

REPORT OF THE NATIONAL CONSULATATION

A STEP FORWARD
**A NATIONAL CONSULTATION TO FORMULATE AN IDEAL MUSLIM
FAMILY LAW**

ORGANISED BY
Women's Research and Action Group
601, Chandra Nivas, Old Police Lane, Andheri[e], Mumbai -69

DATE
6, 7, 8 December 06

It is now established without doubt that the Muslim personal law as practiced in India is extremely discriminatory towards the Muslim women. And Muslim women have realized that they need to get together to raise their voices against this law and demand justice.

The reforms in Muslim laws have been happening sporadically. The first wave of reforms happened in 1937-1939 when the Shariat Application Act and the Dissolution of Muslim Marriage Act was passed. Until 1986, there was no talk of reforms within the law. Moreover these laws were piecemeal, targeting only one or the other aspect of the personal law. For instance the Dissolution of Muslim Marriage Act only laid down grounds on which women could seek divorce. It never curbed men's right to unilateral oral divorce nor did it lay down any procedure for the recovery of mehr, post-divorce maintenance or about the custody of children.

All the three instances of part codification of some aspects of Muslim personal law, shows that all along the process was highly influenced by the religious men from the community who took upon themselves the responsibility to protect the Shariat from any pro-women reform. All three attempts at bringing about pro-women reforms and some uniformity in the Muslim law failed.

Twenty years have lapsed since the passage of the controversial law in 1986 and we are still groping with the same issues. One may ask the reasons behind these long gaps. Why have we not been able to even debate the reforms process in a constructive manner? Repeated communal violence has created a sense of insecurity and alienation within the Muslim community. In this context, when the community is enmeshed with issues related to its identity, survival, physical and economic security, the right of Muslim women to a dignified life has been relegated to the backburner.

While gender-just reforms within Hindu, Parsi & Christian matrimonial laws have taken place, it is a stark reality that there exists no political will to bring about reforms in Muslim matrimonial law that would benefit the women from the community. The threat of instant oral unilateral divorce, meagre mehr amounts, polygamy, lack of adequate post-divorce maintenance continues to haunt the lives of Muslim women. Added to this is extreme poverty, social, economic and educational backwardness, which makes a Muslim woman extremely vulnerable and forces her into destitution. Moreover, the MPL in India is not fully codified, leaving room for ambiguity and gender-discriminatory interpretations.

The past two decades have been spent in understanding women's experiences and highlighting the problems that Muslim women face as a result of discriminatory aspects of Muslim personal law. The present and future focus should be on concretizing and articulating the demand for gender-just reforms, and on increasing the support-base for initiating and sustaining a national campaign for demanding the same.

In the present situation, where the religious orthodoxy, Muslim Personal Law Board and the state as a whole have taken little initiative to protect and promote Muslim women's matrimonial rights, the onus now falls on the ordinary Muslim women and men to initiate the process of reforms in the Muslim matrimonial law. Muslim women are now feeling the need to come together on one platform and raising the issue of gender-just reforms.

WRAG strongly feels that the process of law reform will begin when women will be able to articulate their point of view. What kind of law she wants? How does she want the law to look like? What should be its provisions? We felt the need to create space where Muslim woman herself could articulate the required law which could be based on the Constitution and the liberal interpretations of the Quranic injunctions.

The National Consultation was the first step in that direction. This meet was titled 'A Step Forward' because we wanted to take the debate of law reform a step ahead and actually work towards formulation a new law. The objective of the Consultation was to understand the legal scenario concerning the Muslim women and to debate and arrive at a consensus on a gender-just marriage and divorce law. 111 participants from 10 states and 58 organizations participated in the Consultation. The participants were Muslim and non-Muslim women activists working on Muslim women's issues in villages, smaller towns and cities. These activists were extremely motivated and were very keen to find lasting solutions to challenges faced not just by Muslim women but also by the Muslim community.

Although it was intended that the participants would discuss marriage and divorce laws, we could discuss only marriage laws as that topic required in-depth understanding and discussions. The subtopics within marriage were:

- Mehr
- Polygamy
- Registration of marriage
- Nikahnama
- Maintenance within marriage

DAY 1

MORNING SESSION

Noorjehan Safia Niaz, the Co-Director of WRAG welcomed the participants and spoke about the objectives of the Consultation. She briefed the participants about WRAG's activities and the context in which the organization was created. In the early 1990's when the country was in the grip of communal violence and was on its way to opening up its economy, women's issues and especially issues of the women from the marginalized community were ignored. In such a scenario it was essential to create space for women from the marginalized and minority communities to articulate their concerns and take steps to ameliorate it.

