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Source: *Gender and Development*, Vol. 11, No. 3, Citizenship (Nov., 2003), pp. 27-35

Published by: [Taylor & Francis, Ltd.](#) on behalf of [Oxfam GB](#)

Stable URL: <http://www.jstor.org/stable/4030558>

Accessed: 20/03/2011 19:08

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Algerian women, citizenship, and the 'Family Code'

Zahia Smail Salhi

Women's struggle for both equality and national liberation are crucial to democracy: if a democratic state is one in which citizens have the right to participate in society and the way it is governed, women must, automatically, be included in the equation. Yet in many so-called democratic states, women lack full citizenship. This article traces Algerian women's struggle for full citizenship after the national liberation struggle ended in 1962. The Algerian Family Code, which became law in 1984, proclaims women to be minors under the law, and defines them as existing only in so far as they are daughters, mothers, or wives. Algerian women are demanding that the government repeal the Family Code; challenging patriarchal values that prevail in Algerian society; and resisting and fighting Islamic fundamentalism.

The rebellion of Algerian women during the national liberation struggle was on two fronts: it was, simultaneously, a rebellion against the colonial occupation of Algeria by France, and against the restrictive attitudes of traditional Algerian society. Women were active agents in the revolution. Their contribution ranged from fighting beside men, planting bombs, and carrying weapons, to nursing the sick and wounded in the *maquis* (fighting fronts), and, above all, keeping the revolution moving forward. The Italian-Algerian film, *The Battle of Algiers* (directed by Pontecorvo in 1965), though rarely screened now, records women's extraordinary courage.

Women's new status as activists during the war not only altered the division of labour between women and men, but also challenged the wider power of patriarchy, threatening to erode its power and privileges. Rejecting their restricted role as mothers, wives, and daughters in the private sphere of the household, women took on

active roles in a wide public sphere. Their work was integral to the struggle for national liberation and, therefore, equally important to their own liberation. Yet Algerian women are now trapped between the dictates of an infamous Family Code, which became law in 1984, and the barbarism of Islamic fundamentalists.

Progress on women's rights during the liberation war

The FLN (*Front de Libération Nationale*, or National Liberation Front) had a policy committing it to women's equality, and the policy was put into practice in certain situations during the war. One example was the institution of tribunals before which couples were married on the basis of the partners' mutual consent. Woodhull observes, 'At the time of the Algerian revolution and at the time of independence the emerging nation still held the promise of social equality for women, whose fundamental role in the war had been recognised by the

National Liberation Front', (Woodhull 1993, 10). In the late 1980s, however, this progress seemed to be lost. One woman states: 'Our only regret is the loss of that absolute equality achieved during the revolution. As far as that's concerned, we seem to have moved backwards rather than forwards' (Shaaban 1988, 199).

However, some argue that the beginnings of the backlash against women's rights occurred during the national liberation struggle: 'Our return to the "inside" didn't begin in 1962, but, rather, before independence. Little by little, during the war, the FLN removed us from the real fighting zones and sent us to the borders or overseas. Our role was defined from that moment on. We didn't have any place in the world of the "outside"' (Messaoudi and Schemla 1998, 51).

What is clear is that the majority of Algerian men did not acknowledge the need for women's emancipation. Those who did often saw it as a secondary priority in relation to the endless list of other issues facing the government. Soon after independence, Algerian men cut the strong ties that they had forged with their female compatriots, and denied them their basic civil rights.

An example of this betrayal of women as equals was the way in which many fighters who achieved good social or political positions after independence repudiated their wives, and married girls whose youth reflected positively on their husbands at social events. Buthaina Shaaban reports the testimony of a woman war veteran, who describes this as common practice: 'This was very common. In fact, it was the norm. There were lots of men who married their women comrades in the mountains. Once they came down, however, and got good positions or good jobs in the towns, they divorced their comrades and got married to younger, more presentable, women.' The same woman war veteran related this directly to the betrayal of women's citizenship rights: 'As women, we paid the price from every point of view, and

now they won't allow us to put our own laws on the market. I am convinced that all men are aware that women understand things a lot better than they do. That's why they feel inferior to us, and instead of having the courage to face us they try to keep us down. How long it will take us to outwit them, just as we outwitted the French, I don't know. Not very long, I hope' (Shaaban 1988, 200).

