

# INTERNATIONAL WOMEN'S DAY

## The Law Has to be Amended, Otherwise We Will be on the Street

by Advocate Khaleda Khatoun

*We had the main proposal to the Bill to delink sections relating to terrorist activities from the Bill. We believe that the Bill stated to refer to the suppression of gender violence and violence against children, should be limited to its purposes. We also believe that any law to protect women's rights must conform to fundamental rights as enshrined in the constitution and to international human rights standard.*

THE spread of rape, police rape, gang rape and other forms of violence against women and children (especially girl children) are horrifying. The present legal system has failed to give proper justice to the women who are victims of violence within the private sphere and the public sphere of life in Bangladesh. The primary causes behind it are the cumbersome laws, lack of the accountability of the government and the lack of transparency of administration and the law enforcing agencies.

The Sammilito Nari Samaj (SNS) is a coalition of women's activist group, which has been fighting and resisting violence against women in all spheres of life since its inception in 1995. The fight has been a constant one.

It was in April 1998 a group of women lawyers of SNS jointly wrote an article in the Daily Star for suggestion and changes to the Nari O Shishu Nirjaton Domon Ain (Suppression of Violence against Women and Children Bill, 1998) drafted by the government for tabling in the parliament. Other women and human rights organizations also gave their views and critique of the Bill.

In the article the SNS strongly criticized and condemned the linking of terrorist activity within the ambit of the Bill and suggested that these articles should be dropped from the Bill. This critique brought the seriousness of the Bill into perspective, which if tabled, as it was, would be detrimental to the ultimate aim of providing legal protection to women and children against all types of violence, as well as bringing the offenders to task. The drafted version, as it stood, would have a negative effect on those women and children seeking le-

gal aid against act of violence, further complicating the deteriorating legal status of women.

The problems of definition and procedural side of laws relating to violence against women and children (e.g. definition of 'rape', the cultural connotations of this term, feminist perspectives etc) were another area where SNS expressed its overall concern.

### Salient features of the Bill

We reviewed the salient features of the Bill and we found that there are three sections/parts in the Bill. The first section comprises of the definition of and related sentences for offences relating to violence against women and children. It also included the offences of using flammable and corrosive substances, trafficking of women and children, abduction and rape of women including custodial rape and gang rape, mutilation of children for the purposes begging and dowry related violence.

The second section relates to the definition of and related sentences for offences of "terrorism" including the offences of demanding a ransom, arson causing disruption, extortion and interference with tenders.

The third section deals with the procedural matters. For instance, the provision of compensation to victims, the investigation of offences, provision of bail, examination of witnesses, transfer of judges, con-

stitution and jurisdiction of courts, 'safe' custody and the provision of appeal.

### The major concern: incorporation of terrorist activities within the ambit of the Bill

The major concern of the Bill to all of us was the incorporation of the terrorist activity within the ambit of the bill and our primary suggestion on the Bill was to eliminate the sections on terrorism from the Bill. But surprisingly, we saw in the daily *Bhorer Kagoj* of March 5, 1999, that the Cabinet has approved to table the bill in parliament, almost unchanged, except for the elimination of the section about arson causing disruption. It definitely gives us an indication that the objective of the law is not a deterrent to violence against women and children but to use it for other political purposes.

Nowhere in the world have we heard that laws related to women and children have been jointly passed with laws relating to terrorist activities. If there is a need of such a law there is the Penal Code to reform, amend or make changes.

How about the other sections which all the women activists and organization demanded to delink from the Bill of 1998? There was a total consensus within the women's and human rights organizations, irrespective of their political beliefs, (which is a rare exam-

ple in itself), on the issue of elimination all the sections from the Bill that related to the terrorism activities. But the cabinet has rejected the dreams and desires of women groups who worked hard on the suggestions and demanded amendments in the Bill.

Why such disrespect is being shown to the people? Why are they creating a barrier to healthy democratic processes where everybody has the right to express their opinion? It is hard to understand. Why the people's demand has been disrespectfully neglected, we do not know. The question may be raised that since it is waiting to be tabled in the parliament there is a possibility for further discussion and therefore we have some hope. But the history of law-making process does not conform to such a theory in this country where the process mostly has been undemocratic and formulated by authorities without the participation of the people. We fear that when Cabinet has said 'yes' a literally nonfunctional parliament (where most of the time opposition is absent) would fail to debate the Bill and give us a just law.

Other concerns  
The other concerns of SNS were, enhancement of punishment; inconsistency in the definition of the offences; failure to recognize the various forms of sexual assault and the legal definition of rape and the dropping of a provision relating to sexual harassment of

women, which was included in the earlier draft. The bill also provides a legal sanction for the practice of placing women in 'safe' custody without their prior consent. Another area of concern was that the Bill provides that where fines are imposed in addition to custodial sentences, they may be paid as compensation to the victim of violence.