She stated that the community is besieged with many challenges and the Justice Sachar Committee only confirms the tremendous need to work on all fronts with the Muslim community. The events on and after 6th December 1992 were watershed events in the lives of the Muslim community. While we are still nowhere close to affecting the umpteen issues facing us, on 6th December 06, can we begin to at least address the long-standing legal concerns of the community? Where have we reached in the last 13 years and where are we stuck? We need to ask these questions to ourselves while we grapple with increasing communalization of the Indian society and the growing alienation of the Muslim community nationally and internationally. Even now there is a need felt to create space for Muslim women to not just articulate her concerns but also take concrete steps to take it forward.

While poverty, unemployment are still the major concerns of the community, a discriminatory personal law is also an area of concern as it does affect the marginalized Muslim women. The State is not interested in Muslim law reform as they find it too controversial and our interactions with the Minority Commission and the Sachar Commission indicates that it is not even within their mandate to raise these issues. The religious leadership is deliberately closing its eyes and ignoring the issues of Muslim women. In such a scenario, the onus now falls on the Muslim women to take on their issues head-on.

She also mentioned that while interacting with Muslim women across the country it is seen that Muslim women are completely energized and want to take up the issues of their community. For a long time we have been discussing and debating the problems within the Muslim personal law and have become problem centric. Its time to stop crying and take the debate of law reform at a different level with a more sharpened perspective. In order to do that we must initiate the process of making

our own laws just as we made our own nikaahnama. Although it is a lengthy and time consuming process, it must be initiated. While some aspects of Muslim law are codified, others are not. We need to understand these gaps and work towards long term strategies.

And in order to make our own laws we must know the Quranic rights and the statutory laws including the Supreme Court judgments. To make new laws we need to know what exists. She reiterated that the next 3 days will be spent in making our own laws and hence the consultation is designed to facilitate maximum interaction within the participants. And it is a dream that by the end of year 2007, we should be ready with our draft of an ideal marriage and divorce law. In order to do that we need information of the existing statutory law, the Supreme Court judgments and the Quranic rights so that we can create a new law. With these remarks she invited Dr. Vibhuti Patel to give the Keynote address.

Dr. Vibhuti Patel, Head of Economics Department of SNDT University and a stalwart of the women's movement. She writes in many magazines and journals and is also associated with WRAG. In her Keynote address, Dr. Vibhuti Patel mentioned that we are going through trying times where the Muslim community all over the world is being maligned. It is a conspiracy to find faults with the Muslim community. A situation is created where the Muslim women is the oppressed the Muslim man is the villain. Hence we should be very sensitive and careful when we speak of the Muslim community and the challenges before them

There are 6 issues on which all personal laws discriminate against women. They are:

- Women are not considered human beings. They are only properties of man. The practice of kanya daan suggests that she is a property to be given away.
- Men always enjoy the right to divorce. The grounds of divorce for men and women are different.
- Women has unequal rights in property
- Custody of children is always with men based on the seed and soil theory where the seed comes from men and since the seed is supreme, men too are supreme.
- A woman is a perpetual minor where she is always dependent on men. Either as young girl, married women or old women she is always dependent on men. So a woman is a minor cannot be in a position to look after another minor. Hence a woman can never enjoy the custody of her child.
- Women across the world always had to fight for their right over matrimonial home.

Micro-level interventions started in 1980's where women's organizations took up issues of dowry and rape and provided institutional support for women's struggle. Many organizations worked on the issues of education, employment but the issue of personal law was always very sensitive and it never got due attention. Women's organizations must look at the issue of law reform and take it up for further discussion.

Muslim women are struggling with many challenges. They are approaching informal structures like lok adalats formed by women organizations. Muslim women are also assuming leadership roles. Many young girls are educating themselves and are thinking about their careers. They are discussing and debating and participating in the outside world. She should now combine her struggles with other movements and gain strength from it. But the religious forces are dominated by men and enforce rules and regulations which suffocate women's lives, including Muslim women.

