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## RESEARCH ARTICLE

# THEORETICAL CONTRIBUTION TO THE UNDERSTANDING OF THE PHENOMENON OF MARRIAGE AND DIVORCE

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### ABSTRACT

As paradoxical as it may seem, marriage and divorce are two very common terms in common parlance, but to be seen closely, few people can identify them well. This is perhaps due to both the conception and the practice of these two phenomena. Indeed, marriage is a data that over time and in the social environment is apprehended and practiced differently by the people. Divorce being intimately related to marriage follows this same logic. From this observation, one is straight line to question what is marriage today and by implication divorce? What are its duties? Its typologies? Its history and implications in terms of the family and the two individuals who contract it?. Through a purely documentary search and adopting Mendes ' approach that science does not derive its scientificity solely from a field investigation, our objective with regard to this article is to provide insight into the Concepts of marriage and divorce by analyzing the writings from different backgrounds. These two concepts are dealt with on the one hand from the social point of fact according to Durkheim (ways of doing and acting having a power of coercion on the individual) and on the other hand from the total social fact angle in reference to Mauss (social fact which affects all the society's compartments).

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## INTRODUCTION

Marriage is a universal institution but very variable in time as in space. It deserves special attention to the views of its complexity and its very rapid evolution. The purpose of this work is to provide insight into the concepts of marriage and divorce. It is based on a corpus of existing writings on these two concepts. These writings are of various origins and they mostly deal with marriage and divorce duality. This fundamental research allowed us to analyze and synthesize theories and ideas to finally comment on what could be learned about marriage and divorce issues. We discussed the theme of marriage in its historical aspect, its typologies, its functions, and its implications in the life of couples. In terms of divorce, we have dealt with it from three angles, namely divorce proceedings, its causes and consequences.

**History of marriage:** The need to carry out a historical analysis of marriage comes from the fact that it is useful to

understand what is at the origin of a phenomenon to carry out a sociological study. Durkheim (1937:33) quoted in this regard the historian Darmesteter:

*"Woe to the scientist who approaches the things of God without having at the bottom of his conscience, in the indestructible back-layer of his being, where the soul of the ancestors sleeps, an unknown sanctuary from which rises in moments a scent of incense, a line of psalm, a cry painful or triumphant that child he threw to heaven following his brothers and which puts him in sudden communion with the prophets of yore."*

From this assertion, it is apparent that any social phenomenon has an origin. Thus, the history of marriage is first and foremost in a divine approach. In the Bible as in the Koran, God himself is at the origin of marriage. He established the marriage between Adam and Eve so that they could converse with each other and set up a family together through the offspring they will have. In a passage from the Bible (Gen. 1-28), God said: "Be fruitful and become numerous, fill the earth..." ». In the Koran, he says (S 30: V 23): And among his signs he created you for you, wives for you to live in

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tranquility with them... ». Further by addressing all men now, he states that (S 2: V223): "Your wives are yours like fields, come to them as you like". A single idea is common to all that has just been said above is that the original marriage was instituted by God for procreation. But some authors stand out from this explanation. Thus, Engels (1884) attempted to propose a sketch on the origin of the marriage different from the one described above. He assumes in his study a primitive stage of the evolution of mankind where every man belonged to every woman and vice versa. And under these conditions the children of these relations belonged to all men as well as women. Engels (1884) drawing on the work of Epinas states that it is the jealousy of men which is the major element of the passage from this stage of the history of mankind where polygyny and polyandry reigned at a stage where marital marriage is considered to be the only Model favorable to human dignity. In considering the analysis of this author, we find that this author remains vague about where and when such a change occurred. In other words, such an explanation of the history of mankind requires that this author determine the spatio-temporal dimension of the origin of the marriage he describes. Engels analyses what is important to us is that it shows already that marriage is not static, that it evolves. Therefore, we can find several forms or typologies.

### Types of marriages

Marriage covers several typologies throughout the world. According to the authors, marriages are classified under various types within one and the same society, marriage also involves various typologies. This makes it difficult to consensually classify marriage. To this fact, Obenga (2006) described marriage as " " which can cover several forms in theory and practice. But, we hold a classification under three (or four) large ensemble:

**According to the social distance separating the spouses:** the marriages that appear in this model are essentially endogamy, exogamy and mixed marriage. Bovine (1988) who conducted a study on marriage among the Kanuri of Lake Tchad, says that there are two types of marriage in this society. The first model commonly called marriage of the House can be equated to the inbreeding marriage insofar as the preference goes first to the patrilineal kinship. In fact, spouses in this type of union are usually paternal cousins, parallel, crossed or have any other relationship with the family. The second marriage, it resembles the Exogamic wedding and is called the bush wedding. It is especially in cases where the woman and/or the man chooses her/his own life partner. These partners are rarely close relatives. But for the author, the marriage of the house is the most valued because it provides the stability of the couple and perpetuates the moral life.

