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Withstanding the Challenge of Local Realities
A Legal Approach**

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Abstract

This paper examines secularism in Senegal from a legal viewpoint and traces the history of the deliberate manner in which the Senegalese constitution was constructed to ensure the secular orientation of the state. The author emphasizes that Senegalese secularism is not anti-religious, but rather emphasizes mutual tolerance among diverse religions and guarantees freedom of worship. Although secularism in Senegal rests on a solid legal base, it is not untouchable. The author outlines what he considers to be the current threats to secularism in Senegal—including a president who openly manifests religious affiliation and the new “marabout politicians” and their increasingly militant supporters. The author also notes the attempted removal of references to secularism in the draft of the 2001 constitution and the proposal of a new Family Code with an Islamist agenda that claims to be in accordance with *shari’u*. On balance, however, the author observes that an association of organizations has been created for the defense of secularism, and concludes that the populace remains very committed to secularism.

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Introduction

There is no universally recognized definition of secularism. It is a concept that is not univocal.

In the widest sense secularism refers to a loss of religion's ascendancy over society. In the narrow sense secularism means the refusal of the subjection of politics to religion. It implies therefore the recognition of religious pluralism and the neutrality of the State.

The complexity of the concept of secularism gives rise to very diverse and sometimes excessive interpretations. For some, secularism is a synonym of the expulsion of the religious and, even more importantly, of the spiritual and leads to their negation. Others see secularism as a sort of unique philosophical corpus, if need be competing with religious corpora or other philosophical corpora. For still others, one can belong to civil society and believe in a religious or spiritual world without having to renounce one or the other of these allegiances or being forced to respect beliefs one does not share.

The word "laïcité" (secularism) was supposedly forged in the 19th century from the adjective "laïc."¹ But in reality the concept of secularism defined as separation of temporal and spiritual powers is quite ancient, already present in Greco-Roman antiquity.²

In the 19th century secularism no longer refers to a reality defined by the Catholic Church but rather to a principle of the separation of political power and religious power. It means "That which is independent of the clergy and of the Church, and more generally of any religious faith."³

According to the principle of secularism, religious belief is a personal, individual matter. The religious convictions – or the absence of conviction – of each individual are intentionally ignored by the government. The modern concept of secularism arose when the States decided to treat all religions as equal. Secularism is thus perfectly compatible with freedom of worship.

The secular State can indeed recognize religious organizations, but not religions as such, nor can it favor the adherents of any one religion. It also defends the rights of each citizen against any future religious regulations that would be in contradiction with public law and order, particularly with the rights and freedoms of each individual.

One finds a completely different situation in those States⁴ where one religion is declared to be "dominant" by the constitution. It is not the case in Senegal where secularism is a permanent feature of constitutional organization. Senegalese secularism is not anti-religious in essence; it is a plea in favor of tolerance among diverse religions on the basis of the coexistence legally set forth by the State and guaranteeing freedom of conscience and freedom of worship. Secularism in Senegal rests on a solid legal base (First Part) which, unfortunately, does not preclude disintegration as a result of the combination of several factors (Second Part).

¹ The very term "laïcité" is a neologism created in France in 1871 by Ferdinand Buisson from the adjective "laïc". Etymologically, the word "laïc" comes from the Latin "laicus" which is from the Greek "laikos" meaning "that which belongs to the people" as opposed to religious organizations.

²In the same way, in the 5th century Pope Gelasius the First proclaimed the "doctrine of the two swords" with the aim of separating temporal power from spiritual power.

³ This sense appeared in France in the 19th century along with the various laws about the separation of Church and State.

⁴ Malta, Monaco and San Marino (Roman Catholic Church); Greece (Orthodox Church); England (Anglican Church); Denmark, Finland, Iceland, Norway and Sweden (Evangelical Lutheran Church); Algeria, Iran, Morocco, Mauritania and Syria (Islam); Cambodia and Thailand (Buddhism).

I. Secularism: A Principle on Solid Legal Ground

The Senegalese Constitution of January 22, 2001 comprises 103 articles. All of the Clauses can be reviewed and called into question except one: the republican form of the State.

This is a constant condition found in the Constitutions of January 24, 1959, August 26, 1960 and March 7, 1963. This indicates the importance placed on the values and principles of the Republic.