The communalization of our society began after the Shahbanu case. She fought in the court of law for maintenance. It was not the first and the last time that a Muslim woman was approaching a civil court for maintenance, but what incensed the Muslim community was the language of the Supreme Court judge Mr. Chandrachud who branded Islam as barbaric. The language and the tone of the judgment

was very communal and it led to widespread riots and the polarization of the Indian society on communal lines. Thereafter the 1986 Act was passed which stopped Muslim women from using the Cr.P.C 125 to claim post-divorce maintenance.

There are many groups who demand a Uniform Civil Code. Some say that if we can have common labour laws then why can't we have a common civil law? We have thousands of community based laws which hampers national integration. Some women's groups feel we need a civil law which looks at women as citizens and is gender just. Communal forces want a Uniform civil law because Muslim women is a child producing machine, she has no face, no identity so a common code would save her from Muslim man. These issues need to be discussed.

Women from the Hindu and Christian community have also initiated and achieved success in law reform. Christian women had to struggle to amend the India Divorce Act which did not allow a Christian woman to claim divorce on grounds of adultery. The amendment happened after many organizations and individuals undertook a long struggle to get just treatment under the Christian law.

After Dr. Vibhuti Patel's Key note address, **Dr. Zeenat Shaukat Ali**, Professor of Islamic Studies, St. Xavier's College was invited to give information on the Quranic rights with regards to marriage and divorce. She began with giving a global scenario of the status of Muslim women. She stated that globally 70% [1.3 billion] women live in poverty. Most illiterate in the world are women. Only 10% of Parliamentary positions are with women. 80% of refugees are girls and women. In Holland, 5 girls get sexually abused before the age of 10 years. In France, 95% women are victims of violence out of which 51% of women in France face violence by men. In South Africa, 50% of women are raped once in a lifetime. Genital mutilation is rampant in Africa. Women do not have voting powers in many countries. But India being a secular democracy, women have voting rights.

Laws are for human beings and not the other way round. Laws are made for our convenience. She gave a very good illustration by saying that in the earlier Arabic society, if a man was found stealing, the Caliph or the ruler was made to answer the reasons for stealing. It means that the State was responsible for the welfare of its citizens.

In pre-Islamic Arabic society, women were seen as sexual instruments. There were no rules of marriage. Adultery was rampant, girls were buried alive. The elite in the then Arab society, married in a proper way but for the masses, there were no laws. Quran gave dignity to women by treating her as an independent person by giving her right to education, right to earn and right to own property. What we follow now is the Arabised Islam. We need to differentiate between culture and religion and not blindly follow traditions.

NIKAAH

- Nikaah is meant for a sanctioned sexual relationship. It is a promise that women and man make to each other to live together and look after each other. Relationship outside marriage is not allowed. Although marriage is an act of muamalat [worldly affairs] but it is also an act of ibaadat [worship].
- Marriage in Islam is a contract between two people of the opposite sex. It is a written contract. It must be legalized in the court of law. Marriages must be registered with the government however you marry.
- The people entering marriage should be mature.
- Homosexuality not allowed in Islam.
- Child marriage is banned. Immature girls and boys cannot be married off. A minor's marriage is null and void. It cannot be regularized. We should not find excuses to regularize an

irregular marriage. It can be legalized but it should not be. We should raise these issues in our communities. 18 and above is the age of marriage in all Islamic countries.

- Mutual consent is important. Marriage requires consent and consent can only be given by adults of sound mind. The consent should be unambiguous, in clear terms.
- Ijab and qubool, offer and acceptance are two main ingredients of marriage.
- Both man and woman can propose. The wives of Prophet had proposed him.
- There is no need for lavish marriage.
- Two witnesses are required who can be man or woman.
- It is important that men and women co-exist with love.
- A woman can become the Vakil-e-nikaah.

MEHR

- Mehr is a gift which husband gives to his wife as a mark of respect.
- It is not bride price.
- The mehr is meant to give her financial independence at the time of marriage.
- If he has taken the mehr from her and has not returned then she can go to the court.
- There is no dowry system in Islam.
- To forgive mehr cannot be a condition in the nikaahnama. Under no circumstances can mehr be forgiven. It is not a valid clause.

