



## The Intervening Marriage and 'Hila'

by Salma Sobhan

tions (1) and (3) on dissolution of marriage by repudiation by the husband (Talaq).

7(1) states that 'Any man who wishes to divorce his wife shall ... after the pronouncement of talaq in any form whatsoever, give the Chairman notice in writing of his having

done so and 7(3) states that [no talaq] shall ... be effective until the expiry of 90 days from the day on which the notice ... is delivered to the Chairman.

It is clear then that what the MFLO did was quite simply to withhold recognition from the sort of repudiation which would require an intervening marriage before the parties could remarry. It does not say that even after a triple divorce an intervening marriage will not be required. It says that a triple divorce will have no effect unless notice is given in due form.

The requirement of an intervening marriage before a divorced couple could remarry is, however, still wrongly seen as necessary by people in most parts of Bangladesh since it is not accepted that the disapproved form of talaq has no effect unless notice has been given in due form to the relevant authorities. Though, in fact, the intervening marriage is undergone in a ritualised way, a couple may be divorced and remarried with the wife having gone through a token nikah with and divorce from a third party in the space of a few days. Most couples who genuinely want to reconcile are humiliated by this and there are cases where a couple has been kept apart as they cannot bear to go through with this ritual. What is disturbing, however, is the refusal of the concerned authorities to comply with the MFLO which they persist in depicting as against religious law.

It is, of course, a matter of historical fact that the sanction against a triple divorce has always been reduced to a procedural impediment instead of being given its true force. Men have always moulded the law of marriage so as to be most agreeable to themselves (Tyabji citing Mayne). In Bangladesh Hila is not only a corruption, but the sanction which was supposed to be applied to the man who had misused his power of repudiation, and which was supposed to discourage triple repudiations and irrevocable divorce, is now used as a further mechanism of control over the women.

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Preparing for life's most ceremonious occasion. But who knows whether the nuptial bondage lasts, her lifetime, not scathed by 'tin talaks' so easily and early enough!

TALAQ or repudiation by husband could be either revocable or irrevocable. "As the Prophet of Islam" to quote AAA Fyzee, "did not favour the institution of Talaq, the revocable forms of talaq are considered as the 'approved', and the irrevocable forms are treated as the disapproved forms, there were two types of the approved divorce, classified as Talaq al-sunna Ahsan and Hasan. Talaq al-Bida or the disapproved form encompassed one irrevocable declaration (generally in writing or three declarations (the so-called triple divorce) at one time.

In order to discourage the latter it was laid down that remarriage between the divorced parties was impossible. The exception was if the wife, in the meantime, having been married to another person, had been either divorced or widowed. The intervening marriage would have had to have been consummated. Since Muta (or temporary) marriages are not recognised by the Sunnis it is clear that getting married with the sole purpose of being divorced was not on.

But the divorced couple could remarry, without an intervening marriage unless there had been more than two pronouncements of talaq. If the talaq was in the Ahsan form (The Ahsan form of divorce required the husband to make a single pronouncement over a period of three months. If he resumed cohabitation with his wife after the first pronouncement and subsequently, again made a pronouncement of divorce and again 'took her back' the third time he did so, if they did not reconcile during the period of the third month the divorce would not only become final but it would also fall into the category of divorce requiring an intervening marriage before remarriage.

Section 7(6) of the Muslim Family Laws Ordinance (MFLO) 1961 states that 'Nothing shall debar a wife whose marriage has been terminated by talaq effective under this section from remarrying the same husband, without an intervening marriage with a third person, unless such termination is for the third time so effective.' In order to grasp the implications of this section we need to consider two earlier subsec-

## Onwards We March towards Beijing

by Shaheen Anam

THE enthusiasm and excitement that the forthcoming World Conference on Women to be held in Beijing in September 1995 has created is evident from the way women community all over the world seems to be mobilizing and preparing for it. Whatever the conference hopes to achieve, a major part of its objective has already been achieved in the process going on leading up to the conference. In that sense, the conference is already a success.

The World Conference should be the culmination of a process that begins with the national preparations. The Commission on the Status of Women (CSW) which is the Secretariat for the Conference has underlined the importance of these national level preparations. It is an opportunity for the advancement of women with the collaboration of other governmental agencies, NGOs, etc to take stock of the present situation of women, analyze the progress made since the Nairobi Conference and prepare for future action.

We, in Bangladesh, have not been lagging behind also.

the intention of positively inputting into the government's efforts. The government's National Committee had commissioned a consultant to prepare a Country Paper, which will be carried to the conference as the status report on women in Bangladesh. This report essentially deals with those topics which are considered to be of primary importance to women in Bangladesh. The areas: women in employment and politics, advancement of women through NGOs, violence against women, national machinery for women's development, women in poverty and health, women in education.

