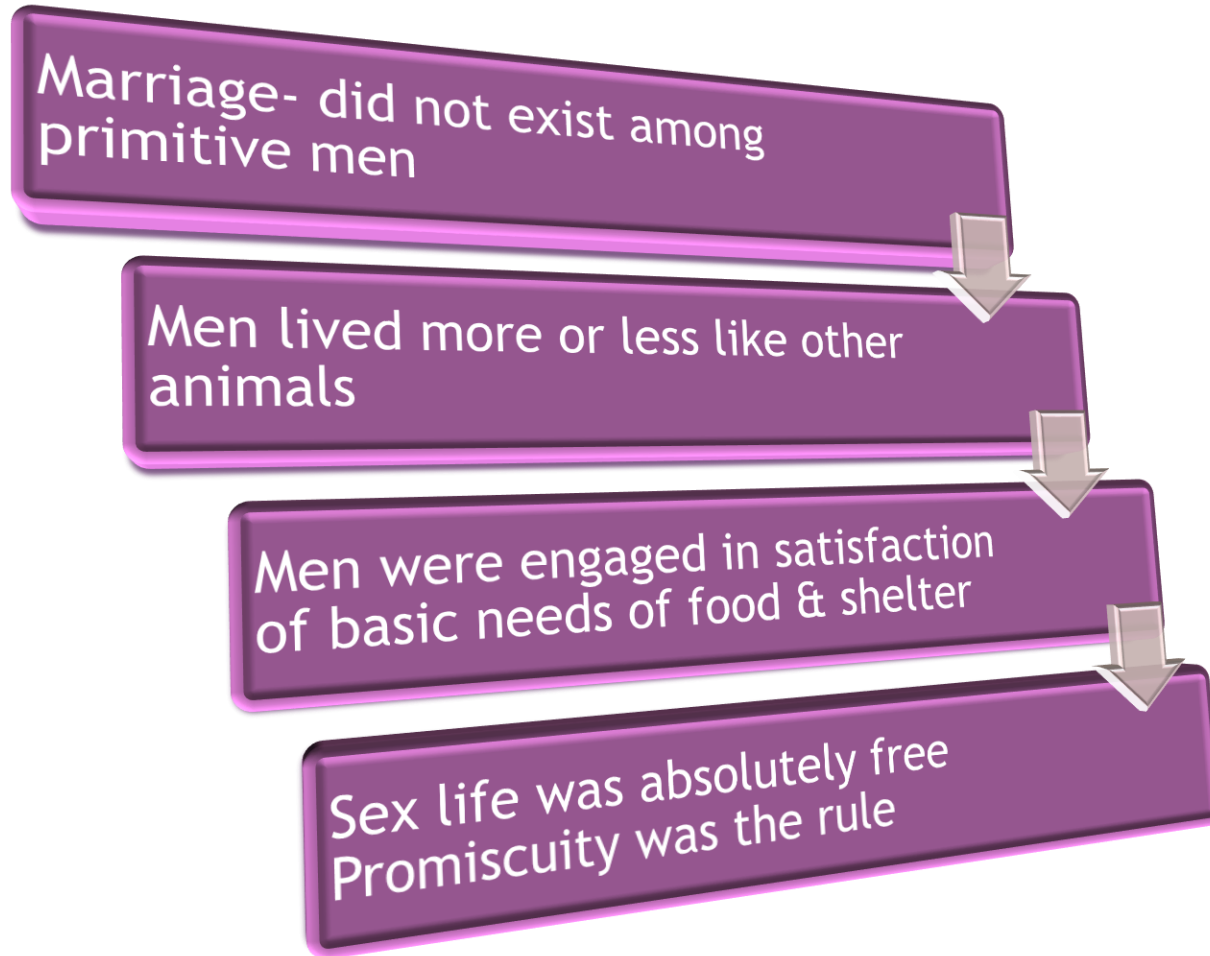
MARRIAGE RITES:



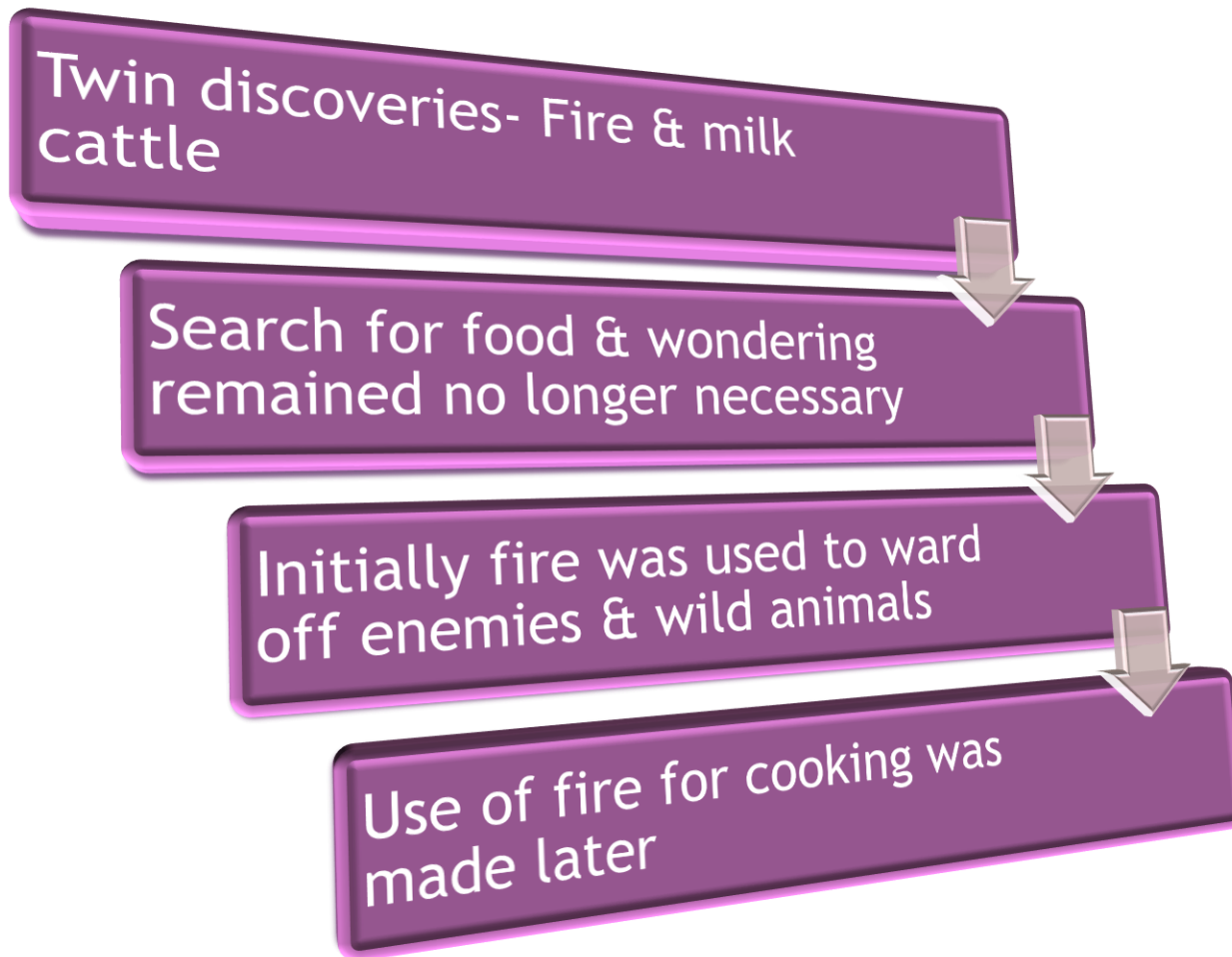
IMPORTANCE OF MARRIAGE:



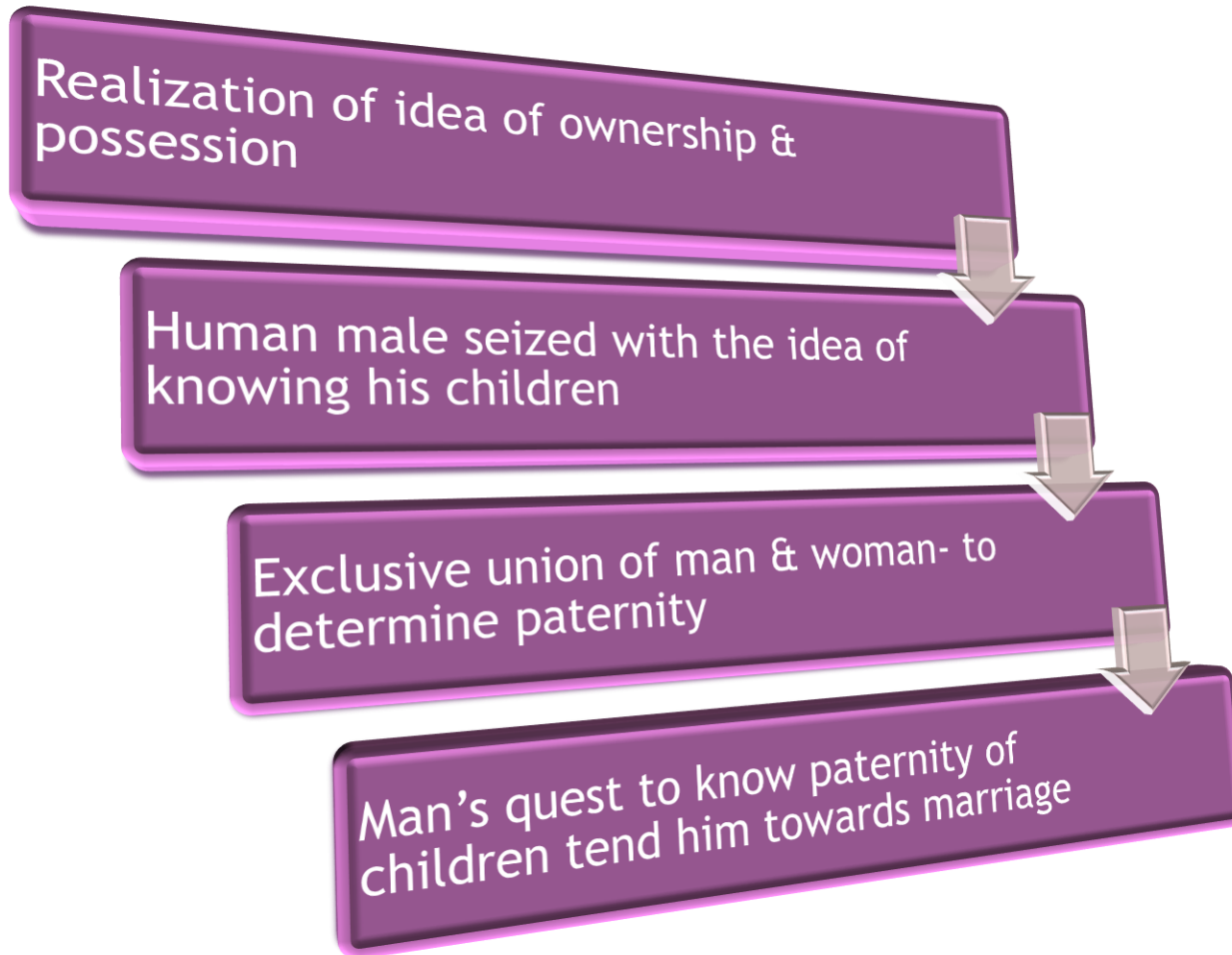
EVOLUTION OF THE INSTITUTION OF MARRIAGE:



EVOLUTION OF THE INSTITUTION OF MARRIAGE:



EVOLUTION OF INSTITUTION OF MARRIAGE:




EVOLUTION OF THE CONCEPT OF MARRIAGE :


Dawn of civilization with acquisition of knowledge of cattle breeding, agriculture



Civilization bloomed when man acquired knowledge of using natural products, metal smelting, art & industry