NIKAAHNAMA

- Marriage is a written contract. One can keep conditions in the nikaahnama. For e.g. Women can put a condition that the husband will not remarry while still married to her.
- She can also give to herself the power to divorce her husband through the provision of Tafweez-e-talaaq.
- A woman can demand a separate matrimonial home. Prophet Mohammed had a separate house for his wives. If she is willing then fine otherwise separate house.
- The concept of mother-in-law is alien in Islam. One cannot be mother or father by law. She cannot be forced to look after her in-laws. If she does it out of love and kindness then it is fine.

DIVORCE

- Divorce was easy in the pre-Arabic times. There were many ways in which men could divorce his wife. He would refuse to have sex with her for many days and then claim that he has divorced her. This method was called Ila. Various ridiculous methods were used by people. Men would throw slippers on the women and divorce her. He would call his wife his mother and then divorce her which was called zihar. Ila and zihar were banned by the Prophet.
- We should study the Quranic procedure and the reforms that the Prophet brought in. One needs to fight against the patriarchal interpretations of the Quran.
- Oral unilateral divorce is totally unIslamic and unQuranic.
- Talaak-e-ahsan which is mentioned in 4:35 verse of the Quran is the best way in which divorce can happen. If there are differences between the husband the wife than the arbitrators, 2 from husband and 2 from wife's family, should be called. It does not matter who initiates the divorce proceedings. A process of reconciliation begins which lasts for 3 months. These 3 months of waiting is called 'iddat'. During iddat they can stay under the same roof but cannot have sexual relationship. In these 3 months, if reconciliation happens then the divorce is dissolved. This type of divorce can happen only 3 times in one's lifetime.
- If no reconciliation takes place then divorce takes place before a Qazi. A Qazi means a judge, one who has authority and government power.
- It is important to note that men or women can initiate the divorce proceedings. We need to understand this method of divorce and put it into practice.

- All Arab countries have changed their laws. In Morocco and Turkey divorce can happen only in the court. In Pakistan too the divorce can happen in the court through the Arbitration Council. In 1939, women in India could go to the court to give divorce to her husband.
- A Muslim couple has the option to marry under the Special Marriage Act.

POLYGAMY

- The verse on polygamy came when the battles were on and many women were orphaned and widowed. It was to give support to them that polygamy was allowed.
- Quran clearly mentions that it is not possible to treat everyone equally hence marry only once. The sex ratio was unfavorable to men then. But today the situation has reversed. There are more men than women.
- There are 805 verses on knowledge but only one verse on polygamy, but we do not follow those 805 verses but follow this one verse so faithfully. If we would have done that we would have attained 100% literacy. This one verse also must be read in the context of battles where men were killed leaving behind widows and orphans.
- Today the sex ratio is not in favour of women, then how can polygamy be justified.

OTHER ISSUES

- On iddat after husband's death, she said that this iddat is meant to establish pregnancy if any. She cannot remarry in this period but she can go out and work. Even if she likes some body she has to wait. But she can be mobile and carry out her daily activities. Actually she must go out to work to avoid depression.
- There is no clergy in Islam. No need to run to qazis for our problems. These qazis were used by the political parties. We should make a women's Board which will sanction every thing. Maulanas are creation of politicians and not Islam. To seek justice one must go to the judiciary. A judge can be non-Muslim also. He/she must know Muslim law. A woman can also be a Qazi. A Qazi means a judge, one who has authority and government power.
- With regards custody of children, child should go to the mother if she wants it. She should be able to maintain the child.
- We need to should study all schools of Islamic jurisprudence and arrive at the law which we want.

What need to be remembered is that justice, honesty and truth are Islamic values and all our decisions must be based on these timeless values.

AFTERNOON SESSION

In the afternoon session, Saumya UMa and Adv. Veena Gowda gave an overview of the existing statutory laws and Supreme Court judgments on mehr, nikaahnama, polygamy, registration of marriage and maintenance within marriage.

There are 2 sources of law:

- Codified law
- Court-made law

They are based on

- Interpretations of Quran
- Commentaries of Islamic scholars
- Established laws even prior to independence

Judgments which were given by British judges have influenced today's scenario. Law is not practiced in the same way as it is written. Practice is influenced by patriarchal forces and attitudes. But we should aim at enacting or practicing what is written in law.