Given the socio-economic condition in many cases in Bangladesh the perpetrator of the violence may well be insolvent. The Bill provides for maintenance for children born as a result of rape and thus assumes that women must bear the burden of continuing a forced pregnancy. The Bill also restricts access to bail for any person accused of an offence under the Bill. It further restricts the provisions on taking evidence from witnesses, and prevents a person accused of an offence under the Bill from cross-examining expert witnesses.

### We repeat what we demanded

The SNS drafted an alternative Bill with the proposed amendments. The suggested areas were: (a) Definition and re-definition of rape and sexual assault and the concept of rape and to interpret it from the feminist perspective; (b) definition of dowry and made a gender specific definition; definition of trafficking of women and children; (c) amendment to the offences related to acid throw-

ing i.e. hurt and grievous hurt, lossing of an organ or bodily harm and killing of a woman by acid throwing; (d) criminalization of selling of acid without legal documents; (e) making a difference 'between 'compensation' and 'fine'. (f) regarding a child born out of rape, it should be the decision of the mother whether she wants the baby or not, and the option for aborting the child will remain with the mother; (g) prevent the character assassination of a complainant woman; (h) inclusion of sexual harassment as a separate section; (i) the victim or the dependents of the victim shall be compensated from the government's fund; (j) the extension of the time for investigating the case if needed; (k) if police is accused then investigation shall be conducted with judicial person; (l) if police or other government official is accused then sanction must be lifted, if not then the trial gets delayed and some procedural suggestions were included in the proposed Bill. Another important suggestion was made to deal offences occurring under the Special Law and Penal Code, not limiting the trial in the courts to avoid procedural complication.

Finally, we had the main proposal to the Bill to delink sections relating to terrorist activities from the Bill. We believe that the Bill stated to refer to the suppression of gender violence and violence against children, should be limited to its purposes. We also believe that any law to protect women's rights must conform to fundamental rights as enshrined in the constitution and to international human rights standard.

The author is an active member of Sammilito Nari Samaj

## An Exercise in Futility

by Barrister Salma Sobhan

*The women of Bangladesh are still waiting for the day when interested parties will stop making capital out of women's issues.*

THE Bengali newspaper 'Bhorer Kagoj' of 5th March, 1999, carried a disquieting report on the proposed Bill to amend the Nari O Shishu Nirjaton Domon Ain (The Bill that sought to curb violence against Women and Children) This Bill, hastily passed in 1995 in response to the outcry following the police of murder by the police of fifteen year old Yasmin in the August of that year, badly drafted and full of lacunae, needed amendment and lawyers and women human rights activists were pleased when the present government announced that amendments were underway.

This pleasure was short-lived. Not only was the (draft) amended bill still rife with inconsistencies and inaccuracies but it contained one remarkable addition. Sandwiched in the text were a few articles which, if passed, would in effect revive an earlier Bill to combat terrorism which had provoked much criticism and had been allowed to lapse. It was clear that undemocratic forces were using the women's movement to implement their agenda.

There was further outcry against this subterfuge and women's groups and other concerned parties wrote and lobbied specifically for the removal of these clauses (and generally for the redrafting of the proposed Bill). An undertaking was finally given that these clauses would be removed. And the government also convened a consultative meeting to deal with the other infelicities of the proposed Bill. Women were much encouraged also by President Shahabuddin's remarks at the inaugural function in which he

too expressed strong reservations about the draft. Over 40 women's groups spanning the entire political spectrum met together last year at the LGED Bhaban in Agargaon for two days of intense deliberation. It was the understanding that if the women's movement jointly presented amendments to the draft the government would accept these. A draft was agreed and was presented to the government several months ago. Since then there has been no move by the government. It now appears that despite their commitment the government intends to go ahead with their original draft at least as far as the anti-terrorism clauses are concerned.

This makes a farce of all our efforts. It is true that incidents like the one in Brahmanbaria are terrorism and equally true that women are the first targets. It is doubtful, however, that this is the best way to deal with such situations. In the Brahmanbaria incident there was clear collusion between the local administration and the anti-liberation forces. That dereliction of duty could quite adequately have been dealt with under the laws as they are. In order to combat undemocratic, anti-liberation forces what is needed is the will to do so. Undemocratic laws are not the answer. Nor is the attempt to use the umbrella of the women's movement and the campaign against violence against women to further an anti-people agenda, appropriate.

The women of Bangladesh are still waiting for the day when interested parties will stop making capital out of women's issues.