In the same vein, Traoré (2001:3) in his reflection on single women in Ouagadougou, stipulates that: "*Choosing one's spouse out of the family group is disadvantageous for women; In the case of divorce or death of the husband, the woman is denied by her host group after being rejected by her original group.*"

In addition, if Cavin (1998:92) demonstrates that Burkina Faso society is in full change with the desire for modernism of young people and that these young burkinabè people are getting married more and more by mutual choice, it is obliged to admit by itself that this:

*"Does not prevent the young husband to use the formal consent of their parents today still. Such an agreement is a moral guarantee for the girl in the event of a divorce and represents a protection for the man against the mystical danger of a parental curse."*

At every point of view, inbreeding marriage has always been glorified by societies at the expense of exogamic marriage. Another type of marriage is the wedding model described by Barbara (1989). The mixed marriage which is defined by this author as a union between two individuals belonging to different cultures or to very distant groups. If for Levi-Strauss, the individuals do not marry too close or too far, Barbara (1989) points out that the mixed (intercultural) marriage can go a little further leading to a brewing of cultures. For Barbara, societies evolve and with them marriage. Thus intercultural marriage would be an indicator of the change of societies. According to the author the reasons for the mixed marriage are not due to chance. This type of union reveals the willingness of individuals to distinguish themselves in relation to their respective groups but also shows a desire to live an imaginary need. Intercultural marriage is the most common cause of conflict that leads to divorce. Thus the confrontation between the imaginary and the reality promotes the emergence of crises in the daily of intercultural marriages. After issuing serious reservations regarding the success of a mixed marriage (especially in the education of children, their residences; In the event of a divorce,), the author states as a solution for the survival of this type of couple the search for a Consensus in all decisions to be made. For according to Barbara (1989:134): "*The distinctiveness provides the couple with an unprecedented marital dynamic*".

Segalen (2006:104) defines mixed marriage in France as: "*Unions between French and various religious denominations, or even unions between nationals of other countries in Europe or America, but this problem is mistaken Mainly with that of immigrant families.*"

This author sets out two criteria for mixed marriage. On the one hand, there is the denominational diversity between the two partners and on the other hand the socio-spatial origin that separates them. Unlike Barbara, Segalen does not think that mixed marriage is linked to a desire to live an imaginary need or to be singular in relation to its original group. For Segalen (2006:105): "*The choice of the spouse is a key element in assessing the process of assimilation of immigrant and foreign-born populations' resident in France*". But Segalen acknowledges that: "*The joint union opens up to integration, provided that the two partners of the couple are not rejected on both sides and are struggling to rebuild their identity*". According to her: "*The mixed union is a bearer of acculturation*". In addition, Segalen and Barbara are joining in the success of a mixed union. Segalen For example shows that: "*Mixed unions are marked by instability since 30% to 40% are broken in the first five years and just over half in the first ten years*".

**According to the procedure:** the types of marriages that we classify in this category refer to the proceedings that celebrate marriage. We have among others: customary marriage, religious marriage, civil marriage and cohabitation or companionship. Cavin (1998) was able to list these four types of marriages in Burkina Faso and described them as follows: First, there are free unions or cohabitations which are not

subject to any form and are not in principle recognized or by the state, nor by large families. For Cavin (1998:89): "*The illegitimacy of these unions, as well as the consequent social insecurity in the event of a conflict, do not prevent them from increasingly propagating in the capital of Burkina Faso*". Indeed, it seems quite obvious that nowadays most young people embark on free unions (to gain experience) and often expect to have at least one child before regularizing their situation, i.e. thinking (thinking) about Wedding. Ouvry-Vial and Ravent (1989:22) make the diagnosis that the existence of this type of union is attributable to the various changes that have taken place in modern society. Indeed, for them: "*The family mutation sketched in the years 60-70 continues to assert itself to the point where the matrimonial institution no longer appears as an essential norm, an obligatory passage in the life cycle*". For them: "*Marriage is out of its golden age*".