NIKAHNAMA - PRINCIPLES OF CONTRACT

- Both should have capacity to contract marriage
- One party should propose which is called the Offer
- The other party should agree which is called the Agreement
- Consideration at the time of nikaah
- Mutual intention to create a binding relationship
- Should nikaahnama be legally binding or a private agreement?
- Any condition in nikaahnama not fulfilled is called the Breach of trust
- Nikaahnama contains Lawful stipulations for regulation of matrimonial life & for dissolution of marriage

LAWFUL STIPULATIONS IN NIKAHNAMA

- Prohibition on contracting second marriage during subsistence of the first
- Prohibition on husband to remove wife from matrimonial home
- Husband will not absent himself from matrimonial home beyond a certain period
- specified place for spouses to live together
- payment of mehr - what amount & when (prompt / deferred)
- fixed sum of monthly maintenance
- husband will maintain children of wife from her former husband
- husband will not prevent her from receiving visits from her relatives whenever she likes
- Tafweez-e-talaaq - delegated right of divorce

PRESUMPTION OF MUSLIM MARRIAGE

- When prolonged continual cohabitation established there is no legal impediment against their marriage (Mohd Amin vs Vakil Ahmed, 1952, SC)
- Man's acknowledgment of woman to be his wife
- Man acknowledges a child as his - presumption of marriage with child's mother

REGISTRATION OF MARRIAGE

To prevent child marriage and polygamy, the government has made registration of marriage compulsory. But in some states registration is optional, in some states the registration is compulsory and in some states there is no law for registration. In states like Rajasthan, registration of marriage is linked to issuance of passport and ration card, which is a wrong practice. The SC judgment for registration (Seema vs Ashwani Kumar, 14 Feb 06, SC) does not specify the penalty for non-registration. But many states have started imposing penalties for non-registration which is serious and must be taken up with that respective state.

There could be practical difficulties in terms of what will be place of registration, who will keep the record, how to trace a marriage if it is happening in a town or a village. How to control polygamy if first wife's marriage is registered in Mumbai and the second wife's marriage is in a remote village. Will that village be linked to Mumbai? Will all registration be computerized?

POLYGAMY

The practice of polygamy is less prevalent among Muslims than Hindus. Multiple marriages not banned if permitted under the law. Polygamy in Islam is not unconditional. The capacity to do justice between co-wives is condition precedent

Polygamy can be regulated or prohibited by law in the interests of social welfare & reform - such law would not violate religious freedom (Javed vs. State of Haryana 2003 SC)

Wife can claim divorce on ground of inequitable treatment under the Dissolution of Muslim Marriage Act of 1939.

Polygamy entitles first wife to live separately & claim maintenance (Begum Subanu vs Abdul Gafoor, 1987 SC)

POLYGAMY: ISSUES & CHALLENGES

Should polygamy be banned completely or should it be regulated. Banning has not curbed the practice amongst non-Muslims. Will it help the Muslim women? There is a need to debate whether polygamy should be regulation or should it be banned completely? In case of a complete ban how do we ensure the rights of the second wife?

MEHR

- Stipulation of mehr is an important aspect of Muslim marriage
- It is an obligation on the husband
- It is a mark of respect to woman
- It is a check on husband's arbitrary exercise of right to divorce

WHAT CONSTITUTES MEHR?

Includes tangible & intangible property (except that prohibited by Islam):

- Profits arising from land / business
- Debts due to husband from wife or others
- Insurance policies
- Sale proceeds of something owned by husband
- Jewellery, cash, land, house

TYPES OF MEHR

- Prompt (payable soon after contract, when demanded by wife)
- Deferred (payable at time fixed / happening of specified event / on dissolution by divorce or death)

MEHR - RIGHTS UNDER LAW

- Can be increased anytime after it has been fixed (post-nuptial agreement)
- Minimum amount can be fixed (Sunni)
- Court has no power to decrease the contracted amount, even if it is in excess of husband's capacity - except by special law (1876)
- Full specified amount payable if dissolved after consummation or by death
- Breach of conditions - entails wife to claim proper dower if it exceeds specified dower
- If no agreement between parties about proportion of prompt & deferred mehr, this will be determined by court - considering custom & other circumstances
- Deferred mehr - wife & her heirs can recover it from husband or his assets (if he dies)
- Mehr - actionable claim
- Right to mehr is transferable & heritable
- Mehr - debt payable before distribution of assets through inheritance
- Relinquishment - law & reality (relinquishment made by wife at a time of mental distress due to husband's death or serious illness - not binding on her)
- Conditions against relinquishment made at the time of marriage - binding on parties
- Can be paid by transfer of property in lieu of mehr