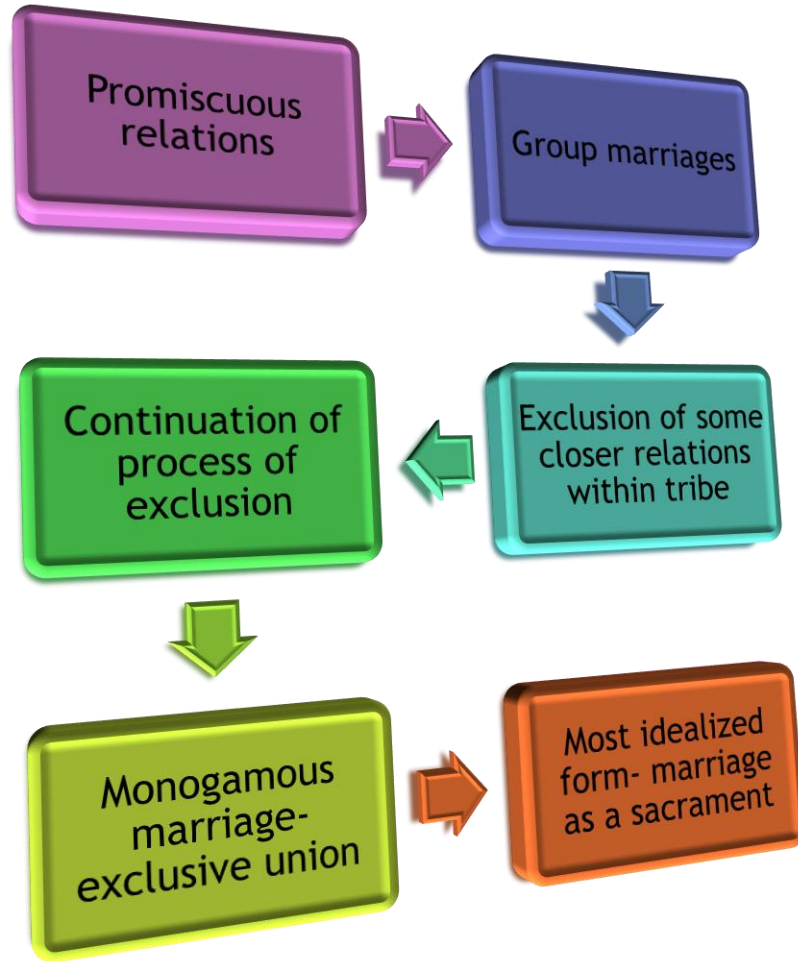


In family relationship, group marriages began to regulate sex relationship



At various places & at various stages of human development marriages came into existence in different forms

EVOLUTION OF INSTITUTION OF MARRIAGE:



MARRIAGE UNDER LAW- HINDU MARRIAGE ACT:

Sec- 5



No living spouse



Soundness of mind/ no mental disorder



Age of majority



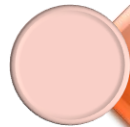
Not within prohibited degrees of relation