The 1976 Constitution

In 1976, the FLN government agreed a new Constitution after a referendum. The Constitution promoted the emancipation of women, and deplored the way in which the old feudal system had restricted their rights. It stated that equality of the sexes and freedom of movement were guaranteed by law. The Constitution acknowledged the role of the Algerian revolution in enabling women to liberate themselves as well as their country, and insisted that the status of women still needed improvement. It emphasised the state's efforts to this end, in granting women their political rights, and exalted the socialist regime adopted by the government as a democratic movement which would promote justice, strive against backward thinking, and change the justice system in women's favour. The Constitution held Islam to be a liberating power, considering women to be equal to men.

Nevertheless, the text of the Constitution stated that women must lead this battle for their emancipation: 'It is woman herself who must ultimately remain the best defender of her own rights and dignity through her deportment and qualities as well as a relentless struggle against prejudice, injustice, and humiliation... As for the state, it has already recognised woman's political rights, and is committed to her education and inevitable social advancement' (Lazreg, cited in Joseph 2000, 63).

After the death of the first post-Revolution head of state, President Boumedienne, in 1978, Chadli Bendjedid was named

President of Algeria by the Islamo-ba' thist clan.¹ 'The objective of this clan, beyond ensuring that Algerian assets continued to yield a profit to their benefit, was to place the country under the law of *charia* [sic]. To succeed, they had to launch a simultaneous attack on the three pillars on which they planned to base that project: women, education, and the justice system' (Messaoudi and Schemla 1998, 48). Although, until then, clan members were only a minority in Algeria's single party, they soon won over the socialist modernists.

Restrictions on women's citizenship rights

In 1980, the Constitutional commitment to freedom of movement was broken by a ministerial order prohibiting women from travelling unaccompanied by a male relative. This decision became public knowledge when a group of women, who were enrolled in universities abroad, were stopped at the airport and prevented from travelling to join their universities. This demonstrated that women's citizenship was perceived as a privilege that the state could withdraw at any time. Although the women attempted to trigger a public scandal about this infringement of their civil rights, the echoes of the event were only timidly reported in the Algerian daily *El-Moujahid* and the weekly *Algérie Actualités*. A group of women, including many university students, signed a long petition and asked to meet the Minister of the Interior. On 8 March 1980, a huge demonstration was organised to mark International Women's Day, and demand that the order hampering women's freedom of movement be abolished. In the end, Chadli's government retreated: the ministerial order was cancelled (Messaoudi and Schemla 1998, 49).

The following year, Chadli's government prepared a pilot study of a proposed new Family Code. The newspapers reported that the Code was an attempt to placate a

growing tendency towards Islamic fundamentalism and, as such, threatened women's rights and privileges as fully enfranchised citizens.

Outraged, a hundred feminist activists in Algiers staged a sit-in in the offices of the UNFA (*Union Nationale des Femmes Algériennes*, or National Union of Algerian Women), a state organisation, established soon after independence in 1962, and affiliated to the FLN. The women demanded to see the classified text of the pilot study. The UNFA replied that Algerian women were not aware of their rights and had, therefore, nothing to discuss (Messaoudi and Schemla 1998). If Algerian women were not aware of their rights, as claimed, independent feminists asserted that this was because the UNFA had not played the vital role of promoting women's interests after independence. Rather, the women of the UNFA were more concerned with international political issues, and distanced themselves from the real dilemmas of the women of Algeria, whom they were supposed to represent.

