

**RELIGIOUS, CUSTOMARY MARRIAGE, AND LEGAL
BOUNDARIES: NAVIGATING BETWEEN RECOGNITION
AND EFFECTIVE IMPLEMENTATION IN IVORIAN FAMILY
LAW**

A thesis

**Submitted to the Master's study program of Islamic Studies at the Faculty
of Islamic Studies in partial fulfillment of the requirement for the degree of
Master of Arts (M.A)**



By:

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Universitas Islam International Indonesia

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ABSTRACT

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Religious, cultural, and ethnic diversity are intrinsic to humanity, and their harmonization is a central topic of intellectual debate. Since its independence, Ivory Coast has implemented a family law that ignores these aspects, creating a gap between the legislation and the matrimonial practices of Ivorians. This research argues that Ivory Coast must adopt a pluralistic legal system within its civil code to better reflect the diversity of its population. To achieve this goal, we used socio-legal theory to examine the interaction between law and society, collecting data from administrative documents, articles, and interviews with participants from religious and customary structures. The findings are as follows: First, the exclusion of religious and customary marriages since independence is due to various factors, such as the colonial legacy of the constitution, the founding president's vision of unity, administrative challenges, international human rights agreements, and a societal reality that hinders the integration of these marriages. Second, establishing a pluralistic system in family law poses administrative challenges, but this can be overcome through close collaboration between legislators and experts in religious jurisprudence, as well as through the involvement of customary leaders. Finally, the interviews revealed the urgent need to revise Ivorian family law to better represent the country's ethnic, religious, and cultural diversities. This research therefore proposes to adopt a pluralistic system that takes this diversity into account. It offers new perspectives for religious, customary, and legislative practitioners to find solutions to the recognition of religious and customary marriages. For future research, we recommend adopting a mixed methodology to more precisely identify these marriages, conducting empirical research among institutions and the population, as well as comparative studies between Ivory Coast and other countries. These studies could help authorities envision a pluralistic legal system that protects the rights of all Ivorian citizens.

Keywords: marriages, legal, pluralism, constitution, and Ivory Coast

ملخص

إن التنوع الديني والثقافي والعرقى متأصل في الإنسانية، ويشكل التناغم بينها موضوعًا محوريًا للنقاش الفكري بين العلماء. ومنذ استقلالها، تستقدم ساحل العاج قانونًا للأسرة لا يأخذ بالاعتبار دين وثقافة وتقاليد سكانها، مما أدى إلى خلق فجوة بين التشريع والممارسات الزوجية للإيفواريين. ويبرهن هذا البحث أن ساحل العاج يجب أن تتبنى نظامًا قانونيًا تعدديًا داخل قانونها المدني ليعكس بشكل أفضل تنوع سكانها. ولتحقيق هذا الهدف، استخدمنا النظرية الاجتماعية القانونية لدراسة التفاعل بين القانون والمجتمع، وجمعنا المعلومات من خلال الوثائق الإدارية والمقالات والكتب، ومن خلال المقابلات مع المشاركين من الهياكل الدينية والعرفية تمت جمع البيانات. وكانت النتائج كما يلي: أولاً، يرجع استبعاد الزوجات الدينية والعرفية منذ الاستقلال إلى عوامل مختلفة، مثل الإرث الاستعماري للدستور، ورؤية الرئيس المؤسس للوحدة، والتحديات الإدارية، والاتفاقيات الدولية لحقوق الإنسان، والواقع المجتمعي الذي يعيق دمج هذه الزوجات. ثانياً، يفرض إنشاء نظام تعددي في قانون الأسرة تحديات إدارية، ولكن يمكن التغلب على هذه التحديات من خلال التعاون الوثيق بين المشرعين والخبراء في الفقه الديني، فضلاً عن إشراك الزعماء العرفيين. وأخيراً، كشفت المقابلات عن الحاجة الملحة لمراجعة قانون الأسرة الإيفواري لتمثيل التنوع العرقى والديني والثقافي في البلاد بشكل أفضل. لذلك يقترح هذا البحث اعتماد نظام تعددي يأخذ هذا التنوع في الاعتبار. ويقدم هذا البحث وجهات نظر جديدة للممارسين الدينيين والعرفيين والتشريعيين لإيجاد حلول للاعتراف بالزواج الديني والعرفي. وبالنسبة للبحوث المستقبلية، نوصي بتبني منهجية مزدوجة لتحديد هذه الزوجات بشكل أكثر دقة، وإجراء بحوث تجريبية بين المؤسسات والسكان، فضلاً عن الدراسات المقارنة بين ساحل العاج ودول أخرى. سوف يساعد هذه البحوث السلطات في تصور نظام قانوني تعددي يحمي حقوق جميع المواطنين الإيفواريين.

الكلمات المفتاحية: الزواج، القانوني، التعددية، الدستور، ساحل العاج

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GLOSSARY AND ABBREVIATIONS DIRECTORY

Abbreviation

AFI	Ivorian Women’s Association
AJS	Association of Senegalese Women lawyers
MORA	Ministry of Religious Affairs
COSIM	High Council of Imams, Mosques and Islamic Affairs
CODISS	Supreme Council of Imams, Sunni Organization and Structures
I.I.O.P	Ivorian Institute of Public Opinion
RGPG	General Census of Population and Housing
KUA	The Bureau of Religious Affairs

CHAPTER ONE

INTRODUCTION

In the preservation of human dignity and identity, marriage has always been established according to religion, belief, and mutual agreements. However, within the formation of tribes, ethnic groups, and peoples, the recognition and assignment of duties between spouses, and their children are based on marriage.

Ivory Coast, a former French colony in West Africa, shares its borders with three other former French colonies: Mali and Burkina Faso in the northern part, and Guinea in the west, as well as with two former British colonies: Liberia to the west and Ghana to the east.

After gaining independence in 1960, many former French and British colonies, faced with ethnic, religious, cultural, and traditional diversity, adopted a pluralistic system in their family civil codes. However, the Ivory Coast excluded religious and customary marriages from its family civil code.

This thesis aims to study the non-recognition of these forms of marriage in Ivorian family law and to propose the possibility of implementing a pluralistic legal system. This thesis will be divided into five chapters, each beginning with a brief explanatory introduction covering the essential points of the chapter and ending with a chapter conclusion. Aligning with that point of view, the first chapter of this research will provide an overview of the study, discussing the history of the Ivorian constitution and its family law, offering insights into the different forms of marriages in the country, outlining the research problem, research questions, objectives, and importance of the study, and concluding with the methodology and theory that will be applied in this research.

1.1 Background of the Study

In all societies, Marriage is perceived as a system that implements legitimacy between man and woman, children and their parents, and children between themselves. It is considered a fundamental pillar of social structure in all human societies. Africa in general, and the Ivory Coast in particular, have not been an exception to this rule. Marriage has always played a central role in these societies, serving both as a means of establishing family ties and

guaranteeing the continuity of the lineage¹. During their first step in Africa, the French and English colonizers immediately remarked a particular interest that Africans gave to marriage since marriage for Africans was not only a bond woven between two individuals, but it was at the level of agreement between families, and also an alliance between tribes and clans. besides marriages were rooted in religion, culture, and specific traditional ceremonial rites². Consequently, the colonizers set up a pluralism system to compensate for the circumstances of the situation³. This action from the colonizers gave freedom to the colonized peoples the choice to celebrate their union according to their religious belief and tribal affiliation while allowing those among the Africans to make their marriage according to the culture of the colonizers and this gave the colonizers the chance to have an atmosphere of harmony, and respect. Thus, it helped to minimize the conflicts between the colonizers and the colonized until the independence of these nations⁴.

However, after independence, many African nations with various ethnic, religious, and cultural groups adopted legal pluralism in their family law. meanwhile, this situation raised challenges and complex questions in some countries, particularly concerning the recognition and the validity of marriages such as religious and customary marriage. These issues remain topical, especially in Ivory Coast which continues to juggle the non-recognition of customary and religious marriages in its civil code.

During the colonial period, France set up a system of pluralism for the structure and formation of marriages in all its colonies. Ivory Coast underwent similar treatments as a French colony until its independence in 1960. At that time, adopting a unified system of family law, the country excluded all forms of marriage, while legitimacy was for a unique form of marriage celebrated by a justice officer⁵ This decision gave a specific legitimacy to civil marriage opposing the predominantly of population Muslims 39% in northern Savannah and Christians 30% ⁶ and animists in the forest areas of the south.

¹ 'Sex Equality in Family Law: Historical Legacies, Feminist Activism and Religious Power in 70 Countries', n.d., 4.

² Ikechukwu Anthony Kanu and Stanley Emeka, 'African Society, Marriage and The Global Community' 3, no. 2 (2023): 2.

³ 'Ellovich - 2024 - The Law and Ivoirian Women.Pdf', n.d., 3.

⁴ Abd-el Kader Boye et al., 'Marriage Law and Practice in the Sahel', *Studies in Family Planning* 22, no. 6 (November 1991): 3, <https://doi.org/10.2307/1966448>.

⁵ 'Loi_2019-570_sur_le_mariage.Pdf', n.d., 2.

⁶ B Quampah, E Bempong , E Owusu , JL Arthur, *Language and National Identity in Africa* (Oxford ; New York: Oxford University Press, 2008), 173.

However, after half a century, the Ivorian Civil Code experienced three reforms, without integrating or adopting a pluralist system of marriages, while many African countries, including border countries of Ivory Coast, adopted such a system in the family law of their countries, either from their independence or in the years that have followed. This phenomenon arouses the interest of researchers. Particularly, this study is inspired to examine the potential factors and the reasons that have been able to motivate this persistent restriction until today.