- Widow can retain possession of property until her mehr debt is paid; if dispossessed wrongly, she can recover possession

MEHR – ISSUES & CHALLENGES

- Although mehr is an important aspect of a Muslim marriage there is a difference between law and practice
- Mehr has been reduced to a token amount, a symbolic token defeating the very purpose for which it was fixed.
- In reality a woman is forced to give up her mehr at the time of marriage, at the time of divorce or at the time of husband's death.
- How do we enforce what is there in law?

MAINTENANCE WITHIN MARRIAGE

- Maintenance signifies all things necessary to support life. It Includes food, clothing, accomodation, cost of education, medical exps, kharch-i-pandan / mewakhori (personal allowance)
- Wife, children, parents, grandparents, son's wife, step-mother etc. are entitled to maintenance.
- Husband, father of husband, step-son, ascendants, descendants are liable to maintain.
- What law applies?
 1. Personal law (uncodified)
 2. Agreement made between parties
 3. S. 125 Cr.P.C.

MAINTENANCE UNDER S. 125 Cr.P.C.

- Husband must have sufficient means
- Wife / minor child who are unable to maintain themselves can be claimants
- Major child who is inability to maintain due to physical / mental defects / injury (excluding married daughters) can be claimants
- Mother or father unable to maintain can be claimants
- Husband is liable to maintain if he neglects or refuses to maintain wife
- No ceiling on amount of maintenance
- Can be modified (increased, decreased or cancelled) due to change in circumstances such as living in adultery / refusal to live with husband without sufficient reason

MAINTENANCE: ISSUES & CHALLENGES

- What could be the proof for claiming maintenance
- Enforcement of orders, how to make the husband pay?
- Modification of order
- Extraneous circumstances - in circumstance such as job loss of men, how can women's claim for maintenance be enforced?

ISSUES FOR GROUP DISCUSSION

- Could there be any more stipulations in the Nikahnama
- Provisions for registration, presumption of marriage
- Proposed law relating to polygamy - regulation or prohibition? Implementation after prohibition
- Mehr - specified / proper dower, minimum amount, additions to mehr, prompt / deferred - ways to use mehr for economic empowerment of women (prevent tokenism & misuse)
- Maintenance within marriage - minimum amount? Overcoming challenges faced at present

DAY 2

On the second day the group was divided into 5 groups and each group had to discuss in depth about the 5 issues. Each group had a facilitator who was requested to direct the discussion towards solutions rather than problems. Each facilitator was provided with guidelines and points of discussion. The 5 group spent the entire morning discussing the 5 issues in depth. Post lunch each group made a presentation to the larger group and each aspect was debated. The following suggestions were given on each issue:

POLYGAMY

- Polygamy is anti-Islamic and anti-justice. Women and man are equal in Islam
- Can use domestic violence bill to prevent polygamy
- Polygamy should be banned. No Muslim men can marry another woman in the persistence of his first marriage. The second marriage will be illegal and a crime. In the event of the man marrying another woman, he should be fined a heavy sum.
- If second marriage takes place then punishment to the husband and compensation to the wife at one go.
- She should also get maintenance [mataa]
- But need more discussion to understand whether restriction is a better option given the fact that in spite of Hindu law banning polygamy, it is still widely practiced, more than the Muslims.
- There is a need for laws which protect the rights of the first wife. Although the union is illegal, the second woman should not lose her right to maintenance and her right to inherit from the husband's property.
- The man is responsible for the maintenance of the children from both the unions.

