

Multiculturalism: when the law decides to seize the cultural fact and criminalize it: the example of the French Bill against «separatism» in its dimension of protection of women's rights



© AFP. Women join a demonstration organized by "Stand up to Racism" in front of the French Embassy in London on August 26 2016 against the ban on Burkinis on French beaches

Contextualization: culturally motivated practices contradictory to Republican Values

"The cultural fact" constitutes an ancient problem. Indeed, this question arose with the first waves of immigration on the European continent: new communities became part of the French people and brought with them a set of traditions and rites that sometimes conflicted with the values of the Republic. From this moment onwards, a conflict arises between French law and these practices, which may be contrary to the dignity and freedom of women, and

consequently arises the need to criminalize these practices in order to protect women citizens, victims of serious violations of their fundamental rights.

This is why, the French government has been thinking for several months about drafting a new law: the law against "separatism" which aims, among other things, to abolish virginity certificates, to ensure the consent of women in order to fight against forced marriages and to prohibit the issuing of residence permits to people in a situation of polygamy.

Contextualization of the draft bill

It is an ambitious bill that is being examined in the National Assembly, the fight against "separatism", "the cause of the division of citizens in their republican values", according to Marlène Schiappa, delegated minister to the Ministry of the Interior, in charge of citizenship.

In this context, on Monday February 8th 2021, the deputies approved the ban on virginity certificates. In fact, this draft law aims to criminalize this type of practice because, although these practices are forbidden by the Council of the College of Physicians, "some doctors still dare to certify that a woman is a virgin in order to allow a religious marriage". The Government therefore wanted to formally prohibit this practice, but also to propose a penalty.

Accordingly, the National Assembly has adopted article 16, which prohibits health professionals from issuing virginity certificates with a penalty of imprisonment of up to one year and a fine of 15,000 euros.

A necessary prohibition to revalue the position of women in society and restore their rights

"No citizen has to give an account of her virginity, neither to her family nor to society. " Indeed, this practice goes against the dignity of women, their freedom and alters their status as human beings. It is an intrusive act that violates their rights and places women in a situation of inferiority with respect to men: the injunctions oblige them "to preserve themselves in order to preserve the honour of their family intact".

For these women "getting married" means undergoing what is called "a virginity test": the bride-to-be is usually taken to a professional to have her virginity "certified" in the same way as one might check the pedigree of an animal, the "purity of its blood" before buying it. It consists on verifying the presence of the intact hymen of the girl, but the WHO states: "this examination is of no value": in fact, some girls are born without hymen, others may have lost it at a younger age for various reasons (practice of a sport, for example).

Marlene Schiappa, a fervent defender of women's rights, says: "It is not a right to issue a virginity certificate. Some gynaecologists have claimed that they issue certificates of complacency so that the girl does not get bored when she returns to her family. For me, this type of certificate as the founding act of marriage goes against the dignity of the woman: she should not give an account of what happens in her intimacy, she is not promised a happy marriage if she has to justify herself in this way in order to properly seal her union".

France: first country to grant the right of asylum to women victims of sexual mutilations

In France, 11,000 women have refugee status for this reason, making the country the first place of asylum for women victims of sexual mutilation. Marlene Schiappa affirms: "All women, especially migrant or exiled women, must be better protected by the Republic, especially in the face of this unacceptable violence". This plague affects between 60,000 and 125,000 women in France according to studies.

Currently, nearly 11,000 girls and women, mainly from Guinea, Mali and Côte d'Ivoire, enjoy refugee status on these grounds. Twenty years after granting asylum for the first time in 2001 to parents who had opposed the circumcision of their daughter in Mali, the French Office for the Protection of Refugees and Stateless Persons (Ofpra) had "a very complete jurisprudential and legislative framework to take account of this specific problem", with the possibility, in particular, of requiring medical examinations. According to Ofpra, "social issues have become increasingly important, alongside the traditional figure of the political refugee. In particular, violence against women plays an important role, as illustrated by female genital mutilation, but also by early and forced marriages and spousal or sexual violence. Today it is necessary to fight for the abolition of these practices".

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References:

- <https://www.lejdd.fr/Societe/tribune-marlene-schiappa-abolissons-les-certificats-de-virginite3994406.amp>
- <http://www.lexoi.fr/index.php?id=7677#tocto1n1>
- <https://www.nouvelobs.com/droits-des-femmes/20210205.OBS39838/la-france-veut-davantageproteger-les-femmes-victimes-de-mutilations-sexuelles.amp>

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