## Cruelty against Women and Some Suggested Measures

by Advocate Alena Khan

*There should be arrangements for classes, seminars, meetings in educational institutions and campaigns in the media to give proper legal education about child-marriage, prohibition of dowry, necessity of registered marriages, throwing acid, rape, and so on. This enlightenment would make a woman able about the recourse available to her.*

WOMEN of Bangladesh, like in many other countries of the Third World, are victims of disparity, discrimination, and exploitation. The following reasons could be attributed to this: backwardness, dependence on others, religious fanaticism, lack of education, superstition, child-marriage, marriage without registration, lack of implementation of law, negative attitude of the society, administrative corruption, disparity in property inheritance, lack of effective application of divorce, lack of reforms in Hindu law.

For ages women have been motivated to think that social and political activities are not for them. Even today, women are told that their outdoor activities, would destroy the peace and harmony of the family, children would be spoiled. These ideas are strengthened further by the different media.

Women will have to come forward to correcting the situation. Men will also have to extend their co-operation. Expansion in education and literacy are the basic instrument to increase the awareness among the women. Besides, they will have to be made financially self-reliant. The women will also have to be given education about their rights, national democratic movement, economic and social development and so on.

Women will have to participate in the struggle for development and peace to bring an

end to cruelty to women. Exploitation has given rise to problems of women to have an exploitation-free society women will have to be given proper religious education; because taking advantage of the situation a section of people take the privilege of misinterpreting teachings of religion.

Besides, there should be arrangements for classes, seminars, meetings in educational institutions and campaigns in the media to give proper legal education about child-marriage, prohibition of dowry, necessity of registered marriages, throwing acid, rape, and so on. This enlightenment would make a woman able about the recourse available to her.

In this context the problems of Family Courts should be discussed. The Family Court Ordinance was promulgated in 1985. Under the provision of this Ordinance, court fee has been fixed at Take 30 where there is no limit for fees of a lawyer. To engage a good lawyer in a matter of Family Court is expensive. The distressed and poor women, for lack of financial support, in most cases cannot seek redress from a Family Court.

In addition, the judge of a Family Court is pre-occupied with other litigation for which there cannot be any expectation for which there cannot be any expectation about when the matter would be disposed of. The process servers of the Court

are also not dutiful and there are reports where these servers were influenced by the accused. The effectiveness of a decree becomes futile where the appellant is a floating person.

There is a law in the country prohibiting polygamy. But this law is not properly enforced, the reasons for which are:

Lack of awareness about the law amongst the members of the lower middle class; The husbands do not feel the necessity to seek permission from arbitration council and even if they do so they threaten the existing wife with consequences like divorce and other punishments;

The chairmen of the Union Parishad are failing to enforce the provisions of this law because not many men apply for permission, and even if they do the concerned chairmen, in most cases, has no time to examine the contents of the application.

Many women do not move the court of Assistant Judge against the permission given by the Union Parishad;

There is no effective measure to prove Clause 18, 19, 21 and 22 of the Nikahname;

In many case identities are forged, for which wives fail to seek any redress; and

Wives normally cannot procure copy of the Nikahname of the second marriage for which litigation becomes difficult.

To solve the above problems,

we could think of the following solutions:

In case of a prosecution, witnesses, nor the Nikahname, should be treated as proof to prove the case of a second marriage;

The jail term for second marriage should be extended to seven years and the amount for fine may also be increased;

The husband will not be allowed bail if there is a Nikahname for the second marriage;

If the husband is found guilty of providing wrong information to Clauses 21 and 22 of the Nikahname, then there should be provisions for punishment for falsification and second marriage;

The Chairmen of the Union Parishad should carefully; and

There should be stricter laws prohibiting polygamy;

The role of the police should be considered important in reducing cruelty to women. There are instances where police have failed to properly discharge their responsibilities especially in the incident of repression of a woman. There should be provisions for immediate legal action against the member of the police concerned for failing to handle the case of repression against women.

Mere slogans or speeches are not enough to solve the problem of repression against women.

We need pro-active programmes where citizens concerned will play an active role.



A partial view of Sammilito Nari Samaj's protest rally against oppression of women.

—Photo: Natasha Ahmed

## The Position of Women Today

by Pial Das

EQUALITY of sexes is only a trite platitude, although our constitution proudly declares "Women shall have equal rights with men in all spheres of the states and of public life." [Article- 28(2)]

At present women comprise 48.6% of the population of 120 million. The sex ratio of Bangladesh in 1996 was 947.3323 and it was 945.9955 in 1995. In developed countries there are proportionately higher number of females than males in the population. But the sex ratio of Bangladesh indicates that there are more men than women. There are 947 women per 1000 men in Bangladesh in 1996. Bangladesh is one of the few countries where men outnumber women.

Infant and child mortality rates reflect the level of socio-economic development as well as the quality of life of a country. Demographers have defined the infant mortality as the probability of dying before the first birthday and fifth birthday. Both rates are calculated per 1000 live births.