One of the first attributes of the Republic is secularism which was validated by the Constitution (A) and which serves as the basis of Senegalese legislation (B).

A. The Constitutional Validation of Secularism

The existence of a hierarchy of norms constitutes one of the most important guarantees of the State of law and order. In this regard the competences of the different organs of the State must be clearly defined and the norms they decree are valid only on the condition that they respect the totality of higher legal norms. At the top of this pyramidal ensemble there is the Constitution.

The Constitution of a State is both a political act having legal value and the fundamental law that unites and governs in an organized and hierarchical manner all of the relations between the government and the governed. At the top of the hierarchy the Constitution is followed by the law and then the acts of the executive power.⁵

This juridical organization is binding on all the legal persons. The State as well as the individual must be cognizant of the principle of legality: every norm, every decision that would not respect a higher principle would be subject to incurring a legal sanction.

The State, which has the competence to decree the law, is itself subject to legal rules. Its regulatory function is thus affirmed and legitimized.

One can then grasp the import of the act consisting of including a rule of law or a principle in the Constitution. Inscribing a principle in the Constitution translates the will to place it beyond the reach of the ordinary legislator. It is a phenomenon that is equivalent to elevating the legal value of a principle of a certain importance.

In 1789 the members of the French Constituent Assembly had no clear idea of what should be included in the Constitution. They knew only that they wanted to break with royalty and lay the foundation of a new order. The Constitution was obviously the best instrument of this transformation. Trusting in the law, the written word and the solemn nature of the text, the men of the Revolution inscribed in it everything that they deemed essential for the optimal development of the rights and freedoms, all the values and all the founding principles of the social bond in France. Secularism was one of these principles. For more than a half-century it has been a constitutional characteristic of the French Republic.⁶

⁵ This hierarchy of norms is a synthetic view of the law set forth by Hans Kelsen, an Austrian jurist who redefined the notion of State of law and order, a notion of German origin (Rechtsstaat) at the beginning of the 20th century, as a "State in which the legal norms are organized in a hierarchy in such a way that its power is limited." In this model each rule is validated by its conformity to higher rules. This hierarchy makes sense only if its respect is controlled by a judge. There are two types of control: by exception and by action.

⁶ It was included for the first time in the Constitution of the 4th Republic (October, 1946) and that was confirmed twelve years later when the 5th Republic was instituted. Article 2 of the present Constitution, promulgated on October 4, 1958, states: "France is an indivisible, secular, democratic and social Republic. It

Even when in 1963 the Constituent Assembly, intent on breaking with the French form of parliamentary government⁷, borrowed from the American presidential regime the essential principle of the strict separation of powers⁸, the principle of secularism was left untouched in this drastic change. This Constitution of 1963 remained in force until 2001.

As stipulated in the first article of the Constitution of January 22, 2001⁹, the Republic of Senegal is secular, democratic and social. It insures equality before the law of all citizens without distinction of origin, race, sex or religion. It respects all beliefs.

Senegal seems to have adopted the conception of secularism defined by three principles: the principle of the neutrality of the State, that of religious freedom and that of the respect of pluralism.

It is in the name of neutrality that the Republic of Senegal guarantees to all its citizens, without any discrimination, the fundamental individual freedoms: civil and political freedoms (freedom of thought, of expression, of the press, of association, of assembly, of movement, of demonstration), cultural and religious freedoms (Article 8 of the Constitution). The Republic should favor no form of religious worship; it must guarantee the exercise of public freedoms. Article 4 that deals with political parties stresses that the diversity of options and political movements cannot be based on religion. Thus, political parties cannot identify with a religion.

There is one fact that the State cannot ignore in Senegal: the great majority of the citizens adheres to religious beliefs. The secular Senegalese State had to take this into consideration. That is why the first Article, while declaring the State to be secular and democratic, includes the respect of all beliefs. The position of secularism in constitutional organization is nothing more than the legal affirmation of religious freedom.

Thus the Constitution guarantees in Article 24 freedom of conscience, freedom of religious practices and the profession of religious educator. In the same way religious institutions and communities have the right to develop freely. They are free of the supervision of the State. They regulate and administer their affairs with total autonomy.