The Ministry of Women and Children's Affairs has already organised three regional workshops in Chittagong, Rajshahi and Khulna and a National Workshop in Dhaka in order to take recommendations from grassroots organizations as well as from NGOs, women's organisations and a cross section of the civil society. The recommendations made at the three regional workshops were supposed to be integrated in the country

violence, forms, causes and ended up proposing a plan of action. The other two groups did not rewrite the chapter but provided valuable information on gaps existing in the chapter. At the end of the brainstorming session, the draft Country Report was discussed by two eminent academicians: Dr Jinnatun Nessa Tahmid and Dr Najma Chowdhury. Both presented an excellent analysis of the report and commented on its substance and methodology and provided concrete suggestions for its strengthening. The United Nations Secretariat has given clear guidelines for the preparation of the report and suggestions were made to follow those guidelines. The efforts taken by the Ministry of Women and Children's Affairs to ensure participation of a broad section of the community towards the preparation process is indeed laudable. What is also very encouraging is the inclusion of NGOs participants in the government's delegation to the Second Asian and Pacific Senior Officials and ministerial meeting being held in Jakarta from 7 to 14 May. These re-

**Fourth World Conference on Women**  
Beijing, China - 4-15 September 1995  
**CONFERENCE UPDATE**

Preparations are ongoing, both at the government and non-government levels to get a broad based consensus on the issues, concerns and constraints that guide the lives of the majority of the women of Bangladesh and to take recommendations so that it may input into the Platform for Action that will be adopted at the Beijing Conference.

The government has formed a National Committee with the Ministry of Women and Children's Affairs as the focal ministry responsible for coordinating the preparations at the government level. The committee has the participation of all the ministries and some of the larger NGOs such as BRAC and Grameen Bank. Some women's organizations are also represented such as Nari Pokkho. The National Committee is supported by a Donor Working Group; members of the donor community who are providing support to national efforts to prepare for the conference.

There are also the National Preparatory Committee, NGO Forum which is represented by 150 organizations and individuals who are also preparing for the World Conference. The NGO Forum was formed with

paper which should have formed the basis for discussion at the National Workshop held on 31 May 1994. Meanwhile, the draft country paper was circulated to some major NGOs, women's organizations and NGO Forum to solicit their comments. Understanding the importance of the process these organizations reasonably gave their comments hoping it would be incorporated in the report.

Out of the two-day Workshop the first day was organized to discuss three chapters of the country paper among the participants: 1) national machineries for women development, 2) advancement of women through NGOs and 3) violence against women. The hundred or so participants were divided into three groups and each group was assigned the responsibility of discussing one of the above chapters.

Discussions in each of the groups was enthusiastic, animated and provided a lot of food for thought. The group on the chapter dealing with violence against women was especially vocal in pointing out the gaps in the draft paper and wrote an outline of the chapter. They gave a definition of

regional preparatory meetings have taken on greater significance as settings for defining regional priorities.

However, all said and done, it has been observed that in the past the recommendations that came out of the regional workshops, and the comments provided by many organizations and NGOs have not been integrated into the Country Report. The general feeling at the National Workshop was that if these comments and recommendations are not taken into consideration then the whole purpose of the workshop is futile.

Conferences are as successful as we make them. There are great expectations from the forthcoming World Conference. It is the duty of every member country and the communities within those country to get as much out of the conference as possible. The preparatory process going on in Bangladesh is indeed heartening. Let us hope that it translates into something concrete and meaningful for the vast majority of our deprived and discriminated sisters all over the world.

The writer is a columnist on women's issues.

## Safe Custody: A Pressing Need

by Raffat Binte Rashid

The law has provisions to arrest someone for "suspicious loitering," such as hanging around in a railway station or bus stand. But should they be kept in the same place as criminals?

male child only, a police station in which arrangements are available or can be made for keeping children in custody separately from the other offenders."

"This is followed by Bengal Jail code under Bengal Children Act, and a child has to be under 18 years of age," informs Karim.

The law has provisions to arrest someone for "suspicious loitering," such as hanging around in a railway station or bus stand. But should they be kept in the same place as criminals?

"It is said that these children or young women are separated from the criminals but that was observed was that they were not segregated," explains Karim. There are even rules, as Karim describes that a convicted mother can keep a child up to six years with her, but Maleka's case is an example of anomalies.

BNWLA is conducting a two and a half year study which is yet to be published.

"These girls, mostly accompanied by their father or husband, come from families, whose monthly income is nothing a taka more than Tk 2000, rather at times less than this. They come for economic reasons," she continues. (There are also exceptional cases where two of the detainees are from well-to-do families with a Master's Degree and a Bachelors Degree and their family income is something from Tk 5000 to Tk 10,000 according to Karim's reports.

Most of them have been locked up for prostitution, stealing and also for serious crimes like murder. "But out of the 67 that got interviewed, 43 of them were in safe custody," informs Karim.