Roussel (1980:1030) also describes a model of marriage that is similar to that of previous authors. Roussel on his side named this type of Alliance: "*Marriage Association or companionship or cohabitation*". In this matrimonial regime, the formality of marriage gives way to a kind of "business" or "contract". The Union of the two spouses is already fixed in consensual clauses and well determined by the two partners. Like Roussel (1989), Segalen (2006) also identified several concepts that refer to non-legal marriage (from the point of view of the law). It distinguishes among other things: concubinage, cohabitation, free union, trial marriage and recently companionship. The reason given by the author to explain the use of these different terms to refer to the same reality is stated in the following manner, according to Segalen (2006:98): "*The term 'concubinage' has been removed from the vocabulary of sociologists, such as that of Protagonists, because of its relatively infamous historical connotation linked to the deviant practice of the proletarian Workers of the nineteenth century*." From these words, it appears that the purpose of the use of these different terms is to embellish a non-legal practice. Finally, if Segalen (2006:98) states: "*The increase in the number of unmarried couples has surprised the observers by its brutality and its magnitude*" the fact remains that we can talk about "*deinstitutionalization of the Family*". For, in the matter for Segalen (2006:99), in France: "*The legislator followed the social movements and was led to legalize before the law the situation of the spouses whether they were married or not...*".

The second type of marriage described by Cavin is the customary marriage commonly referred to as "pugpusum" or "Fouri" in Dioula. According to this author (1998:260): "*Traditional marriages are inherently ambiguous because they are not designed to ensure the strength of the marital nucleus, but to consolidate interfamily alliances*".

In this type of marriage, it is a matter for the spouses to carry out traditional rituals that make them valid and stabilize their union in the eyes of a large majority of the population, especially the respective families. These unions are not recognized by law as of 4/8/1990, the date on which the Code of persons and the family or CPF was adopted in Burkina Faso. Roussel (1980) goes in the same direction as Cavin to mount the existence of an institutional or traditional marriage system in the European countries of the past. For Roussel, this marriage system was based primarily on bases such as home preservation, family survival and the transmission of family heritage from generation to generation.

The marriage of the religious type which consists in a celebration of the Union of the two contenders following the procedure established by the so-called revealed religions (Muslim, Christian) is the third type of union in Cavin's Book (1998). These union models have been introduced in most African countries through the expansion of these two religions. As far as Christian marriage is concerned, it may be said that it was first of all the French missionaries who came to clear the ground to facilitate the task to the colonizer. The Muslim religious marriage was the work of traders converted to the Muslim religion through the commercial travels that brought them out of the continent. Whether it is one or the other of this type of union, it should be noted that they are not valid in the eyes of the state of Burkina Faso. Civil marriage is the only type of marriage accepted by law since it is celebrated by state bodies and is governed by the Civil Code and the CPF (Code of Persons and family). For Roussel (1980), civil marriage is based on the emotional solidarity of the future spouses. This marriage is the fusion of two beings into one. In such unions, the partners are part of a dynamic of equal roles and autonomy vis-à-vis their respective families. Most European countries adopt this type of marriage as the only safe model. According to Cavin (1998), civil marriage although secure is not widespread among the population of Burkina Faso. The reason that this author advances in explaining the low presence of marriage is due to the fact that he (civil marriage) is only practiced in the so-called Westernized circles and especially by the intellectuals. To observe these four types of alliances, we will simply say that the civil marriage of Burkina Faso is merely a formality for the future spouses, because the latter first went through customary and religious marriages after several Years of living as a concubine. This observation suggests that there is a chronology in the different types of marriage in Burkina Faso.

**Depending on the number of spouses:** marriages can also be classified according to whether the man or woman has one, two or more partners. This is how one can have monogamous marriage and polygamous marriage. The monogamous marriage, the one that has always existed since in the different societies, is an alliance between two opposite sex partners, i.e. a man with a woman. Western societies are considered to be attached to the monogamous form of marriage. Indeed, in many Western countries, the laws in force have adopted this model of marriage as conducive to a flourishing of married life. Apart from today's so-called modern societies, the Catholic Church also appears as a defender of the monogamous matrimonial regime. Bigamy as a marriage model, is constituted in the same couple of one man and two women. The inverse of this type of union is also called bigamy, but it remains that societies that practice these kinds of union are scarce in the world. This model of alliance can be likened to polygamy (polygyny). Polygamy, which is the last type of alliance, is the subject of controversy and strong criticism both in its composition and in its legitimacy. Indeed, the so-called polygamy is confusing. Polygamy is defined as the marriage of a single man and/or a woman with at least two sex partners opposed to him. It therefore encompasses polygyny and polyandry. The first one refers to the marriage of a single man with several women. The second, he is no more than the union of a single woman with several men. But in several African and Western societies, this kind of alliance is being challenged. Bara (1985:198) examining this injustice realizes through Murdock's work that there are only two societies in the world (1 in Eurasia and the other in Oceania)