Secularism is not solely the neutrality of the State or tolerance. It cannot ignore the religious dimension. That is why Article 22 of the Constitution states that religious and non-religious institutions and communities are recognized equally as means of education and that any act of religious discrimination is punishable by law in the terms of Article 5.¹⁰ Not only does the State not ignore religion, it maintains normal relations with the different religious faiths, mainly the Muslim and Christian communities. In fact, State authorities gladly participate in the most solemn religious events whether Muslim or Catholic, to mention only these two religions: Pilgrimages (to Mecca, to Rome), Tabaski, "Magal". And they send representatives to cultural activities organized by these communities; the State subsidizes

insures equality before the law of all citizens without distinction of origin, race or religion. It respects all beliefs."

⁷ The Constitution of 1963 introduced major innovations compared to the Constitution of the 1st Republic. It instituted an organic and functional reorganization of the organs of the State by establishing a regime based on the strict separation of the executive and legislative powers.

⁸ This regime, meant to be presidential in the beginning, gradually moved away from the classic model of presidential regimes in the course of the many constitutional revisions that ensued.

⁹ The third one Senegal has adopted since it became independent, after the Constitutions of August 26, 1960 and March 7, 1963.

¹⁰ The people of a sovereign Senegal "deeply attached to its fundamental cultural values" affirmed its support of the Declaration of Human and Citizens' Rights of 1789 in which the first Article states that "men are born free and enjoy equal rights. Social distinctions can be based only on common utility."

private schools with the major part of this aid going to private Catholic schools, grants legal holidays for certain religious feast days. In summary, the State recognizes and respects all beliefs. It affirms its neutrality in matters of religion. This is what inspires Professor Seydou Madani Sy to say that Senegalese secularism is “a comprehensive secularism, quite different from the French model of secularism bequeathed to us by the constitutional history of the successive Republics.”¹¹

Certainly the Senegalese conception of secularism differs from the French conception that is the most radical of all conceptions of secularism.¹² Since the French Revolution, and definitively since the law of December 9, 1905 concerning the separation of Church and State, the separation of Church and State is total and reciprocal. As a matter of principle, Churches can have no influence over the State and the State can have no influence over the Churches or their followers.

The justification of this principle is that in order for the State to respect all beliefs equally, it must recognize none.¹³

The French secularism advocated by the revolutionaries is the exact opposite of that adopted by the United States, a Republic deeply imbued with Christian values.

God is omnipresent in American culture. Thus, the American Declaration of Independence refers to a Creator God who legitimizes human rights. It is true that Religion is officially separated from the State by the First Amendment of the Constitution of 1787. Neither the Constitution nor the Bill of Rights, the two founding texts of the American Republic, refers to God or to Providence. It is just as true that Jefferson the drafter and other founding Fathers of the United States declared themselves in favor of the separation of church and State.¹⁴

However, references to God are everywhere in political practice.¹⁵ The separation of Church and State in the United States is then less pronounced than in France.

¹¹ Sy (S.M.), « La laïcité, fondement de l'Etat démocratique, » *Ethiopiennes*, numéro 22, Revue socialiste de culture négro-africaine, 1980.

¹² There are some exceptions (limited) to the principle of secularism, especially as regards private schools. The State subsidizes religious schools on the condition that they sign an agreement with it (these schools are called private schools “under contract”). In exchange for these public funds the schools must follow certain rules that limit in practice religious instruction. It means the school must adhere to prescribed national curricula and hours of instruction, which obligations are controlled by the State.

¹³ In reality, French secularism implies the recognition of religious pluralism and of the neutrality of the State as regards churches. It dictates the refusal of the subjugation of political power to religious power or reciprocally.

¹⁴ “I have always considered it to be an affair between a man and his Creator, in which no one else, and especially not the public, had the right to intervene.” Thomas Jefferson. In one of his letters, Jefferson mentions the urgent necessity of a “wall of separation” between the State and the Church. Quoted by Guy Haarscher in *La Laïcité*, PUF, Que sais-je? 3^e édition, 2004, p. 102.

“All possess equally freedom of conscience and the protections of citizenship. The government of the United States gives no support to sectarianism, nor any aid to persecution and requires only that all those living under its protection comport themselves as good citizens [...] A man's religious beliefs will not deprive him of the protection of the laws, nor of the right to attain and exercise the highest public functions existing in the United States.” George Washington. Quoted by Nicole Bacharan in *Faut-il avoir peur de l'Amérique ?*, Paris, Editions du Seuil, 2005, p. 99.