The outcome was a complete rupture between the UNFA and feminists outside, who were determined to continue the fight for the rights of Algerian women. On 28 October 1981, women demonstrated in the streets, expressing their wrath at the government's decision to debate the Family Code in secret. Two weeks later, on 16 November 1981, 500 women gathered in front of the National Assembly as it met for a plenary session. One of them, Khalida Messaoudi, testified later: 'We had gathered more than ten thousand signatures of support from all over Algeria. Along with two friends, I marched into the assembly chambers. Rabah Bitat, the assembly president, was obliged to adjourn the session. The assembly leaders skilfully manipulated the situation: we were given four days to make propositions for amending the text. The movement became divided at that point: there were those who wanted to accept the deal, and those who rejected it' (Messaoudi and Schemla 1998, 49).

The ultimate outcome was that the text went ahead unchanged.

The date 23 December 1981 is considered an important day in the history of the secular feminist movement in Algeria. That day, women war veterans joined the young feminist activists and voiced their rejection of the government's introduction of the Family Code. This was seen as a betrayal of what they had fought for. Young and old gathered in front of the main post office in Algiers. The demonstrators carried slogans reading, 'No to Silence, Yes to Democracy!' and 'No to the betrayal of the ideals of November 1, 1954!'. Despite this solidarity, and intensified protests, the women's groups failed to stop the Family Code from passing into law in June 1984.

The Family Code and women's rights

Marnia Lazreg states, 'Family law has often codified the ownership of wives and children by fathers/husbands' (Lazreg, cited in Joseph 2000, 21). The Family Code of 1984 makes it a legal duty for Algerian women to obey their husbands, and respect and serve them, their parents, and relatives (Article 39). It institutionalised polygamy and made it the right of men to take up to four wives (Article 8). Women cannot arrange their own marriage contracts unless represented by a matrimonial guardian (Article 11), and they have no right to apply for divorce. While a man needs only to desire a divorce to get one, it is made a most difficult, if not impossible, thing to be obtained by women. Women may obtain divorce only by submitting to the practice of *kho'a*, (Article 54) 'which allows women to divorce on the condition that they give up any claim to alimony. *Khol'a* [sic] is the problematic ransom that women must pay for their freedom, just like slaves' (Messouadi and Schemla 1998, 53). The Family Code assigns the role of procreator to women, making it a legal duty for them to breastfeed their

children and care for them until adulthood (Article 48), although they are not responsible for children's education (Article 63). Yet women have no right to pass their name, nationality, or religion to their children, and if they marry a foreigner they are crossed out of the country's registration books altogether.

The consequences of divorce are dramatic for both women and children: wives and mothers have no right to the family home, since this is automatically awarded to the husband. Moreover, the state does nothing to provide housing or financial support for divorced mothers. Consequently, in the absence of assistance from their parents, divorced women often find themselves on the streets with their children. As for custody of the children after divorce, the mother cannot become the carer of her children until adulthood unless their father agrees to it. The mother can never become the tutor of her children, and the father's consent and permission are needed for the most basic needs of the child, including registering him or her at school, and even approving the child's participation in school activities (Articles 52, 62, 65). On the other hand, the law does not punish the father if he decides not to provide for his children.

In the 19 years since the Family Code came into force, Algeria has seen increasing levels of homelessness among women and children. Thousands of mothers wander the streets with their children; others sell their labour as domestic servants at very cheap rates. The streets of Algeria's major cities are the homes of many desperate divorced women. Some of them have found shelter in the slums; others have sought refuge in the hostels run by the organisation SOS Women in Distress. However, according to newspaper reports, this organisation is unable to cope with the large number of requests it receives every day, because of its lack of financial backing.

Although the authors of this Code claim it to be merely based on the teachings of *Shari'a* law, it is clear from its text that its

roots emanate from a tradition of patriarchy and misogyny in Algeria, which was taken up in a particular way in the post-colonial era. A clear example comes in Article 38. The content of this article relates to married women's rights in wedlock: a wife has the right to visit her parents, and they the right to visit her according to local custom. In post-colonial Algeria, women were seen (as in the pre-revolutionary period) as the repositories of men's honour; as guardians of the traditional values which had been disrupted and devalued by the colonial presence. They were also symbols that represented the conflicts inherent in the new historical situation faced by post-colonial Algeria. Hence, the Family Code placed limits on women's mobility.