that practice polyandry. He concluded the following: "Polygamy (polygyny) does not reflect the good right of men, but only the superiority of their socioeconomic status". The scarcity of the practice of polyandry finds its explanation in the social organization of Rights and duties that make man dominate the woman. Bourdieu (1998) dealing with the domination of man over women shows that the superiority of the former holds not only its dominance but also the acceptance of this domination by the latter, i.e. their subjugation to domination. In fact, for Bourdieu, male domination over the other half of the sky is perceived as natural and inevitable by these women insofar as they only manifest the will to submit to this domination. In addition to the controversy raised by polygamy, particularly with regard to its practice, many authors have pointed out other aspects. Antoine and Nagda (1995) say, for example, that there are four types of polygamy in Senegal. First, there is the imposed polygamy that is occasioned by the fact that the parents give a second wife to their sons. Secondly, the polygamy of the poor which is practised by men who cannot meet all their obligations but whose wives are largely autonomous. The third polygamist model is the prerogative of the new rich who wish by this Act to show their sign of social success. Return polygamy is the fourth type of polygamy and is considered practiced by intellectuals who after a life of monogamy desires to make a return to religion, traditions. These intellectuals denounce at the same time the modernity which they deem not conducive to their flourishing.

Also in the case of Senegal, Bara (1985:190) had emphasized the existence of the Poor's polygamy in these terms: "The organization of the polygamous family is increasingly based on the autonomy of the co-wives, one in relation to the others." Indeed, in these cases, it is common to see men divided between three different homes. Every wife and child who can do four days without seeing the head of the household, is obliged to take care of all the daily expenses. Other authors have approached polygamy from a historical perspective. The concern was to know in which polygamy society was practised for the very first time. For some, polygamy from a historical point of view is a practice of African societies. They argue that the texts and laws of Western societies have always privileged monogamy to the detriment of polygamy. This analysis is reinforced by the fact that most African dignitaries or kings have been polygamists. To this end, Vincent (1988:255) reveals that the kings of Lake Tchad could have between twenty and thirty women during their reign. This was not possible for a simple subject. The author concludes that:

*"Polygamy is only a step towards the control of the fertility of the ground and the mastery of the natural elements that the Prince strives to achieve by playing the role assigned to him by the subjects, which of Prince rain able to grant or refuse the water Beneficial".*

Other authors believe that polygamy has not been practised in time by African societies alone. Among these authors is Figure Thiam (1978:120). According to her: "Everyone agrees that polygamy is not a specific practice in black Africa, let alone Muslim states." Institutionalized or not, polygamy is ongoing in all countries, whether European or not. This author's vision of the practice of polygamy is also shared by Obenga (2006:16) who demonstrates through a comparative study on the forms of Union in Egypt and in ancient Greece that: "polygamy, through wives and mistresses, existed in Europe,

*in the past, in the imperial and Royal Courts, consistently."* Thus, it is not as Vincent thought (1988) that the African continent and especially the African leaders were the only ones to indulge in polygamy. Apart from the multiplicity of the typologies of polygamy and the controversy it raises, the reasons behind this practice are interpreted differently by the authors.

### The reasons for polygamy

Various reasons are raised to justify the introduction of polygamy. These reasons as a whole are of three kinds. These are the socio-cultural reasons, the economic reasons and the politico-organizational reasons.

### The sociocultural reasons for polygamy

For TsalaTsala (2009:18) in the specific case of Cameroon for example: The woman is still largely subject to marriage (...) Polygamy which is the normative form of marriage. These remarks by the Cameroonian family therapist reveal the sociocultural aspect of the legitimacy of polygamy in African countries. Thiam's (1978:119) analysis of the reasons for polygamy in Senegal is consistent with TsalaTsala's idea. For this writer: "From a social point of view, polygamy is considered a necessity in black African circles. It can reflect the desire to increase the number of children, thus expanding the family." In the same vein, Bara (1985) discussed the reasons for polygamy in Wolof society. This author also distinguishes sociocultural reasons for the practice of polygamy. On the one hand, there is the expansion of kinship with alliances made by marriages. And on the other hand, the last and most important aspect in the author's eyes is man's sexual satisfaction. According to Bara (1998:196), it is very often said that "one woman cannot satisfy the needs of the man" in Wolof society. All these assertions denote the socio-cultural nature of the practice of polygamy.