“The government has not the shadow of a right to be concerned with religion. The least interference would be a flagrant usurpation.” James Madison. Quoted by Nicole Bacharan, *Op. cit.*, p. 99-100.

“The government of the United States is in no way founded on the Christian religion; it bears no enmity toward the law, the religion or the tranquility of Muslims.” John Adams. Quoted by Nicole Bacharan, *Op. cit.*, p. 100

¹⁵ George Washington was the first president to introduce the oath on the Bible, while the Constitution made a provision for just a simple oath. The “In God we trust” on currency became the official motto of the United

There are States that are officially secular but where there is not really separation of the State and religion. It is the case of Turkey where there is an official Islam highly institutionalized since 1924 by the creation of an “ad hoc” administration: the “Directoire des Affaires Religieuses.” So, rather than really separate clearly the temporal and spiritual spheres the Turkish republican State acts as the controlling body and the sole and exclusive organ in charge of religious affairs, the supreme authority in the matter.

The success of secularism throughout almost the whole world is explained by the fact that it allows the expression, in the public forum, of diverse beliefs provided they respect others, fundamental liberties and law and order.

That is what explains and justifies the constitutional validation of the principle of secularism. In Senegal this procedure is reinforced by the reference of the preamble to the Constitution to the Declaration of Human and Citizens’ Rights of 1789.¹⁶

The importance of the preamble is that it includes the professions of faith of the State, the values and principles held dear by the sovereign nation. It translates the political thought that inspired the Constituent Assembly. There has been much discussion of the juridical authority of the preamble. The Constituent Assembly of 2001 ruled definitively on the matter by affirming that the preamble is “an integral part” of the Constitution.

The preamble of the Constitution of January 22, 2001 mentions the Senegalese people’s support for the Declaration of Human and Citizens’ Rights of 1789.

Among the “natural, inalienable and sacred human rights,” the Declaration of 1789 Recognizes the equality of men as regards rights (Article 1), liberty, property, safety and resistance to oppression (Article 2). Its purpose is to protect people from the arbitrary and guarantee the respect of their rights by impartial jurisdictions applying the principles and the penalties defined by the law and respecting the principle of the presumption of innocence (Articles 7 to 9). It affirms in its Article 10 that “No one must be harassed for his opinions, even religious ones, provided their expression does not disturb the public order established by the law” and specifies that “the free communication of thoughts and opinions (is) one of the most precious human rights” (Article 11), the same as the right to safety (Article 12), today called security.

As for citizens’ rights they concern the political organization of society. This must be based on the principle of national sovereignty. In this context the different powers come from the Nation, one and indivisible (Article 3), the principle of the separation of powers must be guaranteed (Article 16) and the law, as expression of the general will, is the standard of reference of the juridical system, for “all citizens have the right to work toward its creation personally or through their representatives” (Article 6).

B. A Diffuse Legislative Validation

In Senegal the principle of secularism was legally validated in a diffuse way in the sense that the concept can appear nowhere in a law, or appear only furtively, which does not prevent it from being the basis of all legislation.

For example, in Article 2 of law no. 81-17 of May 6, 1981 (modified) it is strictly forbidden for political parties to identify with a religion. If need be, they can be denied the receipt acknowledging declaration. A political party can be careful not to identify with a

States on July 30, 1956 on the initiative of a congressman from Florida (Charles E. Bennett). There is also the oath on the Bible of the American presidents during Inauguration, etc.

¹⁶ The recognition of the constitutional value of the Declaration of 1789 is of great interest as it gives the constitutional judge the possibility of obliging the legislator to respect it.

religion when filing its statutes but later engage in activities or take positions that refer unequivocally to a religion. The law provides that a party be dissolved in the event that it has seriously ignored its obligation as stipulated in Article 4 of the Constitution, especially as regards respect of the nature of the State: republican, secular and democratic.

In Article 1 of law no. 97-17 of December 1, 1997 relative to the Work Code the State guarantees to citizens equal opportunity and equal pay as regards access to professional training and employment, without distinction of origin, race, sex and religion.

This law applies to relations between employers and workers. A worker is defined as any person, without distinction, who has accepted to place his professional activity, in exchange for remuneration, under the direction and authority of another person, physical or moral, public or private. No worker can be wronged in his work or in his employment because of his origins, his opinions or his beliefs.

