

SESSION 1 : THE PURPOSES OF CIVIL STATUS

Chair : Jean-Pierre MONTAGNE

Director of the central civil-status service [SCEC], Nantes (F)

I would like to take a few moments to introduce this morning's debate which, as you know, is devoted to the purposes of civil status, that is to say, to its aims and the appearances it can take on in very different legal and cultural contexts, which, in itself, is worthy of comparative analysis. I would like, briefly, without going into detail regarding the topics which will be introduced this morning, to try and establish the issues surrounding these purposes of civil status.

We already know that civil status is defined as being the status of a person, and that it is in the public interest for it to be recognised as such. It is interesting to note that, for instance in the case of Muslim law, new laws concerning the family tend to attempt to correct any constraints resulting from the fact that Muslim law, as such, is not necessarily adapted to our contemporary societies.

Later on, we will hear some very interesting thoughts in this regard, particularly concerning Algeria. One realises that the public interest in attributing a civil status to each person permits, in a sense, attempts to include people who, in theory, would not have the right to a civil status, particularly natural children.

There exist a great variety of perspectives, through the lens of civilisation, culture or law, but also the perception of individuals regarding their own civil status, and society's perception.

Thus, in a country like the Comoros, perception of civil status tends to be founded more on the place of the individual within a community, rather than on the reality of that person's civil status as an individual. In France, by contrast, there is a tendency towards exhaustive description of an individual's civil status, whether this individual is French, born in French territory, or born or residing abroad - in fact, this is the purpose of the Central Civil-Status Service of the Ministry of Foreign Affairs- but also foreigners who have been born or are residing in French territory. In France, then, the concept of civil status is as large, exhaustive and precise as possible.

I was saying that there are two approaches to civil status. Firstly, there is the subjective angle of the individual, which can be the product of a declaration and awareness simply of individual identity, and this is where we will talk about the precise topic of identity. Then, there is society's viewpoint, the State's viewpoint, which will be founded on more objective, or even scientific, criteria - which are today the centre of political debates - and this is where we will speak of identification. These two complementary concepts coexist, evidently, in all societies to varying degrees.

At the level of administrative organisation, the first approach leads to the civil-status register, and the second to the population register. This latter register will favour a description of the current status of a person, rather than a chronological, historical description, as is the case, for instance, with French civil status, and will place the emphasis, amongst other things, on the individual's residential status at any given moment. Taken to extremes, the population register can become an instrument of social control, which serves, among other purposes, to limit the population's movements, or at

least to regulate them. This is the case of the Chinese Hukou system, an old imperial tradition, which has been adopted with great efficiency, if I may say so, by the government of the People's Republic of China since 1949. In France, by contrast, and perhaps because of the French State's tradition of centralisation, the role of the population register here is quite small, at least at a strictly local level.

We spoke earlier of the relationship between the population register and the individual's residential situation. In France, there exists what we term the register of physical persons, wherein the National Institute for Statistics and Economic Studies – the INSEE – attributes an identification number to French people who have been born in France, and to foreigners who are also born in France, and also, optionally, as this is not mandatory, to French people born abroad, on the condition that they are, for instance, registered for Social Security. It is clear that this French-style population register is extremely limited, and does not tend towards exhaustivity, but is content simply to attempt to differentiate individuals in order to avoid confusing them with one another.

On the other hand, civil status, particularly the birth certificate, constitutes, in France, a veritable chronological radiography of the individual, an evolving radiography as precise as possible, to the point of including information which has nothing to do with civil status, such as registered partnerships or questions of nationality. This may lead us to wonder whether, in the end, this extreme precision, in the context of written law which is very much emphasised in France, and this attachment to reliable written civil status, are not present precisely in order to compensate for the absence of a population register. Earlier, we mentioned population registers and social identification control. Today, for the last few years in any case, we are beginning to realise, under political pressure linked to the prevention of fraud and the resulting drive to identify individuals more efficiently and more completely, that civil status is really returning to becoming a form of social control, particularly as, for instance, the Ministry of the Interior now systematically demands very precise data in terms of civil status and nationality, which was previously far less demanded. Thus, there is a feeling, somehow, that civil status in France is beginning to link up with the population register, or at least adopt an approach that is that of the population register.

I will now give way to our speakers, and will introduce them in order to conclude this introductory address.

We are particularly honoured today to welcome Professor Alain Touraine, who we all know. For the last half-century, he has made, and continues to make, essential contributions to the field of sociology. We will then hear from Professor René de Groot, an internationally renowned professor of comparative law and private law from Maastricht University, and Professor Harro von Senger, who is very familiar with the Chinese world and whose book on his speciality, Chinese stratagems, we have read with great pleasure. Finally, Mr Sami Aldeeb, whose numerous, precise, razor-sharp analyses have brought and continue to bring to the Western public often luminous clarification on Muslim law, with a methodological approach and a mode of thought which are obviously ours and that of Western law.

I thank you, and now introduce Professor Touraine.