MEHR

- It should be given at the time of marriage
- The amount should be mentioned in the nikahnama
- It should be given in front of the witnesses who could women or men.
- Mehr can be in the form of cash, kind, property, jewelry etc.
- Mehr should not be linked to sexual relationship
- Deferred amount should be linked to inflation if not paid in time.
- Marriage should not take place at all if man fails to pay the mehr
- A woman is not responsible for the amount taken to repay amount of mehr.
- Minimum amount of mehr should be from 5000 to 50,000
- What could be the indicators if we say that mehr should be based on the husband's income?
How do we understand the status of husband?
 1. Ration card
 2. Salary slip, income proof
 3. Financial condition of the family
 4. skills of the husband
 5. savings/investments
 6. family income/expenditure
 7. mode of transport
 8. education of the husband
- If men does not pay the mehr then,
 1. Notice from the court and he should respond to it in 30 days
 2. Deposit mehr in the court of law
 3. If he fails to give mehr then the amount increases by 25%, 50 %, 75%
 4. community-based punishment [cash and punishment]
 5. minimum 3 months punishment, bailable
 6. The amount can be given in installments

REGISTRATION OF MARRIAGE

Registration of marriage is a must

Benefits are:

- Justice to women
- Restriction on second marriage
- Necessary as evidence
- Other suggestions:
 - Registration with the state/qazi
 - Qazi should be approved by the women's group
 - Registration to be done within 45 days / 100 days
 - Amount Rs. 50/- for registration
 - Use of census
 - Copy of registration to be given to husband and wife
 - Decentralizing registration structures

The group was very clear that marriages must be registered but were not sure about the procedures and other ramifications. Groups from Rajasthan shared that non-registration entails that passport and ration card cannot be issued. These are serious issues but the group was not clear about how it can be tackled.

MAINTENANCE WITHIN MARRIAGE

- This provision should be made in the nikaahnama
- She should get pocket money for which she is not accountable
- Wife's consent should be taken before taking any economic decision
- Even if wife is earning, the husband is responsible for household expenses
- There should be a law which gives her right to maintenance within marriage
In that case what do we do about the cr.pc 125 which is applicable to Muslim women? She can go to the court to demand maintenance while in the marriage. Then do we need a separate law?
- For maintenance before divorce she is governed by Cr.PC 125 and after divorce she is governed by 1986. How do we reconcile this situation?

NIKAAHNAMA

- How to make this nikahnama legally valid, a policy level document, govt. approval.
- Redefine terms like 'character' in the nikaahnama
- Who is a qazi - must know its definition and interpretation. For eg. Can women become Qazis.
- Must specify that the witness could be male and female
- Education of female qazis. We must have women qazis and are also trained to have gender perspective.
- 5 organizations have taken the responsibility to review the nikaahnama and present the amendments in the follow up meeting.

Day 3

On the third day Mr. Javed Anand could not make it to the meeting so the group met again to discuss further the recommendations that had come on the second. All the recommendations have been compiled in the paragraphs above.

To sum up the 3rd days proceedings:

- The participants unanimously stated that they need a national alliance to take up these issues at the policy level.

- To work further on the recommendations, 5 organizations came forward to take responsibility. WRAG would send the report to all participants and recommendations to these 5 organizations. These organizations are Tehreek, Ark Foundation, Rachna Vikas Trust, YMCA and WRAG. Iffat Hamid will also be part of this group in her individual capacity. This group will work on the data generated in these 2 days and prepare the draft for meeting that will be held in April/May.
- The participants felt that they need more information to take up these issues. More information dissemination workshops must be held to get information and sharpen our perspectives.
- It was also suggested that a smaller groups of activists could meet in April or May 07 and interact with legal and religious experts and work further on the same recommendations.

Resolutions adopted at the end of the seminar

- To begin with, provisions in the Quran, statutory laws and judgments must be brought together at one place to understand what can be gained from all these three sources.
- Issues of education, employment and security and important issues facing the Muslim community and they are all interlinked and also linked to laws. These issues must be understood and the group must work on it.
- We as Muslim women condemn all kinds of violence including State violence.
- Muslim women must come together to form a National Alliance and the Alliance must perform in such a way that the State is forced to acknowledge their presence and consult them in community matters.

The organizers thanked the participants for contributing to the Consultation process. The participants were promised that they would get the report of the Consultation and the addresses of all the participants.

Cultural programme

On the 6th of December, a qawwali programme was held. Mr. Azim from Mumbai entertained the participants. Following day, WRAG staff and some participants sang songs and had a relaxed evening. On 8th, WRAG had arranged for 'Mumbai Darshan' in which 45 participants visited Ma HajiAli Dargah, Gateway of India and Crawford Market. We had an anxious but eventful and adventurous evening.