### The economic reasons for polygamy

The reasons for polygamy are not only sociocultural, there are also economic factors that are often put forward. Antoine and Nanitelamio (1995:9) outlined the causes of polygamy in an economic sense. For these two authors:

*"Most explanations of polygamy are based on a ruralist perception of African societies, within a particular mode of production: a weakly mechanized subsistence economy, in which women's role as producers of food products is important."*

Bara (1985), like the two previous authors, also highlights the economic aspect of the practice of polygamy. Polygamy not only increases the family's labour force, but also and above all the family's economic capital through the work that new women and their children will provide. But for Goody (1973), economic arguments do not serve as a valid reason to explain the practice of polygamy. Indeed, according to Goody's work, the highest polygamy rates are found in West Africa. On the other hand, it is in East Africa that women's labour force is remarkable because they cultivate the most. Finally, TsalaTsala (2009) will say that it is more the social justifications that underlie polygamy in that it prevents prostitution, it allows all women to have a man. The explanation of the practice of polygamy can also be seen from

a political-organizational perspective of African society. This is precisely what Meillassoux (1975) invites us to do. He believes that in a highly hierarchical society, polygamy makes it possible to maintain the superiority status of elders over cadets as they control family alliances. In analyzing these different assertions, it is assumed that polygamy has only advantages.

#### The disadvantages of polygamy

Yet, Bara (1985), through the comments of women in polygamous situations, shows that this is not really the case. From this point, it can be said that polygamy obviously does not only have advantages, it also has disadvantages linked undoubtedly to the antagonism between wives, their jealousy and various disputes, especially when they live under the same roof. Vincent (1988) reveals the existence of these jealousies even in the princely families of Lake Tchad. As jealousies are omnipresent in polygamous couples, there is a need to unite along ethnic lines to deal with ongoing quarrels. The author points out that the existence of such solidarity in relation to the communities of origin is frequent among the wives of polygamous princes in Mandara (Tchad). Having explained the different types of marriage, it seems appropriate to us to examine the functions played by marriage, its place and importance in a society.

#### The functions of marriage

Questioning about the functions of the institution of marriage is to open oneself first to the arguments of the American sociologist Talcott Parsons and to functionalist sociology. For the authors of this trend, every institution has a role to play in social organization and its smooth running. In the literature, the roles of marriage can be identified from three essential angles. Marriage first of all allows the durability of the lineage through social reproduction. Then, it ensures the production of the goods necessary for family consumption. Finally, it facilitates the transmission of community values and more through socialization.

Meillassoux (1975:116) distinguishes these three functions from marriage, but he reveals that almost all of them are performed by women. For him: "*Women, despite their irreplaceable role in reproduction, never intervene as vectors of social organization*". For Meillassoux (1975: 120), the exploitation of women has a double aspect. There is the exploitation of her reproductive capacities and the exploitation of her work. As a result, the author suggests that: "*Women, despite their dominant position in agriculture and sometimes in domestic work, are not admitted to the status of producers*".

In the same perspective, Bovin (1988:283) approaches the role of marriage in the following way: "*Fertility is essential to the stability and success of a marriage. Sterility attributed to women, never to men, is the most frequent cause of divorce.*"

Also, according to Cavin (1995:94):

*"Procreation is the central element of marriage, because it provides the spouses with the descendants essential for their spiritual survival"*. And as a Bambara proverb clearly shows: "*Death has no cure, except for the child*".

By extension, if this author shows the function of reproduction as primordial in marriage, she does not deny that it can ensure

others. Indeed, apart from its productive and reproductive role, marriage should enable children to receive a good education, to inculcate moral values in their descendants. Cavin (1995:259) therefore points out that: "*Marriage has many financial, moral and even educational implications if the couple has children*". TsalaTsala (2009:34) also extends the functions of marriage to highlight a last, no less important element. For this last author: "*In addition to being the privileged place of reproduction, marriage also has a social conservation function. Because alliances build friendships between ethnic groups and clans insofar as the woman to be married can be used as a pawn and hostage for her foster family*".

#### The implications of marriage for married life and the dowry issue

##### The implications of marriage

For Olouwalé (1998: 168), African marriage has three contractual obligations: a customary contract, a social contract and a socio-customary contract. Indeed, "In African societies, marriage is a solemn contract between two families in which the individual interests of the spouses, although formally or implicitly recognized, are in reality subordinated to the dominant interests, those of their respective families. This is indeed the dominant character of African marriage, but it is not without its roots in England and France from the 19th century to the present day."

Baumgadt (1988:86) states in the same sense as the previous author that:

*"Marriage is the important element of the balance of society, it appears in the writings as the framework within which men and women maintain a relationship that is more socially oriented than private."*

However, the author argues that nowadays, marriage seems to be not a social contract but rather an individual contract that allows partners to be happy when they respect their commitment and leads to misfortune when they break it. Marriage is a practice that is required at a certain point in an individual's life, so it cannot be avoided or risked being misunderstood or reprimanded by those around him. Thus, in the social organization of some African civilizations, there is a certain distance between married and unmarried individuals.