Some articles in the Family Code reflect the economic crisis in Algeria in the mid-1980s. An example is Article 52, which relates to the family home in case of divorce. The article states clearly that the husband may allow his wife and children to live in the family home if he possesses more than one house, which is a rarity in a country where housing shortages are a major problem. Also, this leaves it up to the man to decide to be generous or not. Once again women are dependent on male whims.

In her book, *Women and Islam*, Fatima Mernissi states: 'If women's rights are a problem for some modern Muslim men, it is neither because of the Koran [sic] nor the prophet, nor the Islamic tradition, but simply because those rights conflict with the interests of a male elite. The elite faction is trying to convince us that their egotistic, highly subjective, and mediocre view of culture and society has a sacred basis' (Mernissi 1991, ix).

Women's response to the Family Code

Determined to challenge the Family Code, the women of Algeria embarked on a long, painful, and lonely battle. Khalida Messaoudi

asserts: 'Men were painfully absent from our struggle. This reinforced my conviction that Algerian women could expect salvation only from themselves' (Messaoudi and Schemla 1998, 56). Since 1984, war veterans and younger feminists have joined together to protest ceaselessly against a piece of legislation that proclaims men to be superior to women and codifies women's subordination.

After many disappointments, the women of Algeria had come to understand that no one else would help them seek emancipation. They knew that they would have to build their own movement, to fight the violation of women's human rights. Khalida Messaoudi testifies: 'I had the feeling that the deepest injustice had been perpetuated. We had been had, totally had, and we could do nothing but bang our heads against the wall, because we knew that this text was going to structure the entire society from that point on. For me, the whole business had really opened my eyes: The traitor in this story was the Algerian state' (Messaoudi and Schemla 1998, 55).

Unrest and political reform

Nearly two decades after the imposition of the Family Code, political reforms have since occurred in Algeria in response to popular protest. However, the Family Code remains.

On 5 October 1988, young people took to the streets, calling for an end to the system's oppression and corruption, and demanding dignity and justice. The same day, groups consisting mainly of high-school students and unemployed young people attacked everything that represented the state and the FLN, which was now synonymous with corruption, chaos, and the misuse of public funds. The economic reforms introduced by President Chadli Ben Djedid in the 1980s had failed, creating an anarchic situation as unemployment increased, mainly among the young people who made up 70 per cent of the Algerian population. There were also

shortages of all sorts. Among the political elite, tension was growing between those who continued to believe in central planning and those who wanted to liberalise the economy.

The October riots were also an explosion of life that had been repressed for too long. The youths' main objective was to destroy the old system and build a new society which would release the country's unused human potential. They danced and celebrated in the streets of Algiers. Their joy was short-lived, however, as they faced fierce repression soon afterwards. Thousands of arrests were made, and most of the detainees were tortured, while some of them were actually shot by the army: 'Doctors estimated that five hundred people were killed and thousands wounded' (Messaoudi and Schemla 1998, 85).

The youth movement triggered protests and demands for change from many other groups. Seventy Algerian journalists published a declaration in which they denounced the ban on reporting, and condemned the restrictions that were imposed on freedom of speech. They also denounced the violence, torture, and arbitrary arrests used by the state. In short, the whole political system was coming under sustained attack. The Algerian League for Human Rights denounced the practice of torture, while the doctors who saw the results of torture, and the merciless repressive measures undertaken by government forces, became the principal driving force behind the creation of the National Committee Against Torture. They were joined by other groups and organisations, among them militant women's groups, who expressed their full support for the youth movement, and called for the recognition of democratic liberties.

While all sectors of opposition condemned torture, the Islamists maintained silence on the issue. Instead, Ali Benhadj, a high-school teacher, and Abassi Madani, a university professor, issued an anonymous call for a huge demonstration in Algiers. This event was used to hijack the youth

movement, using populist rhetoric to express outright hatred of the regime.