Also, Article 20 of the general status of civil servants shows that the principle of equal access to civil service constitutes another example of the principle of neutrality of public service. In fact, the only conditions for recruitment to civil service concern nationality, age, civil rights, good morals, standing in regard to the laws on army recruitment, physical aptitude and the absence of a condition entailing the right to a long-term leave.

There is absolutely no doubt that the Family Code adopted in 1972 is secular in nature. Family law does not consider the religious convictions of the family members and the spouses. Nowhere in the condition relative to the substance and the form of marriage or marriage settlements is mention made of religious affiliation. It is the same in the case of filiation. It is only in Title III of Book VII treating successions “*ab intestat*” that one can find a possible application of succession according to Muslim law for “those persons who, while living, have explicitly or by their behavior indisputably demonstrated their desire to see their succession devolved upon according to the rules of Muslim laws of succession” (Article 571 of the Family Code).

Law no. 91-22 of January 30, 1991, called the law of Orientation of National Education, in its Article 4 states that “National education is secular: it respects and guarantees at all levels the freedom of conscience of citizens. The local and public communities contribute to the State’s effort in matters of education. Private, individual or collective initiation can, under conditions defined by the law, participate in the process of education and instruction. So it is that National Education, based on the principle of the secularism of the State, is favorable to private establishments that may well provide religious instruction. But the law does state that “national education is placed under the responsibility of the State which guarantees its citizens the implementation of the right to education by the creation of a system of education.”

Fortunately, as Professor Moussa Daff seems to think “it is wiser not to cultivate in the republican sphere a seed it is forbidden to eat in the circle of the exercise of the republican power.” Let us not forget that school is a specific space for children and adolescents to whom it must furnish the intellectual tools permitting them, whatever their origins, religious convictions or those of their parents, to become enlightened citizens, learning to share, over and above all their differences, the values of the Republic. For Professor Daff only the firm establishment of secularism can explain the fact that “a non-Muslim was able to lead a country that is 90% Muslim and, what is more, rigorously organized in various brotherhoods.”¹⁷ This pervasive influence of Islam is not a recent

¹⁷ Daff (M.), « Réglage de sens des concepts ‘laïcité’ et ‘religion’ ». Paper presented at the international colloquium of comparative education « Education, religion, laïcité : Quels enjeux pour les politiques

phenomenon; its roots go far back in history. In fact, Islam arrived in Senegal in the 10th century¹⁸, but its implantation was not easily accomplished because of the presence of the Church justified by its “civilizing mission” but also because of a diverse assortment of beliefs.

The marabouts played a major role in the propagation of Islam in Senegal. This is what explains the specificity of “Senegalese Islam” that is organized in brotherhoods.

One can readily see then in this country of many brotherhoods and several religions the relevance of the affirmation of the neutrality of the State and of the equidistant position relative to the different religious organizations.

It is easy however to note an ever more evident absence of a clear division between the political and religious spheres, creating confusion that could, in the long run, affect the principle of secularism. This principle is, of course, based on a solid foundation that is not, however, totally protected from erosion.

II. Secularism: A Principle Whose Base is Threatened with Erosion

The relevance of a rule of law or of a juridical principle depends on its suitability for the concrete situations that it is designed to regulate but also on the means accompanying the political will to apply them.

If the juridical fiction maintains that the Constitution founds and legally supports the State, it is understood that the political history precedes it and can confer upon it both its detailed legitimacy and the permanence of its authority. This political history is then reintroduced in the law by being characterized as primary constituent power. In formerly colonized countries like Senegal the work of the first constituent power was basically just an operation consisting in cloning the French constitutional organization. The principle of secularism, among others, thus figured in the various Senegalese Constitutions.

In order to avoid constructing a legal system that is not adapted to the milieu in question, a detailed analysis of the local realities should be done. Such an analysis reveals that Senegal is 95% Muslim.¹⁹ The majority of these Muslims belong to various religious brotherhoods.²⁰ The brotherhoods are families deeply rooted in society and exerting great influence over the people. Senegalese politicians have understood this and exploit

éducatives? Centre international d'études pédagogiques (CIEP), Sèvres, France, du 19 au 21 octobre 2005.