Nevertheless, before approaching this problem, it would be very enriching and wise to highlight certain key points.

1.2. An Overview of the Civil Law and Constitutional Development of Ivory Coast

The specificity of modern nations is determined by the legal system conditioning the structure of the country and its political regime. Yet, another important issue is that many nations, being former colonies, have copied the governmental systems of the initial colonizers. This tendency is possible to trace in different parts of the world. Thus, Ivory Coast, a former French colony, has not derogated from this general trend, like many African countries. The following lines will focus on two crucial aspects: how Ivory Coast has drawn up its Constitution and family civil code, to know the impact of these elements on Ivorian society in its entirety.

1.2.A. The Construction of the Ivory Coast Constitution

Ivory Coast, once a French colony, gained independence on August 7th, 1960. However, France had a significant influence on the country's constitution⁷.

The decolonization of French-speaking West Africa placed the substantial task of building strong, democratic states upon the new republics. The political and legal frameworks of these newly independent nations were significantly influenced by France. This influence is undeniable, given the striking resemblances between the constitutions of these new states and that of France, a legacy of their colonial history. Moreover, these constitutions established judicial and legal systems deeply akin to the French model. Although some reforms have

⁷ A. S. Alexander, 'The Ivory Coast Constitution: An Accelerator, Not a Brake', *The Journal of Modern African Studies* 1, no. 3 (September 1963): 3, <https://doi.org/10.1017/S0022278X00001713>.

been made to the constitutions of most of the countries colonized by France since independence, except for countries such as Senegal and Ivory Coast⁸.

In Senegal, Presidents Léopold Sédar Senghor and Abdou Diouf have maintained the system established in the 1950s and 1960s, mainly through shrewd and sometimes repressive political tactics against their opponents. In Ivory Coast, Houphouët-Boigny's preponderant influence since 1958 has maintained a relatively stable regime and preserved the integrity of the country's constitution, and his political dominance has played a crucial role in preserving the constitution, consolidating his power and legitimacy⁹. Consequently, the nature of the constitution had been determined and the way forward was oriented towards secularism and excluding the customs and religious marriage in the country's family law.

According to Maluleke, since the time of the colonial invasion, African culture has undergone rapid transformations that have given rise to a contemporary culture that blends traditional elements with foreign influences. However, for many years, local African cultures have been stifled by the hegemony of Western cultures, characterized by pronounced individualism and a focus on individual achievements and personal interests. In contrast, African cultures are inherently collectivist, emphasizing community well-being and social harmony¹⁰.

This confrontation between Western and African cultures has profoundly shaped the cultural landscape of contemporary Africa. Struggles to preserve and revitalize local traditions in the face of the overwhelming influence of Western cultures have been at the heart of resistance and cultural revival movements across the continent. Thus, the evolution of African culture is a poignant testament to struggles for identity and recognition in a world shaped by colonial forces. These dynamics underscore the crucial importance of preserving and enhancing local cultures in building an authentic and flourishing Africa¹¹.

⁸ Muna Ndulo, 'Constitutions and Constitutional Reforms in African Politics', in *Oxford Research Encyclopedia of Politics*, by Muna Ndulo (Oxford University Press, 2019), 1, <https://doi.org/10.1093/acrefore/9780190228637.013.1324>.

⁹ Mj Maluleke, 'Culture, Tradition, Custom, Law and Gender Equality', *Potchefstroom Electronic Law Journal/Potchefstroom Electronic Law Journal* 15, no. 1 (18 April 2012): 4, <https://doi.org/10.4314/pelj.v15i1.1>.

¹⁰ Maluleke, 4.

¹¹ Victor T. Le Vine, 'The Fall and Rise of Constitutionalism in West Africa', *The Journal of Modern African Studies* 35, no. 2 (June 1997): 22, <https://doi.org/10.1017/S0022278X97002395>.

Since independence, considerable efforts have been made by several countries to try to reform their constitutions, given their nature, which did not converge with some of the realities of most African societies. However, Muna Ndulo enlightens this situation saying that, the drafting of a constitution in Africa evolves through distinct phases, each reflecting changes in political dynamics. Initially, during the 1960s, at the time of independence, the colonial powers played an important role, marking a crucial step in decolonization. The former British colonies, for example, inherited the constitutions of independence in the form of British legislation, thus establishing their independent states. Subsequently, from independence until 1989, amendments to these constitutions aimed to consolidate the power of the presidency, leading to authoritarian regimes and one-party state systems. This period was marked by a concentration of political power, often at the expense of democratic principles. However, the third phase, which began in 1989, coincided with the global wave of democratization. Here, constitution-making efforts focus on rectifying the distortions inherited from the authoritarian era, with an emphasis on citizen participation, government accountability, and peaceful conflict resolution. A well-designed constitution appears to be a crucial instrument for achieving these goals, promoting inclusiveness, national dialogue, good governance, and peacebuilding¹². Essentially, the evolution of constitution-making in Africa reflects broader political transformations, highlighting the continent's quest for democratic governance and lasting peace amidst historical legacies and contemporary challenges.

After its independence, Ivory Coast experienced three constitutional reforms for political reasons. On October 31, 1960, the National Assembly of Ivory Coast adopted its first constitution, establishing an independent republic. This 1960 Constitution was heavily influenced by French constitutional principles, reflecting the formal political education and experience of its primary author, Félix Houphouët-Boigny, who had served in successive French governments during the 1950s. The Constitution closely followed the 1958 constitution of the Fifth Republic of France, declaring that all power derives from the people and is expressed through universal suffrage. It mandated the separation of executive and legislative authority while placing limits on executive power.

The 1960 Constitution emphasized a strong executive branch, an independent judiciary, and a national legislature. In theory, it provided for a multiparty system, though in practice,

¹² Le Vine, 4.

the government supported a single political party. The National Assembly was tasked with voting on laws and consenting to taxes, but its power was limited by specifying matters on which it could act. The executive handled any matters not explicitly within the legislature's purview through decrees or regulations. Although the Constitution called for an independent judiciary, it did not establish a judiciary independent of the government; the judiciary remained subordinate to the president. Additionally, the Constitution established the Economic and Social Council to advise the president on economic and social matters and provided procedures for amending and adopting the Constitution¹³.

After a bloodless coup in 1999, General Robert Guéï formed a government of national unity and promised open elections, leading to the drafting and ratification of a new constitution in 2000. This constitution maintained a strong presidency within a framework of separation of powers. The president, elected for a five-year term, served as head of state and commander in chief of the armed forces, with powers to negotiate and ratify treaties, submit bills to referendums, and appoint the prime minister. The National Assembly, composed of 225 members elected by direct universal suffrage, typically passed legislation introduced by the president but also had the power to introduce legislation¹⁴.

The 2000 Constitution further defined the judicial system, culminating in the Supreme Court and the High Court of Justice, which was responsible for trying government officials for major offenses. An independent Constitutional Council, composed of seven members appointed by the president, oversaw the determination of candidate eligibility in elections, announced final election results, conducted referendums, and ensured the constitutionality of legislation. Administrative divisions were established, though not written into the constitution, including 14 districts, 31 regions, 108 departments, and 510 sub-prefectures, each headed by government-appointed officials. In 2002, departmental councils were elected to oversee local development¹⁵.

In response to political instability and civil conflict, President Alassane Ouattara promised a new constitution during the 2015 presidential election. On June 1, 2016, he created an expert panel to draft this new constitution, which was approved by the National

¹³ Nick Branson 'Constitution-Making in Cote-d'Ivoire', n.d., 1; Robert E. Handloff, 'Area Handbook Series. Cote D'Ivoire; A Country Study.' (Fort Belvoir, VA: Defense Technical Information Center, 1 November 1988), 169, <https://doi.org/10.21236/ADA235209>.

¹⁴ 'Loi_n_2000-513_du_1er_aout_2000.Pdf', n.d., 6–12; Agneta Pallinder, 'Centre for Documentation and Research', n.d., 18; 'Constitution-Making in Cote-d'Ivoire', 2.

¹⁵ 'Constitution-Making in Cote-d'Ivoire', 2.

Assembly on October 11, 2016, and ratified by a referendum on October 30, 2016, with 93.42% approval. The new constitution introduced several significant changes, including the requirement that presidential candidates be exclusively Ivorian by birth, the lowering of the minimum age for presidential candidates to 35, and the removal of the upper age limit¹⁶.

The new constitution also established a bicameral parliament consisting of the National Assembly and a newly created Senate. The Senate represents territorial collectivities and Ivoirians living abroad, with two-thirds of its members elected and one-third appointed by the president. Both chambers share legislative functions, and in case of persistent disagreement, the president can request the National Assembly to adopt laws definitively. The constitution also strengthened rights for vulnerable groups, mandated compulsory education for children, and promoted gender equality in employment and public affairs. It included environmental protections and condemned unconstitutional attempts to change or maintain power¹⁷.

In conclusion, the evolution of Ivory Coast's constitutions reflects a journey from a French-influenced, strong presidential system to a more balanced framework aimed at addressing political instability and promoting democratic governance. The 1960 Constitution established foundational democratic principles but concentrated power in the presidency, limiting true multiparty democracy and judicial independence. The 1999 coup d'état and the crises that followed were triggers for the constitutional reforms of 2000 and 2016, which made major changes to ensure political stability, transparency, and governance in the country.

In 2019 a revolutionary constitution was adopted, which was a sign of a great advance, thus, a new system in the parliament that transformed the parliament from a unicameral form where the state power was single with a single chamber to a bicameral system where two chambers in the parliament shared power and responsibility. In this new constitution, the scope of protection of the vulnerable was expanded and education was mandatory for all sons and daughters of the nation. Particular emphasis was placed on gender equality, the punishment of dowry was abolished and environmental protection was reinforced, accordingly, this opened a path of commitment towards modernism in favor of human rights.

