

What are the effect of the Family code in France?

Since 2003, we have travelled through the French cities with the video clip '20 ans Barakat' (20 years is enough) in order to meet men and women of different walks of life (Algerian women immigrant in France, French women of Algerian origin, social actors and actresses. The statement was always the same: Not only that women are not aware of these amendments but sometimes have absolutely no knowledge about the Family Code and his application in France.

We should know that in Family law, the fact of being a French national does not protect women -when they are of foreign origin- from the application of the law of their country of origin in the same way that the fact of living in France does not imply that the French Law applies on them.

Because of the application of some provisions contained in bilateral agreements existing in France, the host country and their country of origin: the rights of women coming from immigration are confronted in France to problems linked to a judicial inequality. The private status in a number of countries in North Africa (Algeria, Morocco), Middle East (Lebanon), Africa (Senegal...) Asia (Pakistan) imply regulations that can be in contradiction with the French and International Laws and reinforce discriminations towards women.

Indeed bilateral agreements between France and Algeria on 27th August 1964, in relation to the exequatur, allows a judgement issued in Algeria to be rerecorded and can be enforced in France.

Whereas foreign women, even those residing in France for a long time and the French women –most of whom hold dual nationality- considered as French in France but not in their country of origin where they are considered as national citizens. They became aware of the contents of these agreements only in situations of conflict.

The field of national private right is not very well known. The French courts have encountered situations of repudiations, polygamy, contribution to family maintenance and all depend on the reading that the judge made about the litigation.

During years, the Court of Appeal has at first shown a benevolent attitude towards the admission of a repudiation that had happened abroad, except when the spouse is French.

More recently, decisions from the Court of Appeal have ended the acknowledgement of repudiations by virtue of the European convention of the Human Rights –article 5 of its 7th agreement- that provides that the spouses enjoy the equality of rights and responsibilities in a break up of marriage.

'20 ans Barakat' (20 years is enough) Campaign

In 2003, the '20 ans Barakat' campaign has started under the initiative of the association that holds the same name. The aim of this campaign was to inform and raise awareness among the people in general and women in particular about the family code (private status). This has resulted in a number of actions in Algeria and France.

In Algeria, between March 2003 and during the whole year of 2004, there were publicity and advertising posters both in the Arabic and French press.

In France and thanks to the links of the association 'Bled Connexion', a song and a clip were produced in a spirit of solidarity gathering about thirty women artist from Algeria and elsewhere.

Those two elements, the CD and the clip played an essential part in the campaign of information, raising awareness and in reporting the Family Code in the media.

The clip has been broadcast in many televisions and radios (in France, Spain, Germany and Switzerland)

In Algeria the song had been broadcast only on the radio and the national television have refused to broadcast the clip. Despite of this censorship, those tools have allowed to reach for a wider audience and the political struggle for the abrogation of these discriminatory laws has turn into a civil and social struggle through which women could restore their rights.

On the day of recording the song our association has organised interviews with all the women and men that have contributed to the songs and the clip. We wanted to understand the reasons behind their involvement with this project.

Their tales were very enriching, moving, sometimes sad and sometimes very funny, they were all honest in an atmosphere of joy...

To the question: How did you know or hear about the Family Code?

In 95% of the cases, the persons interviewed knew about the Family Code after difficulties or personal tragedies within their families or neighbourhoods. A marriage, polygamy, divorce or sometimes guardianship or inheritance. The findings were that there was no organised structure for information about these laws that could be life changing both in France and the countries of origin.

1. Family Code between 1984 and 2005

The Algerian Government have examined and adopted amendments of the Family Code. After more than twenty years of multiple struggles by women for equality laws. The

proposed amendments have then been adopted on decree of the President Bouteflika are far from ending all the discriminations that women are victims. Some associations have nevertheless noticed significant progress about the contract of marriage, divorce, guardianship and the modification of the code of nationality.

2. The most discriminatory articles (see annex no 1)

There are amendments being made on the basis of harmony between the European Law in favour of the application of the European convention of human rights, but they are far from enough:

Since 2005, there were significant amendments of some articles that are the most discriminatory in the Algerian Family Code.

3. Examples

- A. **Malika**, 54 years, nationality Algerian, married with three children have been living in France for many years. Following a conflict with her husband, she separated from her partner on temporary basis. The husband did not return to the family home. She received a unilateral divorce judgement requested by the husband and obtained from the Tribunal of Algiers in July 1999. Malika did not receive summons, she realised after reading the judgement that she was granted a child maintenance allowance of 1000 dinars (15 euros) for each child a year.

The husband have asked for the judgement issued in Algeria to be applied in France and his wish was granted. Through playing with the bilateral conventions-exequatur- he has obtained that a judgment issued in Algeria to be applied in France.

Even if the wife is not left without any rights as long as she can mention undermining of the French Public Order, but let's not forget that appeals can be very lengthy, expensive and difficult.

- B. **Fatiha**, 68 years, Algerian and French nationalitie(Since two years) got married in 1982 with Mohamed who had just lost his wife. Mohamed had children all married with children.

After the marriage in Algeria, Fatiha and Mohamed came to settle in France. The husband has bought a flat on his name only. In 1997, he died and Fatiha has found herself up to this day obliged to pay the rent to the children of her late husband who live in Algeria. Because Fatiha never had any children, she has the right to inherit the eighth of

the inheritance in accordance with the Family Code inspired from the Sharia law and applied in France. Fatiha found a way with the sons to give up her share in Algeria and to only keep the flat acquired by her husband on their arrival to France. After the agreement, there was a family meeting with all the family members. Following that meeting a document was issued and signed by all of them and authenticated in the town Hall in Algeria. Only that Fatiha was unaware that the document stipulated her acknowledgement of the application of the sharia law on inheritance and therefore that the percentage of ownership was the eighth and the major part was owned by the children of her late husband. At present she pays the charges to the co owners or the trustees and a rent to the heirs.

She has been struggling since then to have her rights recognised in an administrative and judicial jungle , and she is illiterate unable to write or read...