In the case of Burkina Faso, Traoré (2001: 11) who studied the condition of single women in Ouagadougou reveals this gap in these terms:

*"Marriage establishes a barrier between persons who do not have the same marital status, regardless of their relationship. Brides are now seen as responsible and have new tasks to perform, while single women remain irresponsible in the eyes of society."*

Precisely Olouwalé (1998:174) had already detected this distance that is created between people with different marital status as follows:

*"Marriage is a contract unlike any other because it gives a new status to those who have contracted it. It is this change in status that makes it very important in African and European customary law."*

### The dowry, symbol of social alliance

In the process of subordinating the interests of both spouses to the interests of their respective families, Tsala Tsala (2009:89) states that: *"Consent is not required for the conclusion of a marriage. It is rather the dowry that validates traditional marriage"*. According to him, the dowry's function is to compensate for the loss of a member of the group. To this end, it rejects the position that the dowry is an economic compensation for the girl's work, or a means of buying it. Therefore:

*"A daughter or parent who refuses a dowry benefit would separate from an element that promotes original identity. They would challenge the hierarchical order of people of knowledge and beings on which their ethnic identity is based."*

### Dowry, an economic benefit

Thiam (1978:125) takes the opposite of Tsala Tsala. She undermines the argument of this previous author to say that *"It is quite true that historically the dowry had the value of a symbol of alliance, it is nevertheless perfectly clear that the economic, even sordidly commercial aspect has now taken precedence over the original meaning gradually faded"*.

Thiam's (1978) opinion on dowry is also shared by Cavin (1998:91) when she states that: *"A woman's marriage represents impoverishment for one family and enrichment for the other"*.

Of these contradictions, what is appropriate to raise is that nowadays many countries, including Burkina Faso, have adopted laws prohibiting the payment of a dowry to marry. The law prohibiting dowry is contained in article 244 of the Burkinabe Personal and Family Code. This document also addresses the issue of the rights and duties of spouses. And for Pruvost (2002: 396): *"Regardless of their matrimonial regime, spouses enter into obligations and duties towards each other through marriage"*.

Divorce is an event that can happen in a couple's life. And societies do not hide their faces from this. They recognize that such a commitment, even if it is intended to be definitive, will sometimes result in breakdowns or separations. We can therefore conclude with Barbara (1989:129) that *"today the idea of marriage is naturally accompanied by the idea of divorce, even remarriage"*.

### Divorce or marriage breakdown

The problem of divorce is very complex since it represents a phenomenon that undermines the balance of society. Several authors have addressed the issue of divorce in their writings. We propose to analyze the complexity of divorce through its procedure, its causes and its consequences on the spouses and their children.

### Divorce proceedings

In African societies, divorce is accepted and requires procedures. For Tsala Tsala (2009:70): *"Divorce remains an act against alliance which not only challenges the negotiations that led to marriage, but also disrupts the debt circuit between the two families"*. This explains why we very often opt for

solutions that are less embarrassing than breaking the matrimonial bond. What follows is that divorce is a matter for the social groups concerned and it is only rarely that they admit the separation of the individuals concerned.

Similarly, according to Pruvost (2002: 391):

*"Divorce only breaks up civil marriage. The Catholic Church only accepts to annul a marriage celebrated religiously if there has been no consummation of the marriage or if both spouses were not baptized in either of the Christian churches. But if the consent of one of the spouses was vitiated or if the exchange of consent took place at a time when one of the spouses was unable to enter into a marriage, she may study and declare the nullity of the marriage of the two baptized, i. e. establish that there was only the appearance of true consent."*

Like customary marriage, Christian religious marriage dignitaries seem hostile to the idea of divorce. But what about Muslim and civil religious marriages? The Muslim religion in its practice does not exclude the possibility of one spouse divorcing the other. But it gives a length to the man insofar as it is his last duty to keep or drive away his wife. Soré (2002:22) shows it well in this sentence from a Muslim preacher: *"I repudiate you, I repudiate you, I repudiate you, I repudiate you"*. For him, it is enough for the man to say this three times to separate himself from his wife. In addition, in a verse of the Qur'an (S 65:V 1) it is stated that:

*"When you repudiate your wives, repudiate them according to their prescribed waiting period... Do not take them out of their homes and do not leave them, unless they have committed proven turpitude."*