### Infant and Child mortality rates for the period preceding the survey, 1996-97 (BBS 1997)

Sex	Infant mortality	Child mortality
Male	95.0	36.9
Female	84.2	47.0

Women have an inbuilt biological advantage over men (Preventive and Social Medicine, K. Park). This biological advantage is evident in the first few months of human life. And the above table shows that, male children are more likely to die in infancy stage than female children (95 for males and 84 for females). But in Bangladesh, it takes a little time to outweigh biology by social discrimination. The gender differential reverses during ages 1 to 4 years, child mortality for males (36.9) is less than that of female children (47.0). Experts are suspecting that

there may be gender related differentials in child rearing practices or in treatment of illnesses during childhood that favour boys over girls. (Hill & Upchurch, 1995)

Female literacy rate is only 38.1 which is 55.6 for male. The above graph obtained from the BBS data shows that in the primary level the female percentage is much more higher than that of male student. Some very recently taken steps for girls have led to a significant enrolment in schools. It is significant that the statistics reveal that girls participate almost equally with boys in the primary school level. But very unfortunately, as the level of education increases female students lose their supremacy. And at the higher level they are almost nil, only 0.85 per cent women complete their graduation. This strong imbalance between women's access to education and completion of it is a matter of concern.

A third of 15 to 19 year old women are married. About 12 per cent women become mother in the immature age. In 1996 average age at marriage for male was 27.8 years and it was only 20.1 years for female (BBS, 1997). But a UNICEF report tells that still now age at marriage of Bangladesh for female is 14 years. Whatever the actual scenario is, it is true that the average age at marriage is increasing for both male and female but in a slow motion. As we have seen in the above graph, a female of Bangladesh, on average, 8 years younger than her husband and this difference in age as well as experience weighs heavily in favour of husband.

A remarkable increase in the number of female labour force in 1989 and afterwards compared to 1985-86. If you are not provided a note regarding it, you may reach a wrong decision. No tremendous development over this period has oc-

curred. It is simply because of the definitional change we have witnessed a handsome amount in female labour force after 1989. The new definition of the economic activities include activities like caring domestic animals and poultry, threshing, boiling, drying and husking crops, processing and preserving food etc. These activities are usually performed by female and hence, the number of female labor has increased. It is undoubtedly a good attempt. We have, at least and at last, recognised these works as economic activities. But if we consider the ratios of both sexes in the labour market in terms of wage, we will be disappointed. Women's employment does prevail in the no-paid or worst-paid branches of the national economy. The wage rate of day labourers averages 46 taka for men, but 26 taka for women. (BBS 1996). Occupational promotion of women is much more difficult than that of men, even in such 'feminine' occupation as, for example, teaching. Number of female teacher in the secondary schools was 21,772, and this was 1,34,515 in case of male in the year 1995-96. Women are concentrated, as usual, in the lower levels of the occupational pyramid and so continue to be a source of cheap labour. A female worker of Bangladesh gets 42% wage of a male worker. (Human Development Report, UNDP, 1995-97). Dr. Altar Rahman in a study of BIDS has shown that a woman works 21 more hours than a man in a week. According to UNICEF, the boy who does not go to school spends only 12 minutes in the household work per day whereas a girl who is not going to school spends five hours in the household work per day.

Females have biologically stronger constitutions, and in most populations women live longer than men. In developed countries, female life expectancy at birth is approxi-

mately seven to eight years higher than their male counterparts, and at every age group, male mortality is normally higher than female mortality. Bangladesh is one of the few countries where expected life of female is less than that of male. It is 58.6 years for women and 59.1 years for men. (BBS, 1996)

According to BDHS (1996-97), the total fertility rate (TFR), which is a useful means of summarising the level of fertility for the three years before the survey (approximately 1994 through 1996) is 3.27 per woman. It means that a woman would have 3.27 children by the end of her childbearing years if she were to pass through those years bearing children at the currently observed age specific rates. It should be noted that this (TFR) was 3.4 according to 1993-94 BDHS which is also a result for the three years before the survey (approximately 1991 through 1993). This should be noted that between 1971-75 fertility rate was 6.3. And this remarkable reduction of fertility rate has come to a reality only because of the extensive family planning programme. Between 1972 and 1996, the proportion of currently married women using contraception prevalence rate' rose from 4% to 49%.

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Sammilito Nari Samaj, after its formation in 1995, organised its first rally on the occasion of International Women's Day in 1996.

—Photo: Caben Graso

**ERRATUM**  
In our Interview of the Week, published on March 5, 1999, Dr. Gouriswar Bhattacharya was mentioned as a collector and connoisseur. He has presented many items of art from the Indian sub-continent to various museums in the United States and presently he is on the Board of Trustees of the Brooklyn Museum in New York .... in place of Dr. Bertram Schaffner. We regret the oversight.