¹⁶ 'Constitution-Making in Cote-d'Ivoire', 3-4.

¹⁷ 'Constitution_of_Ivory_Coast.Pdf', n.d., 1,2,3.

Through these constitutional changes, we discover a considerable effort by the Ivory Coast to create a balanced and inclusive political environment that braves the challenges, passes, and rushes towards a permanent and democratic future.

1.2.B. The Construction of Ivory Coast Family Law

The law played a crucial role in colonial power in Africa, it regulated the administrative and judicial system in each colony; it defined the regime of individuals and the position of local institutions and customs. The purpose of this legal structure was to preserve colonial rule over French subjects and natives, to respect local customs as specified in colonization treaties, and to promote the emancipation of the individual, following the universalist philosophy of revolt¹⁸.

To understand this mechanism, Lechat explains that three main conceptions of colonial and overseas law can be distinguished: autonomy, subjugation, and assimilation. Autonomy favored local management of affairs, recognizing the differences between the colony and the colonizers. Subjugation, on the other hand, subordinated colonial interests to those of the metropolis, economically, culturally, politically, and legally. Finally, assimilation considered the colony as an extension of the metropolis, which should be subject to the same constitutional, legislative, and economic regime. Although the Third Republic advocated a "moderate and eclectic" assimilation, the reality showed a strong subjugation, little autonomy, and a certain tendency towards assimilation. These conceptions have shaped colonial and overseas law to the present day, influencing policies and relations between the colonies and their colonizers.

As this statement demonstrates, the French colonies were subject to the regime of autonomy from the beginning of contacts with the colonized states, which consisted of considering the colony as a state in its own right, with its customs and religions that were completely different from those of the colonizers, and for the smooth running of things, each conducted its affairs with respect and appreciation for each other.

But as the settlers settled, the regime of power changed to take the form of assimilation, which is the application and adoption of the French Third Republic to the colonized states, which called for the adoption of the cultures of the colonists to the detriment

¹⁸ 2024 - Genre, Coutumes et Droit Colonial Au Soudan França.Pdf, n.d., 2.

of their own, to have the same economic, political and legal interests, In other words, to be recognized, one had to have the same vision as the colonists in the celebration of marriages, education and the management of the country¹⁹.

Regarding the origin of the Ivorian civil code of marriage, Risa S. Allovich argued that Ivory Coast's legal framework, strongly influenced by its colonial past, demonstrates a significant resistance to the incorporation of African customary laws. She pointed out that the legal system was primarily shaped during the French colonial era, beginning with the adoption of the French Civil Code of 1804 in 1896 throughout French West Africa, which included the Ivory Coast. Despite its independence, Ivory Coast codified these laws in 1964 without significant changes to move them away from their colonial origins. As going on, Allovich likely pointed out that Ivory Coast's diverse ethnic landscape, comprising more than sixty ethnic groups with varied religious and lineage practices, presented a complex challenge when it came to legal standardization. Yet, the French colonial regime recognized the customs and religion of the occupants of these lands but deliberately chose not to codify the various customary laws, modifying them only when it suited colonial purposes. After independence, Ivory Coast continued on this path, favoring the codification of the French Civil Code rather than the integration of the rich patchwork of customary laws into the national legal system²⁰.

It could be argued that this decision was motivated by a desire to avoid cementing ethnic divisions and to promote national unity through a uniform legal system applicable to all citizens. This stance stands in stark contrast to the approaches taken by other African countries, such as Mali and Madagascar, which incorporated customary principles into their legal systems after independence. Allovich would criticize this approach, questioning whether the emphasis on a uniform legal code might suppress cultural identities and impede the nation's social and cultural development.

It could be recognized that each country has its own cultural and social identity, shaped by its history, traditions, and ethnic diversity. Ivory Coast, with its cultural mosaic of more than sixty ethnic groups, perfectly embodies this reality. Faced with this cultural richness, Ivory Coast's founding president, Félix Houphouët-Boigny, had to navigate a complex landscape when crafting the country's laws. In contrast, instead of embracing this mosaic environment, when the Ivorian civil code was adopted in 1964, the Ivorian legislator

¹⁹ Philippe Lechat, 'Regards Sur Le Droit D'outre-Mer', n.d., 5–6.

²⁰ 'Ellovich - 2024 - The Law and Ivoirian Women.Pdf', 3–4.

with the agreement of former president Houphouët-Boigny made an important decision by not recognizing customary and religious marriages within the legal framework²¹. According to Aude Dibi and colleagues, “The marriage celebrated by a civil registrar under the rules in force is then recognized as the only one capable of producing legal effects and must not be preceded by any other form of celebration, whether customary or religious”²² religious marriage and customary marriage were excluded from the Ivorian family law followed by the abolishment of the dowry²³.

These decisions were taken to unify the country's legal framework and avoid potential conflicts between different matrimonial practices, but apparently, these decisions were not well received by the population as Audi and colleagues pointed out “Despite this ban, matrimonial unions are almost all preceded today by the payment of the dowry or by religious celebrations but do not necessarily result by a civil celebration. Remember that the proportion of Ivorian couples married under customary and religious rules is estimated at 79.1 percent” Nevertheless, over time, Ivorian society has evolved, with significant changes in citizens' mindsets and expectations. In response to these developments, reforms have been made to the civil code to reflect the changing needs and values of the population”²⁴.

After fifty years, the reforms to the Ivorian civil code demonstrate the government's commitment to addressing the changing needs of society while maintaining the cultural identity and ethnic diversity that constitute Ivory Coast's wealth. Notably, eliminating dowry sanctions in 2019 stands out among these reforms²⁵.

The action was hailed as an important gesture to advance gender equality and protect the nation's cultural heritage. while Aude Dibi and her colleague make a relevant point by stating “The question of the current position of the legislator concerning the dowry raises

²¹ To this end, article 20 of Law No. 64-375 of October 7, 1964 relating to marriage provides that: “No minister of religion may carry out the religious ceremonies of a marriage without it having been justified by the presentation of the certificate provided for in art. 28, of the civil celebration »

²² Aude Dibi and Louise Langevin, ‘La non-reconnaissance des unions coutumières et religieuses dans le nouveau droit de la famille ivoirien : un non-respect du droit à l’égalité des femmes’, *Canadian Journal of Women and the Law* 34, no. 2 (1 December 2022): 11, <https://doi.org/10.3138/cjwl.34.2.01>.

²³ “Article 20: The institution of the dowry, which consists of the payment of the profit of the person having authority over the future wife by the future husband or the person having authority over him, of material advantages conditioning the completion of the marriage traditional is immediately abolished, and in its article 21: All offenders are punished by six months to ten years of imprisonment if what he receives is greater than fifty thousand francs, he returns it doubly” (the Ivorian constitution of 17 October 1964).

²⁴ Dibi and Langevin, ‘La non-reconnaissance des unions coutumières et religieuses dans le nouveau droit de la famille ivoirien’, 11.

²⁵ ‘Loi_2019-570_sur_le_mariage.Pdf’, 7.

many questions. While the 1964 law rejected and severely repressed this practice, the 2019 legislator legally tolerated the dowry by repealing the provisions that prohibited the practice. Some see it as a tacit recognition conferring legal value on traditional marriage, while others see it as a simple decriminalization. Given that the new law, apart from removing the ban on dowry, does not attach any legal effect to this institution, it appears that dowry has still not been legalized. In other words, dowry is now permitted, but it is still not recognized by law”²⁶.

However, if a sanction relating to dowry, a symbolic element in religious and customary marriages, could be lifted in the name of ethnic and religious diversity, why not consider the recognition of this practice in order to ensure equality of religious and customary marriages and its integration become effective in Ivorian family law?

In an attempt to provide a more insightful answer to this question, the following section will offer additional understanding concerning the different forms of marriage present in Ivorian society.

1.3. Overview of Different Types of Marriage in Ivory Coast

According to Denise Paulme, even though theories consider Africa to be the cradle of humanity, many aspects of its traditions, social structures, and behaviors remain largely unknown. This observation raises essential questions about the nature of African civilization and the cohesion of the black world as a homogeneous group. The variety of the continent, ranging from arid desert to equatorial forest, includes a variety of lifestyles, ranging from hunting and gathering Bushmen, Kalahari Desert to agricultural work, nomadic pastoralists, and sedentary farmers. Despite this variety, exchanges with foreigners have always been present in African history, impacting the institutions, traditions, and different cultures of the continent. In a complex cultural mosaic, there is a diversity of lifestyles and political regimes, from centralized kingdoms to societies without formal political organization. It is evident that historical interactions have had a significant impact on the formation of contemporary Africa, underscoring the importance of a subtle approach to understanding the diversity and cultural richness of the continent²⁷.

²⁶ Dibi and Langevin, ‘La non-reconnaissance des unions coutumières et religieuses dans le nouveau droit de la famille ivoirien’, 12.

²⁷ ‘Paulme - 1960 - Structures Sociales Traditionnelles En Afrique Noir.Pdf’, n.d., 2.

Ivory Coast's borders, shaped by European colonization and the Berlin Conference, do not correspond to natural geographical features. The country is home to four main ethnic groups originating from outside its borders. The Kru group, the original inhabitants, probably migrated from present-day Liberia to the southwest. From the 10th to the 18th centuries, the Kwa (Akan) group left Ghana due to internal conflicts within the Ashanti Confederacy, settling in the southeastern and central regions. Similarly, the Gur group arrived in the north between Odienné and Kong in the 10th century, then moved eastwards by the Malinke migrating south following the expansion of the Mali Empire in the 15th century. Currently, these four groups cover roughly equal regions of the country but vary in terms of population size. Immigrants, who make up 26.5 percent of the population according to the 1998 census, mainly from neighboring countries such as Mali, Burkina Faso, and Guinea, contribute to ethnic diversity. Mass immigration, especially to urban centers such as Abidjan, has led to the emergence of culturally diverse and ethnically neutral urban cultures, especially in Abidjan, which is characterized as a melting pot of languages and cultures²⁸.