In either of these two passages, we notice the male supremacy. At the level of civil marriage, divorce is accepted and recognized. Pruvost (2002: 425) even says that: *"The assistance of a lawyer is mandatory to regularize the divorce procedure and in particular to issue the divorce summons"*. Judiciary, divorce takes very different forms depending on whether or not the spouses agree to separate and on the terms of the divorce. These include divorce by mutual consent (amicable), divorce by litigation and legal separation. After the divorce is granted, the man can remarry without delay. As for the woman, she must wait 300 days from the date of the divorce summons. If we look closely at divorce proceedings at the level of Muslim marriage and civil marriage, we can clearly state with Tsala Tsala (2009:83):

*"That the legal provisions concerning divorce favor men much more than women. If both are equal before marriage, they are no longer equal before divorce. The woman's divorce is more complicated than the man's"*.

In short, divorce appears to be an undesirable phenomenon for society and for the individuals concerned. This is what we must understand from the sentence of the civil officer celebrating the marriage: *"Swear to love you... for better or for worse"*. If this is the case, it is appropriate to know what could lead to divorce. In other words, what are the causes of divorces?

### The causes of divorce

Since divorce is a phenomenon that runs counter to social stability, it is essential that the reasons leading to it be

irrefutable or obvious from the point of view of social groups. Thus, according to Bara (1985:207):

*"Like marriage, divorce cannot be decided by the spouses. Serious reasons, seen or shared by the heads of the family, were generally required for it to take place", among Wolof people, it is often said that "it is more difficult to divorce than to marry".*

In each other's writings, we find a multiplicity of advanced causes to justify divorce cases. But on the whole, the causes of divorce are related to the legal system, socio-cultural aspects, health reasons and economic reasons.

### Legal cases

The analysis of Ouvry-vial and Ravenet (1989) is based on a perspective of the failure of legal institutions. For them, the causes of divorce in France are attributable to the legal institution which is constantly bending to adapt to the requirements of new couples. Indeed, these two authors diagnose the decrease in the number of divorced people (increasing since 1804) under Napoleon I with the introduction of serious misconduct as the only reason to justify divorce. But the divorce rate will increase in the 1966's and increased considerably with the enactment of the 1975 law. Thus, according to Segalen (2006:124): *"The application of the 1975 law has made the divorce process easy and quick".*

Roussel's (1980) position is also to be attributed to the legal failure. For him, the causes of divorce are not to be found in factors exogenous to marriage (women's activity, secularization, etc.). Although he admits that these factors may indirectly influence the phenomenon of divorce, he nevertheless considers that the first cause of divorces is undoubtedly due to the spread of marriage models, which by their very nature implies a greater possibility of divorce. The spread of marriage models is due to the legal institution that makes it easier for individuals to divorce.

### Socio-cultural causes of divorce

Cavin (1998), for her part, distinguishes three types of divorce cases in Burkina Faso. First of all, there are socio-cultural causes that include, among other things: abandonment of the marital home by one of the spouses, repeated refusal to have sexual relations with his spouse, incessant quarrels leading to assault by the woman (the man traditionally having the right to hit his wife), the insult uttered by one of the spouses to his in-laws, Infidelity, relational difficulties with the in-laws, accusations of witchcraft, congenital malformations of the wife supposed to bring supernatural misfortune... Bayogo (2009) in his study on the causes of divorces of intellectual couples also showed the impact of sociocultural factors. The socio-cultural factors referred to by Bayogo (2009) are: the inexperience of spouses due to their late entry into marriage; the professional ambitions of the spouses, sexual dissatisfaction, and lack of children. If we look closely at the work of this author, we can say that he has the merit of addressing a central question of couple life but which remains always a taboo subject. Nevertheless, his argument raises a number of questions. With regard to late entry into marriage as a factor in divorce, we make a particular observation. In our African societies, most spouses marry at an early age, which can have a significant impact on their relationship.

This means that between late entry and early entry into marriage, it is rather the latter that takes the place of inexperience. And therefore may lead to divorce. This is why, with Gnoumou-Thombianou (2006:9), we can admit that, as expected: *"the young age at first marriage of women is a risk factor for divorce"*. With regard to professional ambitions, we note that this is a request for the well-being of the couple. They should in no way oppose this ideal. If for him (Bayogo): *"Unemployment tends to make married life very fragile"*, it is hard to conceive that professional ambitions can harm the stability of the couple and thus lead to divorce. Gnoumou-Thombianou (2006:12) mentions this as follows: *"However, divorce is increasing among the younger generations who are experiencing enormous difficulties in accessing employment with the economic recession of recent decades."*

