

International Norms and Family Law in Burkina Faso: Between Ideal, Rejection and Appropriation

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Law, because it has been perceived as a powerful tool of social engineering ever since the colonial era, is one of the main means by which political power tries to penetrate the family field in sub-Saharan Africa. Transforming family structures and practices towards occidental standards through a judicial approach has been on the top of the political agenda in Burkina Faso in the past, be it in the name of the so-called « civilizing mission » of the French colonial power or for the sake of implementing progressive and women-favourable policies after the National Revolution. Nowadays, this issue gets renewed in terms of compliance with human rights international standards (i.e. principles of individualism, autonomy, choice, bodily integrity and equality) which translates into the promotion of women's rights within the family and the transformation of gender relations.

Although Burkina Faso has been a pioneer in terms of modernizing its family law – which makes the State a major actor in the process of “westernization” – there is a shared agreement on the fact that changes are very slow to observe in terms of social practices. This leads to two different but widespread postures within the practitioners and researchers communities. Development planners and policy-makers tend to put the blame on “socio-cultural inertia” and “harmful traditional practices”, which prevent the implementation of modern law. On the other hand, social scientists tend to blame state law for not fitting local laws and customs thus being disconnected from actual social practices.

The purpose of this paper is to discuss another way of grasping the processes currently under way. My arguments are based on extensive fieldwork conducted between 2007 and 2010 at the local services of the Ministry of Social Action. These social services provide people – women as a vast majority – with legal advice and family mediation in the field of filiation, parenthood and conjugality. Careful analysis of requests formulated by women and the answers they get from civil servants, following direct observations and in-depth interviews, have led me to identify 1) the processes of reinterpretation and appropriation of legal/western norms by local actors (both officials and users) and 2) elements of congruence, in terms of social justice, between women's requests and international human rights principles. These findings lead me to give priority to the study of the interactions between the different normative orders which inform social practices.