The legal definition of place for safety of Children Act 1974, states that "place for safety includes a remand home or any other suitable place or institution, the occupier or manager of which is willing temporarily to receive a child, or where such remand home or suitable place or institution is not available, in the case of

"After living 10 years in jail Maleka's mother pressed the jail superior, for the child to have a normal life and ultimately she was bailed out," says Karim.

There are many, suffering like Maleka. A Hindu girl married her Muslim house tutor. The girl's conservative parents, filed a case against the husband for kidnapping. The girl informed the court that she married the man at her own will, but as the girl was under-age and didn't want to go back to her parent's home and by law couldn't stay with her husbands, she was put with prisoners, or in safe custody for about a year until she could go back to her husband.

The girl, when could understand the situation gave her address to concerned authorities, but to no avail. She stayed near about a year with convicted prisoners until BNWLA bailed her out. She now lives

with her parents. Who are these convicted prisoners, other than prostitutes, petty thieves, murderers, drug traffickers, gold smugglers, they are in prison for the work they did. But who are those in safe custody? A lost child, a child whose mother committed a murder, or those who have no place to go. "It is for these unfortunate children that a safe custody home is necessary," says Karim.

Their study's main focus was the present condition of the jail, whether there is any need to amend laws but they finally came to a conclusion that a safe custody home is needed.

"These girls have no work, no education and also no complaints. Except for cleaning rice, killing mosquitoes and a weak complaint about the toilet and space, they feel are all fine," says Karim.

"But in India, which has the same jail code, things have changed," she says. Under age girls are divided in groups according to age and other things, there is a separate home for children too. Work is provided for them, some girls are married off and many children are given for adoption.

For the ones whose term in safe custody ends, there is another home where they are rehabilitated, says Karim.

"It was deduced that 50 per cent of these girls in Dhaka Central Jail is in safe custody meaning they are not criminals," she says.

Many organizations and philanthropic persons, even experienced persons who spend their entire life fighting for these ill-fated girls, are demanding and planning for a safe custody home now. "But the seriousness of the situation should be timely understood," says Karim gravely.

## The Problems Women Face in the Workplace

by Sayeda Zakia Ahsan

But are the authorities responsible for the checking vigilant enough to ensure the rights of the women working in these factories? Or are the rules meant to be merely written in books that collect dust in the shelves of libraries?

Business women need security too. These days one can see a large number of women entrepreneurs in the commercial areas. But come to think of it, women do not feel safe to function alone in their workplace, be it a shop or boutique.

To begin with, women working in both Government and private offices face sundry problems. Often women have to travel miles to reach office. In the absence of an adequate number of public buses, the journey to office is an ordeal one cannot forget the whole day. Buses specially reserved for women should not be a bad idea, — this can be easily done by the Ministry of Communication, that can make things so much easier. In the offices there is often no provision for drinking water and no latrine facilities that lead to serious health hazards, in the workplace of women all across the country. Asking for pure drinking water and a clean toilet is not asking for too much in a place where one spends a great part of the day.

In garment factories women are often seen working longer hours for days on end. To add more to the tragedy is the irregular payment of salaries. Of course there are devices to check the anomalies that are rampant in such organisations,

an ice-cream parlour or fast food shop. More than customers, the harassment of hoodlums for donation is rampant. Are the women responsible themselves for their safety? As citizens of a sovereign country, are women not entitled to safety in their workplace and their homes?

Road safety is almost non-existent in the urban areas. Mothers going to drop their children to schools do not know if they will return home safely. The teenage daughter

going to the university has no assurance that she will return home safely in the evening. Such uncertainty is not what one would expect in an independent sovereign country. Instead of talking big on women's emancipation and mainstreaming women for overall national development, let us decide to give women their basic dues — the right to social, political and environmental security. Let the Government take concerted action against all crimes, so that the Anti-Terrorism Act does not merely adorn the dictionary of laws in the country.

The safety of the rural women in the country is also vital. Little matters how many times we sit in Sheraton and Sonargaon and discuss how to uplift our womenfolk from dire distress. The time is ripe and it is about time that the untimely deaths of Nurjahanis be stopped. Little girls, half naked should not be selling flowers on a hot afternoon, only to be picked up by passers by, to be ravished brutally in a nice cool room in an elite area of the city. The haunting tale of Rima should not adorn the pages of women's history in our country.

All said and done women and women's concern require greater and much deeper attention, both by the government and the NGOs, UN agencies and other donor and international agencies. Bangladesh being the birthplace of worthy daughters like Pritilata Waddadar and Begum Rokeya should be a brighter and happier place for all our sisters, daughters and mothers. Come to think of it, will the Beijing Conference for Women in 1995 bring to bloom the bitter lives of women in our country?



Her smile belies lack of security in her workplace. — Star photo