¹⁸ Islam was introduced in Senegal as early as the 10th century by the Berber tribes of the Tagant (Mauritania) who, supported by the indigenous state powers, spread the new religion in the north of the country. The important expansion of Islam in Senegal dates from the second half of the 19th century and was aided by colonization: the colonizers destroyed the monarchial systems in place at the time so the people looked to the marabouts for protection. Source: Ibrahima Thioub, Département d'Histoire, UCAD, Dakar, Sénégal, « Histoire de l'Islam au Sénégal : X-XXe siècles ».

¹⁹ Islam is omnipresent in the daily life of the Senegalese. It can be observed in all their social, political and cultural activities, in the arts, in the architecture, in the language, etc.

²⁰ The brotherhoods unite the Muslims around a common guide: the marabout. He instructs his faithful in a method of religious practice called “tarikka” (the way). In Senegal the most important brotherhoods are the following: the Tijaniya, the Muridism, the Khadria and the Lahiniya.

The Tijaniya, created in the 18th century in Algeria, was propagated in Senegal by El Hadj Malick Sy in the second half of the 19th century.

Muridism, established in 1885, arose in Senegal. Its founder was Cheikh Ahmadou Bamba.

The Khadria, the oldest brotherhood (founded in the 15th century in Baghdad) was established in Senegal in the 19th century.

The Lahiniya, composed principally of the Lebu of the Cap Vert peninsula, was founded by Libasse Thiaw in 1884.

90% of the Senegalese Muslims belong to one of these brotherhoods.

extensively this alleged influence of the brotherhoods, going so far as to purposely place politics under the control of religion (A). If this is so, it is because the brotherhood would be a productive electoral force during elections. Myth or reality? The principle of secularism is weakened by it, leading to attempts to call it into question (B).

A. The Extent of the Voluntary Submission of Politics to Religion

Associating the brotherhoods in political life with the aim of increasing the sociological base of the government is a very old practice in Senegal. In fact, even the colonizer greatly exploited this alleged influence of the brotherhoods, but for them it was with the intention of “dividing, the better to rule”.

When Senegal became independent the practice of the politician using religion continued. The first President of the Republic, Léopold Sédar Senghor, though Catholic, understood early on, even before becoming president, the real influence exerted on the masses by the marabouts. He maintained friendly relations with the marabout families of the land. His friendship with the Caliph of the Murids, Serigne Falilou Mbacké, was a secret for no one.

The hope of benefiting from the “ndiguel” (dictated vote) explains in large part this assiduous courting of the marabout milieu in general and of the Murid brotherhood in particular. A study conducted in 1996 by the GERCOP as part of the study entitled “Electoral behavior, politics and brotherhood socialization in Senegal” showed that in the Murid milieu the authority of the religious leader seems to be exercised in a way that can significantly influence the outcome of an election. Thus, 41% of the Murids in the segment of the polled population consider the marabout’s opinion to be decisive in a presidential election as opposed to 39% for local elections. This difference of 2.6 points (almost 7%) between the two types of elections can be explained by the fact that because the vote for the election of a Head of State is of national import, the Murid disciple questioned about the importance of the religious leader’s opinion logically thinks of the “ndiguel” (dictated vote) of the Caliph General. On the other hand, only 26.4% of Tijanis considered the religious leader’s opinion important in a presidential election (same figure for legislative and local elections). What are the reasons for the difference in attitude between Murid and Tijani “talibés” (disciples) as regards the electoral instructions of their marabout?

The high proportion of Tijanis who ignore the marabout’s opinion in exercising their voting rights (almost three out of four) can be explained by two factors according to the conclusions of this study: “the polyarchical character of the way the Tijani brotherhood works (plurality and autonomy of the families and plurality of the decision-makers within each family) and the liberal nature of the Tijani disciple’s commitment which is a far cry from the militant indoctrination of the Murid “talibé”. The commitment is an intellectual one.

When he came to power in 1981 President Abdou Diouf made no declaration of allegiance but he seemed to have more ties to Tivaouane. However, he maintained good relations with Touba and even benefited from a dictated vote ordered in 1988 by the Caliph General at that time, Serigne Saliou Mbacké.

The social and economic impact and the electoral potential of Touba certainly explain the attitude of President Wade who does everything he can to benefit from the support of the holy city.