In order to save his government, Chadli Ben Djedid gave promises of political reforms, which he launched in November of the same year. A new Constitution was drafted and approved in February 1989. This guaranteed Algerian citizens freedom of expression, association, and assembly (Article 39). It also recognised the right of the citizens to create political associations, meaning political parties (Article 40): 'This amendment allowed for the establishment of a multi-party system, thus terminating, at least theoretically, the FLN's monopoly and making it a *parti comme les autres*' (Zoubir 1993, 90).

Subsequently, a law on political associations was issued. Although it prohibits the foundation of parties set up exclusively to campaign on religious, linguistic, or regionalist issues, several parties that should have been banned under this law were recognised by the government. The best example is the recognition of the Islamic Salvation Front (FIS), whose leaders never supported democracy. Indeed, they asserted that once in power they would implement the *Shari'a* law, which they presented as the solution to every question. They unequivocally declared that they would repeal the republic's constitution and ban secular political parties. 'Ali Benhadj repeated *ad infinitum* that democracy was incompatible with Islam and was *kufur* [blasphemy] because it placed the power of the people over God's power over the people' (Al-Ahnaf et al 1991, 87).

Continuing the struggle for repeal of the Family Code

Despite these tremendous changes on a political level, the Family Code remained unchanged, and there was no question of repealing it. The Islamists argued that *Shari'a* law should be applied throughout society, and called for stricter measures with

regard to the treatment of women. Feminist groups and organisations became alarmed, and were particularly worried by the populist misogynous propaganda that the FIS had started to direct at young people. For example, young men were encouraged to believe that they were unemployed because women had taken their jobs. The fundamentalists argued that housework is more suited to female biology and psychology than professional work; that rates of mortality and morbidity are actually higher among employed women than among women who stay at home; that employed women are less moral; and that female employment causes male unemployment.

Although women's organisations have now been legally recognised, and have gained access to a wider audience, thanks to the liberalisation of the media, Islamic fundamentalists continue to pose a threat to activists, first intimidating women's groups and later issuing death threats against their leaders. An example is Khalida Messaoudi, whose life became a daily battle to save her own skin. She has described how, after she received several anonymous death threats over the phone, matters quickly spiralled out of control as verbal attacks were made on her during prayers in mosques associated with the FIS: 'Over the loudspeakers, whose monotonous echoes penetrate into the very centre of the surrounding houses, *imams* (priests) would hurl curses at me, describe me as "a woman of delinquent morals" and a "danger to the morality of women", and warn those women who might be tempted to follow my example' (Messaoudi and Schemla 1998, 87).

In 1992, the Islamic fundamentalists began their violent terrorist campaign to enforce strict observance of *Shari'a* law as it affects women. They demanded that women be forced to wear the veil, and issued death threats against feminist leaders who claimed the most basic civil rights for women in a misogynous culture. Harassment has been relentless and unbearable, particularly for

women who live alone or who refuse to wear the veil in the workplace.

For example, as early as June 1989, a fundamentalist gang set fire to the house of a woman from Ouargla, a city in southern Algeria. The sole reason for this act was the fact that she lived alone with her seven children. The fundamentalists claimed that she was a whore. As such, she posed a threat to the health of the community and was a source of discord. One of her children burned to death in the attack. During the same summer, acid was thrown at women on beaches and other public places for publicly exposing parts of their bodies. A nurse was burned by her fundamentalist brother because she was working with men in hospital. An athlete, Hassiba Boulmerka, was declared a shameless renegade in the nation's mosques because she ran 'half naked' in the full gaze of world publicity. She was subject to these attacks after she wore the regulation running shorts and vest when she won the 1500-metres race at the World Athletics Championships in 1991, as only the second Arab woman ever to receive a sporting title of such prestige. Her remarkable performance was, indeed, a source of pride to all Arab women, and Algerian women in particular.