The notion of a single customary law applicable to all Africans is a misconception, as the continent's diverse ethnic landscape encompasses a multitude of legal traditions and cultural practices. In Ivory Coast, for example, where more than sixty ethnic groups reside, the complexity of customary law is particularly evident. Within this rich mosaic of cultures, distinct legal systems coexist, reflecting the unique histories, beliefs, and social structures of each ethnic group. However, in the eastern regions of the Ivory Coast, animist traditions predominate, characterized by respect for nature and ancestral spirits, often mixed with matrilineal kinship systems. Here, lineage and inheritance are traced through the maternal lineage, shaping family and community dynamics. Conversely, in the western regions of the country, animist practices also predominate, but with a patrilineal emphasis, where descent and inheritance passed through the male line. This orientation influences aspects such as the type of family structures and societal norms and thus describes the notions of authority and lineage in these cultures. Additionally, as it moves northwards, the influence of Islam in certain ethnic groups becomes more pronounced, with typical legal principles and practices based on Islamic law. Thus, patrilineal descent has remained the common thread to this day, flowing alongside Islamic jurisprudence in these communities. As such, the diversity of Ivory Coast's customary law characterizes the multitudes of African legal traditions, each deeply

²⁸ B Quampah, E Bempong, E Owusu, JL Arthur, *Language and National Identity in Africa*, 174.

entangled in the fabric of cultural identity and social organization. This complexity underscores the relevance of recognizing and respecting the original legal systems and cultural identity of each ethnic group within the broader framework of national law and governance²⁹.

Within the ethnic mosaic that is the Ivory Coast, each ethnic group celebrates the marriage of their children according to rituals, beliefs, and religions that have been inherited and preserved for decades. This cultural diversity is particularly evident in wedding ceremonies, which are of profound social and symbolic importance to all Ivorian communities.

In Ivory Coast, ethnic, religious, and cultural diversity is reflected in all aspects of the lives of the populations and this is especially manifested in the way of celebrating their weddings and this is perpetuated as a generational heritage. Indeed, Ivory Coast is full of a significant variety of traditions and practices linked to marriage, each reflecting the religious and customary values of each ethnic group, which results in the existence of several forms of marriage on the territory including Muslim marriage, Christian marriage and traditional marriage each according to the bride and groom and their family are celebrated.

The assistance of ancestors and their benevolence is characterized in traditional marriage as being a manifestation of respect and attachment to the culture and history of each community, and Muslim and Christian marriages are animated by religious rites and Festive celebrations that demonstrate the spiritual value and religious belief of the bride and groom and their families.

However, the different types of marriages in Ivory Coast illustrate the mosaic of cultural richness that exists in the country, thus the population through these practices express their considerations of ancestral traditions and religions which represent their identities. As a belief, ritual, mores and social structures, codes of life and education handed down from generation to generation by African man throughout his history, the custom was only changed when African man was confronted with foreign civilizations, which had an impact on the way they celebrated the marriage union from customary marriage to marriage of Muslim or Christian religion³⁰.

²⁹ Risa S Ellovich, 'The Law and Ivoirian Women', 2024, 3.

³⁰ Ellovich, 3.

In Ivory Coast, for example, where more than sixty ethnic groups reside, there are ethnic groups in Ivory Coast that are not in the east of the country that are animist and matrilineal; ethnic groups in the west of the country are animist and patrilineal, Islamic, and patrilineal ethnic groups in the north.

This statement highlights the ethnic diversity of Ivory Coast, a country that is home to more than sixty distinct ethnic groups. Here are some additional explanations about the different ethnic groups mentioned:

1. Eastern Animist and Matrilineal Ethnic Groups: These ethnic groups generally practice animism; a belief that natural elements have spirits or souls. They often place special emphasis on ancestors and nature. Their matrilineal system means that lineage and inheritance are often passed down through the maternal line.
2. Western Animist and Patrilineal Ethnic Groups: These ethnic groups also share animistic beliefs, but their lineage system is patrilineal, meaning that ancestry and inheritance are mostly followed by the paternal line.
3. Northern Islamic and Patrilineal Ethnic Groups: These ethnic groups practice Islam as their primary religion. Their lineage system is usually patrilineal, which is in line with many aspects of Islamic law.

Ivory Coast's cultural and religious diversity is exemplified by these ethnic differences, where diverse traditions, beliefs, and social structures coexist within society. The different regions of the country have also been impacted by this ethnic diversity, which has resulted in the formation of three types of marriage in Ivory Coast, in addition to civil marriage, which is the only one recognized by the state so far.

1.4. Research Problem Statement

Marriage, traditionally considered fundamental in African society, is a sacred institution that is widely valued in global communities. After independence in the 1960s, many African countries, especially in West Africa, incorporated religious and customary marriages into their family law. However, Ivory Coast distinguished itself by excluding all forms of marriage from its family law, due to the ethnic diversity of its population which is composed of more than sixty groups, including animists, Muslims, and Christians. As a result, this raises several important questions.

Given the constitutional obligation of governments to protect and promote the well-being of their populations, why is the Ivorian government isolating a marriage system that is supposed to benefit its diverse population in a globalized era where laws and cultures are adapted to respect human dignity?

Despite the presence of researchers, politicians, and jurists of diverse religious and ethnic backgrounds in the country, why is there a lack of advocacy for reform of the marriage law in the Ivorian constitution?

The dowry is an essential symbol in religious and customary marriages. Thus, it is intriguing to understand why restrictions on dowry have been lifted while religious and customary marriages remain unrecognized in the Ivorian constitution and civil code.

To better understand the problem, this research aims to investigate the societal, legal, and cultural implications of the exclusion of religious and customary marriages from the Ivorian civil code, particularly in a nation characterized by its ethnic and religious diversity. By addressing these problems, the study aims to contribute to the understanding of the complexities of marriage regulation and governance in a multicultural context such as that of Ivory Coast.

1.5. Research Question

Depending on the problems mentioned above, the following questions will be examined:

1. Why does Ivorian civil law not adopt a pluralistic system in the construction of family law?
2. To what extent could a pluralistic and harmonized system be effective in the Ivory Coast context?
3. What strategies have been adopted by the religious institutes and customary practitioners to change the paradigm of this trajectory?

1.6. The objective of this Research

Based on the problem statement provided above, the objectives of the research are the following:

1. Marriage in Ivory Coast is a deeply cultural and religious institution, with practices and norms varying significantly across different ethnic and religious groups. The objective of this research is to try to understand the reasons why religious and customary marriages are subject to exclusion from the Ivorian civil code of the family, to know why this exclusion still does not prevent these marriages even with a status of non-recognition, to understand the potential impacts that this could have had on the professional and legal lives of people adhering to this form of marriage.

2. Every religious person, whether Muslim or Christian, attaches a particular interest to his or her belief and this belief impacts every aspect of his or her life, this is also reflected in the way of celebrating and contracting marriage ties, Moreover, this study aims to explore the cultural and religious influences on marriage practices in the Ivory Coast. investigating how a society rich in ethnic and religious diversity influences attitudes, beliefs, and traditions surrounding marriage.

3. Since the independence of Ivory Coast, the unitary system of the Civil Code has been adopted, in this study we will try to demonstrate the inadequate nature of this system vis-à-vis a population mixed in culture, tradition, and religion. And consider the application of a pluralist system.

4. In addition to these objectives, this study aims to contribute to the promotion and cohesion and social inclusion by offering ideas and suggestions to the competent authorities, religious structures, and traditional chiefdoms on the current situation of religious and customary marriages, participating and enriching the debate on legal amendments aimed at defending the rights of the different ethnic and religious groups in the country.

By addressing these objectives, the research aims to deepen the understanding of the complex social, legal, and cultural dynamics related to marriage in the Ivory Coast and to contribute to positive social change and policy-making in this area.

1.7. Significance of the Research

The significant impact of the exclusion of religious and customary marriages in a society where religious, ethnic, and cultural diversity shapes its identity is of particular interest to an academic study, this study aims to contribute to this debate while proposing an alternative to this situation of a pluralistic system that emphasizes the interests and well-being of citizens in their choice and aspiration in the celebration of their marriage.

By enriching the academic field and existing literature, this research will contribute to a better understanding of the challenges faced by Ivory Coast's diverse populations in matrimonial law. The expected results could be beneficial to the country's religious organizations and customary leaders, enabling them to better understand the underlying reasons for the non-recognition or absence of their matrimonial practices in civil law.

For university researchers, this study represents an opportunity to deepen their scientific research in a field that is still little explored. Finally, this research aims to sensitize the competent authorities to the needs and concerns of citizens in the field of matrimonial law, by proposing concrete recommendations to promote respect for and practice of established laws, to improve living conditions and social justice for all Ivorian citizens.

1.8. Research Methodology

Research methodology is a systematic and thorough approach designed to address or shed light on a research problem. To achieve this, it is essential to employ the most efficient and practical research methods. With this perspective, this study will utilize a qualitative methodology. According to Creswell, qualitative research employs multiple methods to explore how individuals create meaning through their behaviors, examining how these practices are influenced by and, in turn, influence the social and cultural contexts in which they exist³¹.

