

The Family Law Debate in the Secular State of Senegal: The Renegotiation of the Public/Private Divide.

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In *The Human Condition*, H.Arendt defines the private sphere as the place where all the social belongings can express themselves. This space is subordinate to the public sphere which is the place where the human being is liberated from all social determinism, following his own Reason. This conception of the public and private spheres is not useful if we consider the greatest number of African societies where religions are clearly part of the public sphere. In our paper, we will work on the situation particular to Senegal where this confusing and vague divide is conceptualized in the famous Senegalese “social contract”. Indeed, this contract is based on an arrangement between Islamic brotherhoods and political elites and defines a “two head State” (Cruise O’Brien, 2000). Religious movements are also an important component of the Civil Society.

But, paradoxically, the State has remained a Secular State since the Independence so that it would have been coherent to see religion confined in the private sphere. But it would not fit with the particular Senegalese conception of secularism according to the former President Abdou Diouf: “*Secularism could not be against religion. Besides, it would not be true secularism, it would be a way to institute atheism as the State religion as alas we can see in some countries*” (1984).

In this context, talking about the secularization of the Senegalese society deserves real attention because of the existence of contradicting signs. One important new fact is the direct involvement of religious actors in the political field which challenges the “social contract”. Therefore, there is a renegotiation of two divides: the secular/religious one and the private/public one.

Both are linked if we refer to the Family Law debate. Voted in 1973, this code was a symbol of the concept of Senegalese secularism: respect of the normative pluralism through legal pluralism - but a hegemonic one with the State secular Law in the upper position. The religious community has always criticized this text but their claim became particularly strong in 2002 with the Circofs (Senegalese committee for the reform of the family law) proposal to repeal the current text in order to establish a new one based on Islamic law. The feminist movement strongly reacted against this proposal and a great debate has started and which has yet to conclude.

How this debate between the Circofs (and his allies) and the feminists (and the secular movement in general) participates to the redefinition of the divides? What role does the State play in this sensitive debate?

We will see that if the tensions generated by this debate could weakness the constitutional principle of a Democratic and Secular Republic, it could also be an opportunity to strengthen the Civil Society and therefore the creation of a new, redefined true citizenship (Diaw, 2004). The renegotiation of the divides remains uncertain and this debate about family law helps to put things into perspective. The importance of Islam in the public sphere could challenge the principle of a theoretical rational public sphere but could also contribute to the politicization of the existing one.