It seems then that this more than close collaboration between the temporal and the spiritual is a constant reality in Senegal. The new element is the appearance of the phenomenon of marabout-politicians in the arena. They have actual militia (militant-

“talibés” who combine the two spheres). This has given rise to a certain physical and verbal violence that reached such intensity that the Minister of the Interior had to justify himself before the National Assembly.

Hasn't this phenomenon been encouraged by the President of the Republic who openly displays his brotherhood affiliation though he embodies national unity (Article 42 of the Constitution) and is the Guardian of the Constitution (Article 38)? It is certainly not indifferent that the office of the President of the Republic is incompatible with membership in any elective assembly, the National Assembly or local assemblies, and with the exercise of any other service, public or private.

These phenomena only serve to weaken secularism which must be the vanguard of the struggle against all forms of discrimination and to promote the already numerous attempts to call into question this pillar of the republican pact.

B. The Increasing Number of Attempts at Review

Secularism was at the center of public debate in 2001 when the new Constitution was being elaborated. In the presentation of the Constitution of January 22, 2001 it was stated that “the change in political power at the summit necessitates constitutional and institutional changes capable of expressing the people’s aspirations and giving the elected President of the Republic the powers to ensure them while maintaining the balance of these powers.” That is why, as a means of signaling the break with the former regime, a new Constitution was presented to the nation on January 7, 2001.

In elaborating this new Constitution the new authorities had been imprudent in removing secularism from the new proposal. This aroused people’s anger. The legitimate preoccupation with preserving peace in the nation was perhaps what finally led the authorities to once again include secularism among the attributes of the Republic, a positive move that put an end to the debate that was beginning to divide the Senegalese citizens.

In fact, that was not the first attack against secularism in Senegal. During the Etats Generaux de l’Education in 1981 republican secularism was certainly not called into question because it already figured in the Constitution but a strong recommendation, in the form of a wink of the eye at the religious leaders present at the consultative sessions, was made for introducing religious education in the school system and especially for a financial contribution from the government to non-formal religious education mainly by Christians and Muslims.

Finally, the Etats Generaux did recommend the introduction of religious education in the Senegalese educational system but the fundamentally secular character of the system from primary school to university was unequivocally reaffirmed.

More recently a personal status code in accordance with the Sharia for the govern of the Senegalese Muslims²¹ instead of the present Family Code was adopted and propagated by the Islamic Committee for the Reform of the Family Code in Senegal (CIRCOFS: Comité Islamique pour la Réforme du Code de la Famille au Senegal). This group composed of Senegalese Muslims claiming to be appointed by “all the religious families in the country” drew up and presented a project to President Wade for adoption by the government and the National Assembly.

²¹ This Islamist project encompasses areas as diverse as engagement, marriages (celebration, conditions of validity, obligations of the husband, of the wife, divorce), filiation, divorce, child custody, parental authority, inheritance, etc. The adoption of this project implies also the reinstatement of Muslim tribunals.

This is not the first attack against secularism by the Senegalese Islamists but it is the first time they have gone this far in elaborating and submitting such a complete project accompanied by extensive lobbying and a well-organized publicity campaign.

Did they conclude that the context had never been so favorable with a President of the Republic who does not hide his religious opinions and especially his allegiance to the Murid brotherhood.

Already in 1971 when the present Family Code was being debated the religious families had hastily drawn up a counter-project that they had submitted to the then President L.S. Senghor. This counter-project was never adopted.

Predictably these tendencies provoked the reaction of the Christian community, expressed by the voice of the highest Church authority as well as of other organizations of civil society.

On the occasion of World Catholic youth Day celebrated shortly after the Islamists' declaration, the Archbishop of Dakar, Monsignor Théodore Adrien Sarr, without referring directly to the project being touted, declared in his homily that "sometimes we detect signs that are disturbing and we wonder if this secularism that so far has been the glory of Senegal, a guarantee of peace, is not going to be gradually eroded." He exhorted the thousands of young Christians of the country to be vigilant: "you, young people, you are going to build the Senegal of the future. So be ready to fight for the preservation of positive secularism. Be ready to fight so that the equality, the right and the duty of all can be safeguarded as long as possible."

For the Archbishop of Dakar, "Senegalese positive secularism is a national treasure, one of the fundamental guarantees of social peace, of the unity of all Senegalese and of their communion as we have always lived it until now. That is why we must preserve it."