Since qualitative research is a principle of research that seeks to study the behavior and attitudes of a group of people living in a society, this method will be the most appropriate and suitable from the researcher's point of view for this study.

Regarding the research process, Creswell makes these insights "The research process involves emerging questions and procedures, data typically collected during the participant's session, data analysis inductively moving from particular themes to general themes, and the researcher making interpretations of the meaning of the data"³².

For the application of this process, the researcher will implement the following elements in his research.

³¹ 'John W. Creswell - Research Design_ Qualitative, Quantitative, and Mixed Method Approaches-SAGE Publications (2013).Pdf', n.d., 16.

³² 'John W. Creswell - Research Design_ Qualitative, Quantitative, and Mixed Method Approaches-SAGE Publications (2013). Pdf', 16.

1.8.A. Research Design

A research design is an in-depth planning or strategy designed to guide the collection, analysis, and interpretation of data as part of a research. It is a guide for the researcher, ensuring that the study is organized methodically and that the research objectives can be achieved rigorously and systematically.

Consequently, the researcher in the context of providing elements of answers in the case of this study considers the following elements.

1.8.B. Data Collection

For data collection in research, several systems are adopted by scientists and researchers and according to John W. Creswell "The steps of data collection include defining the limits of the study through sampling and recruitment; collect information through unstructured or semi-structured observations and interviews, documents and visual material; as well as the establishment of the protocol for recording information"³³.

Following this principle, the researcher for data collection will adopt semi-structured interviews, telephone interviews, and document analysis. Referring to these data collection methods, Kairuz and colleagues state that "Data can be collected from interviews of varying depth and in different contexts (e.g., telephone or face-to-face interviews, semi-structured or in-depth one-on-one interviews, and focus group discussions)"³⁴.

1.8.C. Document Analysis

To provide more details and information, the researcher envisages the adoption of thematic analysis by applying the exploitation of several documents, specifically articles and books that have been published and produced in the field of this research, the exploitation of the constitution of the Ivorian civil code and any form of document that the researcher will deem necessary in the framework of this study. On this path, which Leonard A. Jason and

³³ John W Creswell and J David Creswell, 'Research Design: Qualitative, Quantitative, and Mixed Methods Approaches', n.d., 262.

³⁴ 'Tools for Data Collection and Analysis', n.d., 2.

colleagues refer to “Thematic analysis involves proceeding with a series of steps that focus on identifying recurring themes or ideas in a textual dataset”³⁵.

1.8.D. Interview

Seçil Tümen Akyıldız and colleagues talking about the importance of the interview in qualitative research say that "Interviews as very popular qualitative research tools offer a deeper insight into a phenomenon when very little is known about it"³⁶.

For the interview process, these steps will be followed

1.8.E. Selection of Participants

In this research, data collection is of paramount importance, as it is supposed to help a better understanding of a theoretical framework, so it is essential to make a wise choice about the method of data acquisition and from whom the data will be collected, especially since no amount of analysis can compensate for poorly collected data³⁷.

However, in the framework of this research and for the selection of the participants given the delicacy and sensitivity of this task, a purposive sampling methodology will be the object of practice for this research.

Purposive sampling, as defined by Neetij Rai and his colleague, refers to how observations are selected from a population to be included in the sample of a sample survey³⁸.

As part of this study, we have selected four (4) major groups in the country that face this phenomenon, specifically the Christians of Ivory Coast, two major Muslim associations in Ivory Coast, and the Chamber of Customs and Traditions in Ivory Coast.

The choice of these different associations and structures is motivated by the fact that they represent religious and customary approval to the State and have legitimacy in the country.

³⁵ Leonard A. Jason and David S. Glenwick, eds., *Handbook of Methodological Approaches to Community-Based Research: Qualitative, Quantitative, and Mixed Methods* (Oxford University Press, 2015), 34, <https://doi.org/10.1093/med:psych/9780190243654.001.0001>.

³⁶ Seçil Tümen Akyıldız and Kwestan Hussein Ahmed, ‘An Overview of Qualitative Research and Focus Group Discussion’, *International Journal of Academic Research in Education* 7, no. 1 (30 December 2021): 6, <https://doi.org/10.17985/ijare.866762>.

³⁷ Ma. Dolores C. Tongco, ‘Purposive Sampling as a Tool for Informant Selection’, *Ethnobotany Research and Applications* 5 (31 December 2007): 1, <https://doi.org/10.17348/era.5.0.147-158>.

³⁸ Neetij Rai and Bikash Thapa, ‘A Study On Purposive Sampling Method In Research’, n.d., 2.

According to Neetij Rai and his colleague, it is suggested that “When a small group is selected as representative of the whole, it is called a sampling method”³⁹.

1.8.F. Data Analysis

Data analysis, as mentioned by Nancy L. Leech, is "One of the most important steps in the research process is data analysis"⁴⁰, therefore, research will not be called research if it does not include data analysis, as Nancy L. Leech points out when she says, "Data analysis is a systematic search for meaning, it is a way of dealing with qualitative data so that what has been learned can be communicated to others"⁴¹.

To analyze the data that will be collected, this study uses a thematic system-based approach, according to Leonard A. Jason and colleagues "Thematic analysis involves proceeding with a series of steps that focus on identifying recurring themes or ideas in a textual dataset"⁴².

1.9. Theoretical Framework

A theoretical framework includes the theories expressed by experts in the field in which the researcher plans to conduct research, which the researcher relies on to provide theoretical support for the analysis of the data collected and the interpretation of the results⁴³.

This research is rooted in the field of the recognition of human rights and the restoration of human dignity within a society. The researcher envisages the exploitation of these fundamental concepts. To do this, this study proposes to adopt two main theories depending on the hypothesis and the questions studied: the socio-legal theory and the pluralism theory.

1.9.A. Socio-Legal Theory

The socio-legal theory emerged as an interdisciplinary field of study in the mid-twentieth century, pioneered by scholars seeking to understand the relationship between law and

³⁹ Rai and Thapa, 2.

⁴⁰ Nancy L. Leech and Anthony J. Onwuegbuzie, ‘An Array of Qualitative Data Analysis Tools: A Call for Data Analysis Triangulation.’, *School Psychology Quarterly* 22, no. 4 (December 2007): 6, <https://doi.org/10.1037/1045-3830.22.4.557>.

⁴¹ Leech and Onwuegbuzie, 8.

⁴² Jason and Glenwick, *Handbook of Methodological Approaches to Community-Based Research*, 33.

⁴³ Charles Kivunja, ‘Distinguishing between Theory, Theoretical Framework, and Conceptual Framework: A Systematic Review of Lessons from the Field’, *International Journal of Higher Education* 7, no. 6 (3 December 2018): 3, <https://doi.org/10.5430/ijhe.v7n6p44>.

society more holistically and empirically. Although no individual is credited with establishing socio-legal theory, several key scholars and movements have contributed to its development.

According to David N. Schiff " The socio-legal approach, is the analysis of law that is directly linked to the analysis of the social situation to which the law applies and must be placed in the perspective of this situation by considering the role that the law plays in the creation, maintenance and/or change of situation"⁴⁴

According to David N. Schiff to analyze socio-legal research or society and law, three elements must be taken into account, namely Social Structure and Law, Social Control and Law, and Social Change and Law⁴⁵.

In the context of this study, these elements are represented as follows:

Social Structure and Law: This component focuses on how legal norms and institutions are shaped by social structures, including hierarchies, norms, and power dynamics within society. It examines how social organization influences legal systems and practices.

However, religious organizations and customary chiefdoms will be able to exert a considerable impact on the Ivorian legal system so that a change can be effective in the Ivorian civil side, and finally that their various marriages are recognized or integrated.

Social Control and Law: This aspect explores the relationship between law and mechanisms of social control. It examines how legal norms are used to regulate behavior, maintain order, and combat deviance in social contexts.

The law being an important factor in the control of society, it cannot be dissolved from society completely, so everyone influences the other, if the right is used as an instrument of control of society, society can be an element to impact this law especially when it does not correspond to the morals and ethics of this society.

Social Change and the Law: This component studies how legal systems respond to and shape social change. It analyzes how legal norms evolve in response to changing attitudes, values, and social practices.

⁴⁴ David N. Schiff, 'Socio-Legal Theory: Social Structure and Law', *The Modern Law Review* 39, no. 3 (May 1976): 2, <https://doi.org/10.1111/j.1468-2230.1976.tb01458.x>.

⁴⁵ Schiff, 25.

When there is an interaction between social changes and the legal system, the law examining the evolution of society will be able to set up a system that takes into account harmony, justice, and respect for the dignity of that society.

1.9.B. The Theory of Pluralism

Emma Patrignani (2016) cited that Jacques Vanderlinden (1972) refers to pluralism as "the existence, within a defined society, of various legal mechanisms that apply to identical situations". Hooker (1975) goes in the same direction by referring to pluralism as a "situation in which two or more laws interact" and John Griffith (1985) refers to pluralism by saying that ((legal pluralism is a fact)) "Legal pluralism is therefore perceived as the best label to describe an existing fact"⁴⁶.

As a result, pluralism refers to the presence and acceptance of diversity within a society. With legal status, it recognizes and values the presence of diverse groups, viewpoints, cultures, and belief systems that coexist and interact in a common social or political context. In a pluralistic society, disparities are recognized and valued, and different groups can preserve their own identities while contributing to the community as a whole.

As part of my research, pluralist theory would be the most suitable because it aims to understand and analyze the coexistence of various forms of jurisdictions, life codes, ethics, and principles, as Hoker clearly shows. Pluralist theory recognizes the intrinsic diversity of normative systems and how these systems can interact within a given society.