### The health and economic causes of divorce

Then, some causes of divorces may be health-related. Illness is one of the causes of divorce, especially when it is serious or contagious. Finally, even if this author does not explicitly mention it, other causes of divorce are linked to the economy. This is the case, for example, when she speaks of a violation of the duty to provide assistance and relief, in particular the refusal to feed and support her wife by providing her with some money, food for cooking and support in the event of illness. The reverse obligation also exists (in the event of the husband's illness). In parallel to Cavin (1998), Antoine and Nanitelamio (1995:23) discuss the economic causes of divorce in these terms: *"The husband must in principle cover the household's expenses: when his economic situation deteriorates, the union is weakened. The wife's lack of maintenance is often cited as a reason for divorce."*

### Other causes of divorce

For Tsala Tsala (2009), two types of causes can lead one of the spouses to seek divorce in Cameroon. There are the peremptory or main causes which are the faults whose excessive seriousness is recognized by law. These are adultery and conviction due to an afflictive or infamous penalty. There are also optional causes that do not necessarily lead to divorce. Only the judge can assess the seriousness of the case raised by the plaintiff. It considers as optional causes: excesses, abuse and insults....

Finally, for Antoine and Nanitelamio (1995:24), polygamy is an obvious cause of divorce. Indeed, since disputes are frequent in polygamous families, it is not uncommon for the head of the family to choose between his wives which one deserves to live with him. For these two authors: *"The entry into polygamous union greatly accelerates the risk of divorcing the first wife"*. In short, it can be said that divorce is a phenomenon that calls for a plurality of causes depending on the context (socio-cultural and economic), space and time. While it is true that divorce remains an unwanted practice in society, this may be due to the consequences it has on social balance, on the individuals concerned and on the offspring.

### The consequences of divorce

After an analysis of the multiple causes of divorce, we will now determine the consequences of this phenomenon. The different consequences of divorce can be seen at three levels.

### The socio-cultural consequences of divorce

According to Pruvost (2002:427): *"Divorce is a serious matter, especially when you have children and a relatively large estate"*. In this passage, the first consequence is felt on the couple's offspring. Barbara (1989) had already noted this aspect in the case of mixed marriage. She was concerned about the consequences of a divorce that would seriously damage the children's education and also their places of residence after divorce.

For Bovin (1988:281), divorce also has consequences for spouses and their respective families. Because the breakdown of their union also leads to latent or declared conflicts between these two families. For this author: *"Divorce between spouses is very serious, poorly perceived and negatively sanctioned by the family, the clan, and the whole society. A divorce causes fights, splits and the exile of the perpetrators."*

### The economic consequences of divorce

The economic consequences of divorce are felt more by women according to Segalen (2006:130). And in the specific case of France, it reveals that: *"Family breakdowns propel women into precarious situations, especially when they have neither professional qualifications nor educational and economic capital"*.

Pilon (1997) believes that the consequences of divorce for women are twofold. In the case of women heads of household in Cameroon, divorce is a factor that leads women to take care of children alone. For him, a single woman is unable to educate a child, especially when the child is male. Indeed, boys at a fairly advanced age no longer listen to their mothers' advice. According to Pilon, they are beginning to think that men are always superior to women. As a result, the mother no longer has anything to teach them. The seriousness of the divorce phenomenon therefore reflects the reconciliation strategies used by society to avoid separation. Apart from women who are quite financially autonomous (women heads of household), Pilon points out that divorce necessarily leads women into a situation of economic insecurity and social stigmatization. Until then, there is the impression that divorce is only disadvantageous on the side of the female population. In other words, does divorce not also affect men unfavorably?

To this end, Segalen (2006: 131) invites us to note that in France:

*"The negative consequences of divorce do not only affect women. A survey of divorced fathers shows that many of them had joined the ranks of the homeless, not as a result of job loss, but as a result of divorce."*

Through these remarks, the author shows that divorce does not only have disadvantages for women, men also take a significant blow in the process. Divorce can even lead to an inconvenient situation for men, such as the use of alcohol, reduced performance...

### Conclusion

The purpose of this research was to provide a better understanding of the concepts of marriage and divorce. They constitute two antagonistic notions but always linked in the

sense that the idea of the second is contained in the first and the coming of the second marks the end of the first. Marriage and divorce are two realities that are part of the habits and customs of any society. As a result, marriage and divorce can be perceived as social facts in Durkheim's words. However, they are far from being unanimously accepted in both design and practice. Moreover, through this documentary research, we can see that these two phenomena affect all compartments of social life. Consequently, they can be qualified as total corporate facts within the meaning of Mauss.

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