In their tracts FIS members insisted on the importance of women returning to Islam; this was partly because women are regarded by the fundamentalists as symbols and repositories of religious, national, and cultural identity. FIS tracts and leaflets made clear the role attributed to women by Islam: 'Mother, sister, wife, as your father, brother, husband, I would like your beauty to be my wealth, for I cannot live without you. I seethe with jealousy when I see you working as a secretary for a human fox, who asked for your photo before he hired you. I don't want you to be a work tool, or a scapegoat for those who seek to destroy Islamic morals... I don't want you to use the Jewish word "emancipation" to attack the Islamic values of your ancestors and make the feminist

organisation happy' (quoted in Messaoudi and Schemla 1998, 92). The discourse of the FIS regarding women is not much different from that of the FLN. Both parties ignore the enormous socio-economic changes that have happened in Algeria in recent years. Women have suffered just as much as men from the unprecedented economic crisis of the 1980s. Furthermore, not all women 'enjoy' male protection: fewer and fewer families are able to take in divorced women and their children.

The 1990s have been known as a decade of terrorist violence, but this decade also saw flourishing women's movements in Algeria. They are now voicing their bitterness, concerns, and determination to resist the misogyny so prevalent in the country, using a variety of channels. Algeria has heard women's angry voices at demonstrations in the streets of major cities, the voices of female political leaders in Parliament and various political groupings, and the voices of Algerian women writers using a variety of literary forms. All these female voices condemn and unmask the barbarity and the misogyny of the fundamentalists. Women were the first to demonstrate bluntly against Islamic terrorism and its anti-democratic approach. They reminded the world of the 100,000 Algerian victims massacred during the 1990s, out of which women and children account for 80 per cent of the fatalities. They also called for an end to Algerian society's silence over the crime of systematic rape.

Fearless of the consequences, women rape survivors have courageously testified to the media about the hideous act of gang rape, to which many women were subjected. On a regular basis, newspapers have reported atrocities in which terrorists abduct women at random, rape them, make them wash and cook for them, and finally kill them or dismiss them. For example, on 11 March 2000, *El Watan* reported on the scandal of the '5,000 victims people want to hide'. Twelve-year-old Nora was 'kidnapped from her school gates, held, raped repeatedly, and discovered by the

security forces six months later, no longer in her right mind and more than three months pregnant' (CMF MENA 2000, 27). When Nora requested to be reunited with her parents, her father disowned her, insisting that his daughter was killed.

Because Algerian families feel shamed by the rape of a female relative, they condemn the survivors of rape to even more suffering, as they end up homeless or (in the best of cases) in charity hostels. The silence imposed on the subject of rape in Algeria is not only the work of individual families, but also that of the government, which fails to condemn organised rape as a crime against humanity, and fails to acknowledge that its victims are victims of torture, in need of support and counselling.

The new government: a commitment to social justice

The end of the 1990s brought a radical change in Algerian politics, Abdul Aziz Bouteflika was elected the new President of the country, promising to promote social justice and, more importantly, to put an end to terrorist violence. The government announced an amnesty in July 1999, and vast numbers of terrorists surrendered, apparently bringing the violence to a halt. Once again women supported the new President and voted massively for his programme; nevertheless, whenever asked about the issue of women in Algeria, he tactfully replied that they made up the majority of the Algerian population. Happy to see terrorist violence coming to a halt, women believed in the good faith of President Abdul Aziz Bouteflika, and eminent feminists like Khalida Messaoudi gave him their full support and became part of his team.

The new government has made major compromises with the Islamist terrorist groups, yet it has so far not acknowledged women's ordeal under the dictates of the

inequitable Family Code. After a year in office, the President was questioned by an Algerian female journalist during a press conference in Canada regarding the repealing of the code. He first reprimanded her for daring to ask the question. He told her that the time had not yet come for such a move; Algerian women must wait for mentalities to become ready to accept the change. To add insult to injury, he told the journalist that she was pretty, and should therefore not be aggressive.

The government's second priority is to bring about economic stability to the country. One wonders how a nation can hope to achieve such a goal, with 52 per cent of its population living as minors, and being denied their basic civil rights.

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Notes

- 1 In the Algerian army, there are two tendencies; one secular, often French-educated, and the other non-secular, often educated in the Arab East, and believing and insisting on the Arabic and Islamic identity of the country. This tendency calls for the promotion of Arabic as the only official language, and Islam as the religion of the state.

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