This approach offers several advantages. First, the enhancement of the recognition of the existence of several legal systems in the same society, such as in the case of Ivory Coast religious and customary marriages and civil marriages without necessarily excluding each other

Second, pluralistic theory will provide an opportunity for the researcher to examine the interactions and dynamics between these different norms and values, such as understanding the functioning of the system and customary and religious norms and that of the state. It also allows the influence of customary codes religious prescriptions and legal practices. It allows us to understand how these systems change according to social, economic, and political dynamics.

⁴⁶ Emma Patrignani, 'Legal Pluralism as a Theoretical Programme' 6, no. 3 (2016): 5.

Third, pluralist theory offers tools to better understand and study societies with cultural, religious, and legal diversity. Because to understand the complex mechanism of these systems, knowing how they juxtapose, complete, or oppose each other, pluralist theory offers a better understanding and provides the researcher with a solution for integration and harmonization between these different systems.

In short, pluralist theory provides the researcher with a necessary mechanism and a broader analysis of society where various legal systems and norms coexist. Acknowledging the complexity, and mix of legal and ethnic practices, it offers a framework for analyzing their interactions. The pluralistic approach is mainly used to better understand the challenges and opportunities associated with the management of administrative diversity in modern societies.

CHAPTER TWO

Literature review: pluralism as a solution to mosaic societies

The current study centers on "religious, customary marriage, and legal boundaries: navigating between recognition and effective implementation in Ivorian family law". To contribute novel insights and establish a strong foundation for this topic, it is imperative for the researcher to conduct a thorough review of prior scholarly research in this area to identify potential gaps that can inform and serve as a base for the current study.

Through comprehensive research using scientific databases, I identified relevant literature based on specific criteria as well as relevance to my research, publication year, geographic focus, and language. The study primarily emphasizes African literature due to shared practices in marriage across many African nations and influenced significantly by Western legal systems during colonization and up to independence. Additionally, pertinent Asian and Western literature was included where applicable.

After meticulously reviewing relevant articles to understand global, continental, regional, and national discussions on the topic, I opted for a narrative literature approach to identify potential gaps among recent and existing research.

2.1. Marriage as the Cornerstone of Society

The area of family law, also known as personal status law, is of fundamental importance in promoting gender equality. It shapes social identities, distributes rights and responsibilities, and creates power dynamics between individuals, families, and siblings. These distinctions in status have repercussions on both the private and public spheres. Family laws affect the ability of individuals to own, transmit, and administer property, to work outside the home, to marry, divorce, and remarry, and to maintain relationships with their children⁴⁷. According to Heather Jane Brook, marriage plays a vital role in the form and structure of sexual relationships. It is a social and legal institution that regulates and governs

⁴⁷ 'Sex Equality in Family Law: Historical Legacies, Feminist Activism and Religious Power in 70 Countries', 2.

sexual relations between two people, usually in a public and official context⁴⁸. In the same vein talking about the importance of marriage Marej Ahmad emphasizes by saying “Marriage in Islam is the union of a man and a woman. In Islam, Marriage is a religious duty, a moral safeguard, and a social commitment”⁴⁹, as for Islam marriage is the basic foundation of the society.

Marriage is much more than just an emotional union; it is also a legal and social status that grants special rights and responsibilities to women and men. This place bears witness to the cultural and social norms that govern intimate and sexual relationships, as well as the orientations accepted within a specific society. Besides the formation of marriage, Nwudego asserts that "culture and religion have played a more important role than the law in creating the content and definition of marriage in many societies"⁵⁰.

It emphasizes the importance of cultural and religious norms in the thought and practice of marriage. In many cultures, traditional practices and beliefs are often at the root of the essential principles of marriage, such as rites of passage, family responsibilities, and social expectations related to marriage.

The norms and values that govern relations between individuals, families, and communities, including the conditions of marriage, are influenced by culture. and religious beliefs, on the other hand, offer moral and spiritual norms that frequently govern the conditions of marriage, such as monogamy, polygamy, dowry, rituals, and marital obligations.

Thus, according to Nwudego, the law often reflects and formalizes norms already established by culture and religion concerning marriage. This vision highlights the need to understand the cultural and religious contexts in which marriage institutions develop and emphasizes the essential role of these elements in defining and understanding marriage within societies.

Before the arrival of French and English colonizers in Africa, marriages were established according to customary law which is a mixture of unwritten Indigenous rules and

⁴⁸ ‘The Conjugal Body Politic - Governing Marriage And Marriage-Like Relationships In Australia By Heather Jane Brook’, n.d., 28.

⁴⁹ Meraj Ahmad Ahmad, ‘The Importance of Marriage in Islam’, *International Journal of Research - GRANTHAALAYAH* 6, no. 11 (30 November 2018): 2, <https://doi.org/10.29121/granthaalayah.v6.i11.2018.1082>.

⁵⁰ Nwudego Nkemakonam Chinwuba, ‘Human Identity: Child Rights and the Legal Framework for Marriage in Nigeria’, *Marriage & Family Review* 51, no. 4 (19 May 2015): 3, <https://doi.org/10.1080/01494929.2014.938286>.

Islamic laws, Boye and colleagues argue that during the second half of the nineteenth century, France extended its rule over most of the territories of sub-Saharan West Africa and imposed French civil law in the colonies grouped as French West Africa⁵¹.

This colonial action by France in sub-Saharan West Africa resulted in the introduction of the French legal system, particularly civil law, in these colonized territories. This has profoundly influenced the legal and social structures in these regions, as French civil law has replaced or coexisted with pre-existing traditional and religious legal systems of marriage.

2.2. Societies applying the pluralist system as a solution to their mosaic societies

Hallaq, in discussing state sovereignty, emphasizes its national and international dimensions. Internationally, sovereignty means that other states recognize the authority of each state within its respective borders. It also implies that each state legitimately represents its nation in its relations with other states, whether individually or collectively. Domestically, it asserts that within the borders of a nation there is no order higher than that of the state. The law of the state is the law of the land and cannot be countermanded or subordinated to a higher order, because it represents the sovereign will⁵².

This implies that in a country, two or more institutions cannot exercise equal dominance. Their respective legitimacy in the exercise of their functions cannot coexist on an equal footing; one must be higher and the other lower. However, this fundamental principle of modern societies is often undermined in several countries, especially those where religious or ethnic entities exercise a strong influence. In these contexts, the coexistence of diverse religious, ethnic, and cultural groups can challenge the supremacy of state law and the unified sovereignty it purports to represent. This is reflected in the establishment of a pluralistic system where various standards, lifestyles, and laws coexist in perfect harmony, with none serving as an impediment to another.

Thus, several French-speaking West African countries such as Mali, Burkina Faso, Niger, and Senegal have had to adopt African laws because of their incompatibilities with the new family law imposed on them, or have had to replace them with African laws according to the cultures, religions, and customs of their country. This is what Boye is referring to when he says, "Since their independence, French-speaking African countries have gradually

⁵¹ Boye et al., 'Marriage Law and Practice in the Sahel', 2.

⁵² Wael B Hallaq "The Impossible State: Islam, Politics, and Modernity's Moral Predicament", n.d., 6.

introduced their own sets of laws that incorporate colonial and customary law to replace those imposed and inherited from their colonizer"⁵³.

Moreover, the countries of English colonization did not remain different in the face of the laws inherited from the colonizers vis-à-vis the matrimonial laws of their countries. As can be seen in Nigeria, which has several ethnic groups in its territory, with different customs and religions, has established a system that favors its citizens, as Nwudego points out, marriage in Nigeria is governed by a combination of customary and statutory laws. Marriage in Nigeria often involves several ceremonies, combining Western-style engagement, customary engagement and marriages, statutory marriages, and Christian or Islamic marriages. There are various customary forms of marriage in Nigeria, corresponding to the country's many ethnic groups. Customary marriages can be polygamous and are closely linked to traditional religious beliefs. Apart from customary marriages, Islamic marriages are prevalent among leading Nigerians in the North and other Muslims in Western Nigeria, adhering to Islamic principles⁵⁴.

Concerning family law, Sierra Leone, which has sixteen ethnic groups, has adopted three legal systems that govern the population. Customary law is primarily based on the local traditions and traditions of different ethnic communities. Second, Muslim law, which applies mainly to Muslims under the principles of Sharia law. Finally, statutory law includes regulations made by the government and applies generally to the entire population, regardless of their ethnic origin or religious preference. These three systems coexist and interact in the regulation of family affairs and social relations in Sierra Leone⁵⁵.

MW Prinsloo points out that in the Republic of South Africa, there is a model of legal pluralism in family law that includes South African common law, based on Roman-Dutch law and English law, as well as central government legislation. This common law, often referred to simply as the common law, is the main general legal system in the country. In addition, different indigenous legal systems apply to members of indigenous groups in certain specific circumstances, emanating from the traditions and customs of the indigenous peoples of South Africa. Finally, Hindu and Islamic family laws are practiced by members of the religious groups concerned, although they are not officially recognized by the central government as

⁵³ Boye et al., 'Marriage Law and Practice in the Sahel', 3.

⁵⁴ Chinwuba, 'Human Identity', 7.

⁵⁵ 'A Review of Family Law in Anglophone West African Countries Nigeria and Sierra Leone on Focus', *International Journal of Multidisciplinary Research and Growth Evaluation*, n.d., 6.

separate legal systems. In summary, the Republic of South Africa has a complex framework of legal pluralism in family law, where several legal systems coexist and apply to different groups in society based on their ethnicity or religion⁵⁶.

2.3. Religious associations, NGOs, and political leaders play significant roles in securing the rights of their adherents.