An association of organizations has been created called a Collective for the defense of secularism and national unity in Senegal, based on the fact that "in India and in Sudan the exploitation of religion has given rise to wars and even the division of the country (and that) in the states of Northern Nigeria groups have used religion to belittle the fundamental rights of human dignity." This association that includes different types of organizations²² states as its aim to "preserve national unity, secularism and democratic acquisitions".

For the collective the personal status code project represents a clear setback in the promotion of human and democratic rights. It is, in fact, dangerous.

Conclusion

Secularism is freedom, but also equality, equality among all citizens regardless of their beliefs. In the Senegalese conception of secularism it is the State's duty to ensure that all religious

²² National Association of Labor unions (UNSA), National Federation of Workers of Senegal (CNTS), African Network for the Promotion of Women Workers (RAFET), Democratic Union of Teachers (UDEN), African Network for integrated Development/ Center for Legal Information (RADY/CIJ), Research Group on Women and Senegalese Law (GREFELS), Senegalese Union for Support Services (USE), Coordination of Catholic Students of Senegal, Institute of Human Rights and Peace (IDHP), Senegalese Women's Council (COSEF), Christian Presence, African Meeting for Human Rights, Union of Senegalese Catholic Women, Senegalese Association for Equitable Development in the Spirit of Solidarity (ASDES), Association for the Promotion of Senegalese Women (APROFES), Interunion of the Women of the University C.A.D. of Dakar, National Union of Postal Workers (SNTP/POSTE), "Women take courage" Network, Network for Democratic Citizenship and human Rights (RECIDDHUP), Collective for the Protection of the Family (COFDEF), Gender Network of CONGAD, Observatory for Gender relations (ORGENS), Program for women in Urban Milieus (PROFEMU), Association of African Communications Professionals (APACP).

communities enjoy freedom of expression. It is up to the State to see to it that no group, no segment of society dominates by reason of religion or brotherhood affiliation. The entire Senegalese population is sovereign and the Constitution stipulates clearly that no part of the nation, no individual can assume the exercise of sovereignty unless designated by universal suffrage.

What means other than secularism can create the conditions allowing all Senegalese to live together with respect for the cultural, spiritual and religious differences and a common commitment to a certain number of values?

References

- Bacharan, Nicole. *Faut-il avoir peur de l'Amérique ?* Paris: Editions du Seuil, 2005.
- Barbier, Maurice. *La laïcité*. Paris : L'Harmattan, 1995.
- Boyer, Alain, *1905 : la Séparation Eglises – Etat*. Paris : Cana, 2004.
- Coulon, Christian. *Le Marabout et le Prince : Islam et Pouvoir au Sénégal*. Paris : Pedone, 1981.
- Daff, Moussa. “Réglage de sens des concepts ‘laïcité’ et ‘religion’ ». Paper presented at the international colloquium of comparative education « Education, religion, laïcité : Quels enjeux pour les politiques éducatives? Centre international d'études pédagogiques (CIEP), Sèvres, France, du 19 au 21 octobre 2005.
- Dia, Mamadou. *Islam, sociétés africaines et culture industrielle*. Dakar : N.E.A. 1975.
- Diop, Momar, C. *La confrérie mouride : organisation politique et mode d'implantation urbaine*. Université de Lyon II, Thèse de 3e cycle, 1980.
- Ducomte, Jean-Michel. “La laïcité,” Les Essentiels : Milan 2001.
- Haarscher, Guy. *La Laïcité*, Paris: PUF, Que sais-je? 2004.
- Mbaye, El-haji Rawane. *L'Islam au Sénégal*, Université de Dakar, Thèse de Doctorat de 3^{ème} cycle, 1976.
- Samb, Djibril. *Comprendre la laïcité*. Dakar : NEAS, 2005.
- Sy, Seydou Madani. “La laïcité, fondement de l'Etat démocratique,” *Ethiopiennes*, 1980, 22 :18-31.
- Thiou, Ibrahima. *Histoire de l'Islam au Sénégal: X-XXe siècles*. UCAD Département d'Histoire, Dakar, Sénégal.
- Willaime, Jean-Paul. *Europe et religion, les enjeux du XXIe siècle*. Paris : Fayard, 2004