Not within sapinda relation

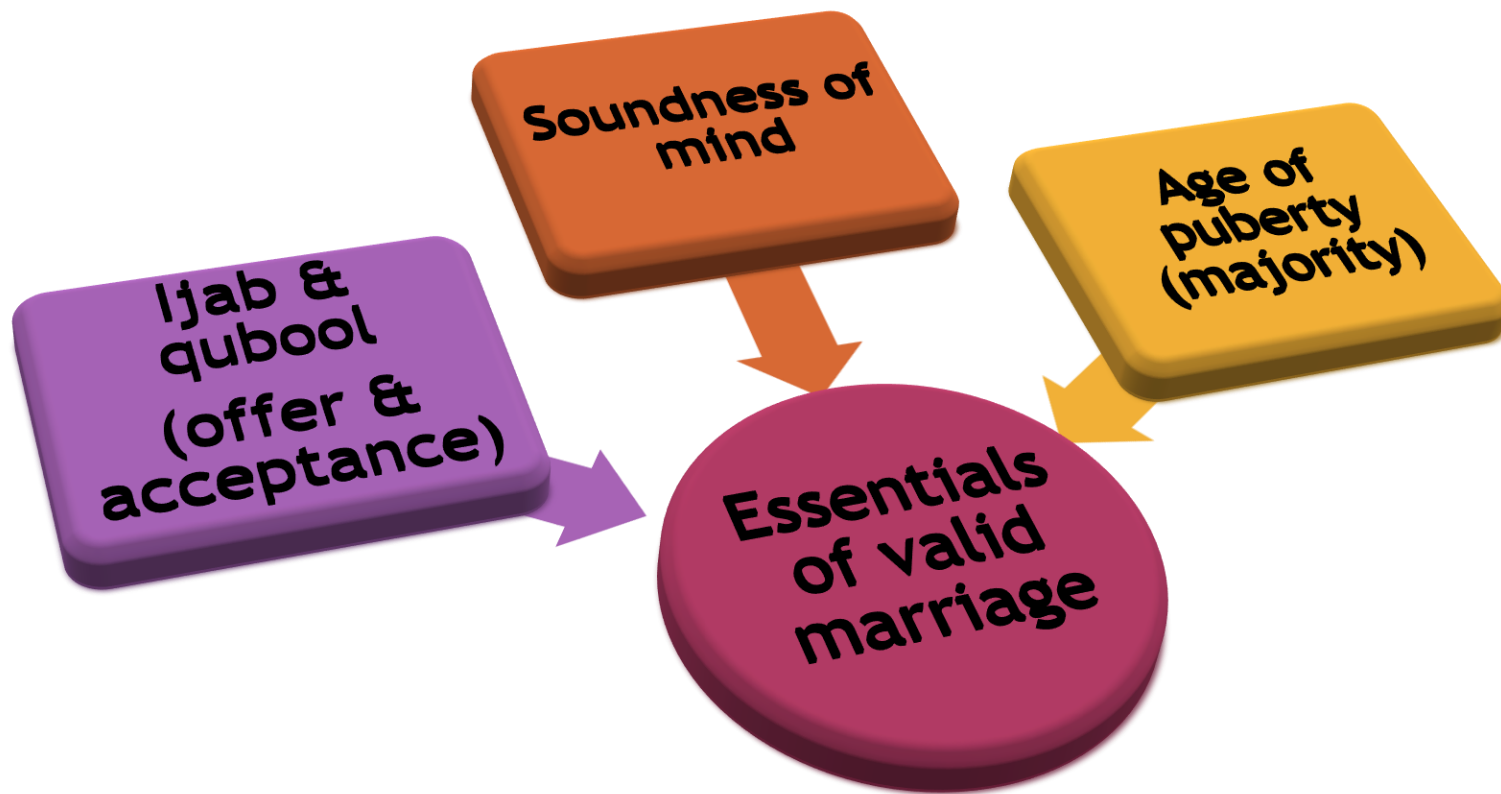


Ceremony

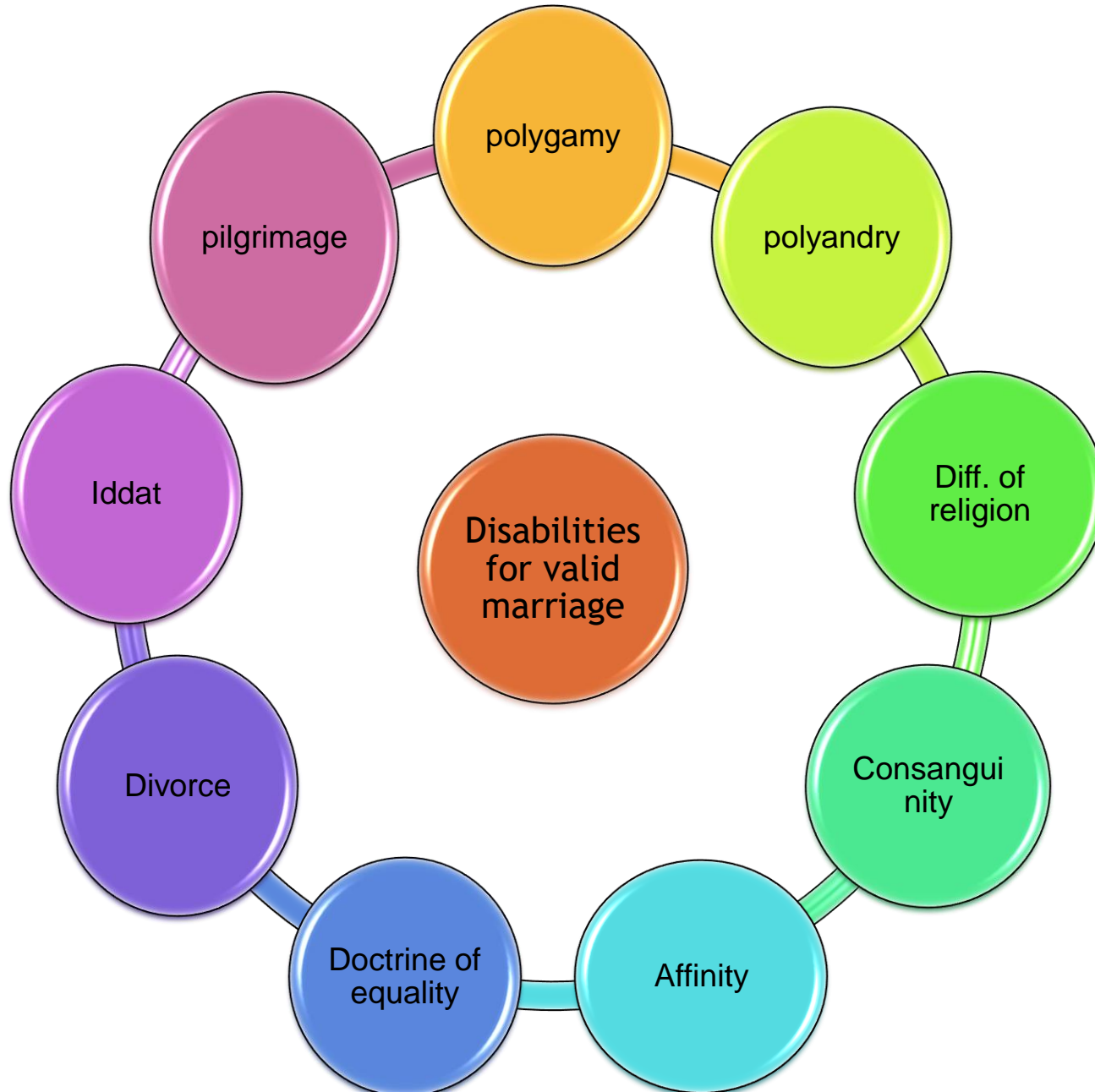


Registration of marriage

MARRIAGE UNDER MUSLIM LAW:



MARRIAGE UNDER MUSLIM LAW:



MARRIAGE AS PER SPECIAL MARRIAGE ACT:

- Sec 4: Conditions relating to solemnization of special marriages:



No living spouse



Soundness of mind



Age of majority



Not within prohibited relationship

MARRIAGE AS PER SPECIAL MARRIAGE ACT:

- ◉ **Sec 5: Notice of intended marriage:** When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the form specified in the Second Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.
- ◉ **Sec 6: Marriage Notice Book and publication:** The Marriage Officer shall keep all notices given under Sec 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.

MARRIAGE AS PER SPECIAL MARRIAGE ACT:

The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.

Where either of the parties to an intended marriage is not permanently residing within the local limits of the district of the Marriage Officer to whom the notice has been given under section 5, the Marriage Officer shall also cause a copy of such notice to be transmitted to the Marriage Officer of the district within whose limits such party is permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office.

- **Sec 7: Objection to marriage:** Any person may, before the expiration of thirty days from the date on which any such notice has been published U/Sec 6(2), object to the marriage on the ground that it would contravene one or more of the conditions specified in Sec 4.

MARRIAGE AS PER SPECIAL MARRIAGE ACT:

After the expiration of thirty days from the date on which notice of an intended marriage has been published U/Sec 6(2), the marriage may be solemnized, unless it has been previously objected to under sub-sec (1).

The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained if necessary, to the person making the objection and shall be signed by him or on his behalf.

Sec 8: Procedure on receipt of objection: If an objection is made U/Sec 7 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.

MARRIAGE AS PER SPECIAL MARRIAGE ACT:

If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the district court within the local limits of whose jurisdiction the Marriage Officer has his office, and the decision of the district court on such appeal shall be final, and the Marriage Officer shall act in conformity with the decision of the court.