Consequently, the participation of political leaders, religious associations, and NGOs in the recognition of their religious cults and practices, political aims, and NGOs' purposes is essential in the context where their influence is relevant. To comprehend this aspect, Philippe Antoine discusses Senegal by stating the following "Senegal has gradually abandoned its customary practices in favor of a growing Islamization of marriage. This transition to a predominance of Islam in the daily lives of the natives began as early as 1840 when the metropolitan civil code was applied in the colony of Senegal. Unlike France, where marriage was secularized and made civil before religion in the nineteenth century, the colonial authorities in Senegal were cautious in their family reforms to avoid resistance from religious leaders and their supporters. This prudence has allowed the traditional law on marriage to remain in place for a long time"⁵⁷.

In studying this context of Senegal and the progressive Islamization of marriage, it is important to understand how family reforms were approached by the colonial authorities. The caution with which these reforms have been carried out reflects the central importance of the role of the Muslim religion in Senegalese society.

Additionally, Senegalese women, especially those who have been educated in Western education and studied law, have had a significant influence on developments in contemporary Senegal, especially in improving women's life conditions. Their intellectual commitment was instrumental in the recognition of women's rights in the Senegalese Civil Code and other areas affecting the status of women in Senegal. Judy Scales-Trent mentions in her article: "The Association of Senegalese Women Lawyers has been working for nearly forty years to improve the lives of women in Senegal, these women have used their legal skills to make a difference. They have succeeded in pushing the government to make positive changes to the

⁵⁶ 'Pluralism or Unification in Family Law in South Africa.Pdf', n.d., 1.

⁵⁷ 'Antoine - La Société Dakaroise et Le Mariage Civil Un Comp.Pdf', n.d., 2.

Family Code and other laws and have played an important role in developing human rights awareness in Senegal"⁵⁸.

Women's legal activism in Senegal, as demonstrated by the Association of Senegalese Women Lawyers, illustrates the ability of local actors to bring about significant changes in the legal and political system. Their commitment and legal expertise have helped push the government to amend the Family Code and other laws, thereby strengthening human rights awareness in the country. This initiative highlights the importance of citizen participation and activism in promoting gender equality and social justice at the national level.

Furthermore, the ability of religious associations and organizations to influence common decisions in the country is widely noticed, in the context of Indonesia, the most populous Muslim country in the world, where 87.18% of its population of 260 million are Muslims⁵⁹, precisely with more than 220 million of its population adhering to the Muslim faith⁶⁰. The benefits of this predominance of Islam in Indonesia are far-reaching for the culture, society, and daily lives of Indonesians. Various aspects of Indonesian life have been influenced by the Muslim religion, such as social practices, customs, education, politics, and laws. Indonesia's national identity has been deeply influenced by this strong Muslim presence and continues to have a significant impact on its social, economic, and political dynamics.

However, this large number of Muslims, which includes elites and groups of Muslim intellectuals from various backgrounds, has helped to form the country's two most important Muslim organizations, namely the Traditionalist Muslim Association (Nahdlatul Ulama, founded in 1926), the largest in the country, and the Association of Reformist Muslims (Muhammadiyah, founded in 1912)⁶¹, as well as many other small groups. This dynamic gives them considerable influence in defending the rights and values of their members. Because of this significant impact, the government under their influence established a Ministry of Religious Affairs in 1946 instead of instituting a Shariah-based constitution, to

⁵⁸ Judy Scales-Trent, 'Women Lawyers, Women's Rights in Senegal: The Association of Senegalese Women Lawyers', *Human Rights Quarterly* 32, no. 1 (2010): 2, <https://doi.org/10.1353/hrq.0.0132>.

⁵⁹ Siyafaq Hashim and Noor Shahreel 7, *Indonesia's Ministry of Religious Affairs under Joko Widodo* (ISEAS–Yusof Ishak Institute Singapore, 2020), 10, <https://doi.org/10.1355/9789814951241>.

⁶⁰ 'Indonesian Muslims and Their Place in the Larger World of Islam.Pdf', n.d., 2.

⁶¹ 'Contemporary Development in Indonesia Islam Explaining the "Conservative Turn"', n.d., 19.

meet the needs not only of the Indonesian Muslim community but also of all the major religious communities in the country⁶².

In the Ivory Coast context, the Ivorian Women's Association (AFI) has played a game-changing role in the status of legally married Ivorian women before the law, as Toungara points out: "When the National Assembly of the Republic of Ivory Coast amended the Family Code in 1983, granting women equality with their husbands in legal marriages and greater financial autonomy, the Association of Ivorian Women (AFI) expressed its gratitude for having succeeded in integrating its vision of the Ivorian family into the law"⁶³.

This association made up of women lawyers whose husbands worked in the Ivorian government, had to exploit this status as an association and elite women lawyers to obtain this change in the Ivorian civil code of the family, as observed by Toungara, who states that "I became aware for the first time of the subtleties of women's political influence during my fifteen years of residence in Ivory Coast. When the national daily 'Fraternité Matin' announced that a new family code had been approved by the National Assembly, the people accepted it as a *fait accompli*, like other decisions from above. When I interviewed the AFI women I knew about the circumstances in which the new code was drafted, I discovered that most of their maneuvers took place behind the scenes, whether in their own homes and families or high levels of government"⁶⁴.

2.4. The pluralist system as a unifying factor

Besides, Pluralism plays an essential role in the unification of peoples with various ethnic and religious origins in a country of mixed population, as Carla Yumatle underlines with these words: "Pluralism is an interpretation of social diversity", according to which pluralism is a conception that recognizes and values social diversity within a given society. It implies the idea that societies are made up of multiple social, ethnic, religious, cultural, or political groups, each with its own beliefs, values, customs, and practices. This diversity is considered an intrinsic and enriching characteristic of society.

⁶² Hashim and Saat, *Indonesia's Ministry of Religious Affairs under Joko Widodo*, 11.

⁶³ J. M. Toungara, 'Inventing the African Family: Gender and Family Law Reform in Cote D'Ivoire', *Journal of Social History* 28, no. 1 (1 September 1994): 2, <https://doi.org/10.1353/jsh/28.1.37>.

⁶⁴ Toungara, 3.

Pluralism recognizes not only the existence of these diverse groups but also their legitimacy and importance in society. It implies respect and peaceful coexistence of different points of view, traditions, and ways of life. Instead of seeking to impose cultural uniformity or homogeneity, pluralism encourages the recognition and valuing of differences.

In terms of the design and implementation of this system, James emphasizes that governments and states must have a broad view of the evolution of their populations and a careful understanding of the situation in which they live. He argues that "The problem for legislators today in many African mixed-population states is to judge when and to what extent social change has reached the point at which some integration of the rights of persons is achievable"⁶⁵.

In contrast, in Ivory Coast in 1964, where the dowry was sanctioned and religious and customary marriages were not recognized in its civil code, the population has always reconciled their marriages according to their traditions and religions for more than two decades until 2019 when the last reform was carried out, clearly highlights the inadequacy of the law applied to the populations and a misinterpretation of the situation by the Ivorian legislator, indeed this is what Aude Dibi and Louise Langevin refer to when they say "Indeed when a law enacted does not offer a response to the aspirations of the society to which it is supposed to apply, As is the case here, it is unlikely to be followed by its recipients. It then raises questions about its legitimacy"⁶⁶.

It is not surprising to see resistance either directly by breaking the law established by the government or indirectly by opposition from people who come under any form of discrimination, which is the reason why Saldi, Isra, and colleagues state that "A law that governs the life of a free people should be that of its own accord, as well as its legal system and legal institutions"⁶⁷.

This statement teaches us that to ensure the proper function of laws and harmony between the people and the government, it is essential that the laws that govern a free and

⁶⁵ James S. Read, 'A Milestone in the Integration of Personal Laws: The New Law of Marriage and Divorce in Tanzania', *Journal of African Law* 16, no. 1 (1972): 3, <https://doi.org/10.1017/S0021855300009037>.

⁶⁶ Aude Dibi and Louise Langevin, 'The non-recognition of customary and religious unions in the new Ivorian family law: a lack of respect for women's right to equality', *Canadian Journal of Women and the Law* 34, no. 2 (1 December 2022): 13, <https://doi.org/10.3138/cjwl.34.2.01>.

⁶⁷ Saldi Isra, Ferdi Ferdi, and Hilaire Tegnan, 'Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia', *Hasanuddin Law Review* 3, No. 2 (12 August 2017): 9, <HTTPS://DAY.org/10.20956/halrev.v3i2.1081>.

self-governing society take into account a legal system of coexistence, thus reflecting their collective values, needs, and choices. In addition, it is essential to create and adapt one's legal system and legal institutions according to their specific cultural, social, political, and historical context. In this context, the Ivorian legislator must consider a pluralistic or harmonious system to restore the civic rights of all citizens by equalizing religious, customary, and legal marriages.

2.5. Novelty of the Study

The above researchers have studied marriage, the family code, and the pluralistic system in different contexts, as highlighted above, which distinguishes their study from the present one. Given that most of them explored the theme in a context with a different approach than in Ivory Coast, which contrasts with the present study. Thus, I adopt a deductive strategy to present the literature on the topic by presenting the factors that can hinder the establishment of the pluralistic or homogenic system, starting at the global level where the cases of application of the pluralistic system have been studied at the legal level by several researchers and scholars.

As far as regional literatures are concerned, there is a multitude of pieces of literature on this subject, from the countries bordering Ivory Coast. At the national level, I have been crossed to three similar articles on this subject:

The first article titled "Inventing The African Family: Gender And Family Law Reform In Ivory Coast" by Jeanne Maddox Toungara, elaborated on the subject of the aspect of the contribution that the country's elites can make and especially the influence they can have during decision-making at the parliamentary and legal levels, especially by being an association of lawyers, and the disparity between this article and the present study is that this author does not propose a system in which all forms of marriage can be recognized in the family code of the Ivory Coast.