Sec 9: Powers of Marriage Officers in respect of inquiries: For the purpose of any inquiry U/Sec 8, the Marriage Officer shall have all the powers vested in a civil court under CPC

If it appears to the Marriage Officer that the objection made to an intended marriage is not reasonable and has not been made in good faith he may impose on the person objecting costs by way of compensation not exceeding one thousand rupees and award the whole or any part thereof, to the parties to the intended marriage.

MARRIAGE AS PER SPECIAL MARRIAGE ACT:

Sec 11: Declaration by parties and witnesses: Before the marriage is solemnized the parties & three witnesses shall, in the presence of the Marriage Officer, sign a declaration in the form specified in the Third Schedule to this Act, and the declaration shall be countersigned by the Marriage Officer.

Sec 12: Place and form of solemnization: The marriage may be solemnized at the office of the Marriage Officer, or at such other place within a reasonable distance therefrom as the parties may desire, & upon such conditions & payment of such additional fees as may be prescribed.

The marriage may be solemnized in any form which the parties may choose to adopt: Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Marriage Officer and the three witnesses and in any language understood by the parties,—“I, (A), take the (B), to be my lawful wife (or husband)”

MARRIAGE AS PER SPECIAL MARRIAGE ACT:

Sec 13: Certificate of marriage: When the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Fourth Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book and such certificate shall be signed by the parties to the marriage and the three witnesses.

On a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the Certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized and that all formalities respecting the signatures of witnesses have been complied with.

Sec 14: New notice when marriage not solemnized within three months: Whenever a marriage is not solemnized within three calendar months from the date on which notice thereof has been given to the Marriage Officer, OR where an appeal has been filed, then within three months from the date of the decision on such appeal OR where the record of a case has been transmitted to the Central Government, within three months from the date of decision of the Central Government, the notice & all other proceedings arising therefrom shall be deemed to have lapsed, and no Marriage Officer shall solemnize the marriage until a new notice has been given in the manner laid down in this Act.