The second article titled "The Dowry of The Lobi Woman in A Society in Full Mutation" By Sansan Ignate Hien, in this article emphasizes the non-recognition of the dowry in the Ivorian civil code and does not elaborate on the subject of the integration of the different forms of marriage in the Ivorian civil code.

The third article titled "The Non-Recognition Of Customary And Religious Unions In The New Ivorian Family Law: A Non-Respect Of Women's Right To Equality" by Aude Dibi

And Louise Langevin, this article being a little more similar to that of the present study, however, there is a difference in the elaboration of the subject because the author of this article has emphasized the consequence of the non-recognition of religious marriages and customary marriages on women only, while the current study will focus on the consequences of the non-recognition of religious and customary marriages on the ethnic and religious groups practicing this form of marriage in Ivory Coast.

However, regarding the literature that has been brought to this subject to map the corpus of literature on the subject to identify a potential gap in the literature. In doing so, the researcher was able to identify a gap in the literature at the national level, which suggests the present study.

Individual rights and freedom of choice and opinion have long been considered a driving force for the improvement of the living conditions of all citizens. The study of marital status and the integration of all forms of marriage into the Ivorian civil family code is of major importance, yet it is the least studied subject in the Ivorian legislative system. Thus, I believe that it is imperative and appropriate to conduct this study to present a new perspective on the recognition of all forms of marriage in the Ivorian civil family law, emphasizing a proposal for the pluralism and hemogenic system of the law on marriage in Ivorian context this underscores the uniqueness of the current study.

CHAPTER THREE

The Plurality of Ivory Coast Marriage Law: Conflict and Harmony

Cultural, ethnic, religious, and linguistic diversity has always existed in all places humans inhabit. With many local languages, Africa is the cradle of many indigenous beliefs and imported religions such as Islam and Christianity. Africans' interactions with foreigners have profoundly influenced the African's linguistic, religious, and cultural aspects. The arrival of the colonizers and the division of Africa into distinct nations, each populated by multiple ethnic groups with various beliefs, religions, cultures, and languages, gave rise to the idea of unifying these peoples around a common language, culture, religion and belief, leading to the adoption of a monolithic system as Maya and her colleague affirm "It is this effort of the French to unify very different cultures through a community language, an identity and of course the law that forms the basis of the assertion that there exists, or at least, a French legal family"⁶⁸. However, in the face of this diversity of beliefs, and religious, cultural, and linguistic practices, some nations have chosen pluralism for their family code, while others have preferred a monolithic system, excluding any form of marriage other than civil marriage. Ivory Coast, a former French colony, which has since become independent and has sixty ethnic groups with diverse cultures, religions, and beliefs, has not included the marriages of these ethnic groups, which come in three forms: Christian religious marriage, Muslim religious marriage, and customary marriage, in its civil code.

This research aims to elucidate the enigma behind the exclusion of certain marriage forms from the Ivorian Civil Code by examining a series of pertinent questions. However, the lack of a pluralistic approach in the formulation of family law within Ivorian civil legislation prompts significant inquiries regarding its existing structure. Moreover, the prospective efficacy of a pluralistic and harmonized system within Ivory Coast's family law necessitates a thorough analysis to comprehend the advantages and potential difficulties it may introduce.

⁶⁸ Maya Berinzon and Ryan C. Briggs, 'Legal Families Without the Laws: The Fading of Colonial Law in French West Africa', *American Journal of Comparative Law* 64, no. 2 (1 July 2016): 3, <https://doi.org/10.5131/AJCL.2016.0012>.

3.1. Rejection of Pluralist Legal System in Ivory Coast family law

The question of why Ivorian civil law does not adopt a pluralistic system in the construction of family law addresses several critical aspects of legal theory, societal structure, and historical context. Ivory Coast, like many post-colonial states, faces the challenge of balancing traditional customs with modern legal frameworks. Despite the country's diverse ethnic and religious landscape, Ivorian civil law has largely avoided a pluralistic approach to family law for a variety of reasons, including colonial legacy, the desire for national unity, the complexities of legal administration, and the influence of international norms. To provide an insightful and reasonable explanation and understanding logic to this question the following factors will be explored.

3.1.A. Colonial heritage and legal uniformity

The foundation of Ivorian civil law is deeply rooted in its colonial past. As a former French colony, Ivory Coast inherited a legal system based on the Napoleonic Code, which emphasizes a uniform legal framework. The colonial authorities imposed this system to replace the various customary laws that prevailed between different ethnic groups. The aim was to create a standardized legal system that could be more easily controlled and administered. This legacy of legal uniformity persisted after independence, influencing the contemporary legal structure and making it resistant to the adoption of a pluralistic system.

This is what Boye refers to when he says, "In the second half of the nineteenth century, France undertook the colonization of the majority of sub-Saharan West Africa, incorporating French civil law into what became known as French West Africa (French West Africa). The French legal system was established by three main methods: the application of French laws and regulations, such as the Civil Code (Napoleonic Code of 1804) and the Penal Code, both in France and its colonies; colony-specific laws; and the decrees issued by the French colonial administration in Africa. French law persisted as the official legal system until the colonies gained independence from France, although customary African law was often observed in the areas of family, inheritance, and property. After gaining independence in

1960, the former colonies passed "reception laws," thus formally adopting the colonial legal framework⁶⁹.

Ivory Coast inherited its constitution under conditions similar to those of other countries colonized by France. As Boye argued. In the same vein, Maya and his colleague argued that "many African countries divided the colonial civil code into several codes from the independence period"⁷⁰. This statement allows us to understand that the civil code of some French-speaking countries, since their independence, has not only preserved the civil code of their colonizer but has also integrated it, thus excluding customary and religious marriage practices. Similarly, Étienne Le Roy tells us with these words: "Following the colonizer whose footsteps they followed, the African elites chose to build the new society by resolutely turning their backs on tradition"⁷¹

Étienne Le Roy, in discussing the lack of choice of colonized countries at the time of their independence concerning the constitutions inherited from their colonizers, states: "While it is true that the decolonizers left them little choice and that the more endogenous options often turned into authoritarianism, it is clear that reforms in private law remain contested and counterbalanced by innovations in the law of practice or even a praetorian custom as observed in Senegal, the supposedly good French-speaking student, with its family code of 1972"⁷². This shows that these colonized countries did indeed exercise a certain choice during their independence regarding the nature of their family code. Indeed, several former French and English colonies undertook reforms to their inherited civil codes after independence, such as Mali, Senegal, Burkina Faso, and Niger for the former French colonies⁷³, and Nigeria, Sierra Leone,⁷⁴ Ghana⁷⁵, and South Africa for the former English colonies.

However, it is recognized that the colonial legacy and the quest for a uniform legal system have clearly contributed to the exclusion of religious and customary marriages from the civil family code in Ivory Coast. In contrast, other former French colonies that gained

⁶⁹ Boye et al., 'Marriage Law and Practice in the Sahel', 2–3.

⁷⁰ Berinzon and Briggs, 'Legal Families Without the Laws', 18.

⁷¹ Étienne Le Roy, 'Why, in Africa, does 'the law' always refuse the pluralism that communitarianism induces?', *Anthropology and Societies* 40, no. 2 (27 September 2016): 11, <https://doi.org/10.7202/1037510ar>.

⁷² Le Roy, 12.

⁷³ Boye et al., 'Marriage Law and Practice in the Sahel', 3.

⁷⁴ 'A Review of Family Law in Anglophone West African Countries Nigeria and Sierra Leone on Focus', 5–6.

⁷⁵ A. N. Allott, 'Marriage and Internal Conflict of Laws in Ghana', *Journal of African Law* 2, no. 3 (1958): 10, <https://doi.org/10.1017/S0021855300003740>.

independence at the same time like Ivory Coast and shared the same colonizer have adopted a pluralistic legal system in their family law. This choice however has allowed these countries to unify their populations, avoid internal conflicts, and give citizens the freedom to choose the type of marriage according to their religious and customary beliefs. In order to avoid hasty conclusions, we will examine other factors to develop a comprehensive understanding of the potential reasons for the non-acceptance and non-integration of religious and customary marriages in the Ivorian civil family code.

3.1.B. National unity and integration

Another important reason for the non-adoption of a pluralistic system of the Ivorian family code is the political vision of national unity. Since Ivory Coast obtained independence in 1960, it has prioritized the construction of an identity of the national family known as the revolutionary family. A uniform legal system is seen as a tool to foster national integration, ensuring that all citizens are subject to the same laws, regardless of their ethnic or religious background, and the adoption of a pluralistic system could be seen as reinforcing divisions within society, potentially weakening efforts to create a unified national identity.

Louise Barré emphasized saying that "In October 1964, a new Civil Code was introduced, replacing the old colonial legal duality that relegated Africans to customary jurisdiction"⁷⁶, thus, reflecting the vision of the founding president of Ivory Coast, Houphouët Boigny, on the image of the family and the so-called (*image de la femme évoluée*). The new laws adopted by the National Assembly, such as "the abolition of polygamy and dowry, and the establishment of the primacy of the head of household who holds parental authority, the management of the couple's property and the power to decide on the place of residence"⁷⁷ are perceived by some as a renunciation of traditional laws and customs in favor of modernity⁷⁸, in the same vein, an idea that Louise Barré criticizes by questioning the alleged superiority of Western laws over traditional African laws "The superiority of modern law over traditional law has never been proven other than in a dogmatic way"⁷⁹

⁷⁶ Louise Barré, 'Evolved Women for a New Nation (Côte d'Ivoire, 1964)', *African Studies Notebooks*, no. 230 (1 June 2018): 3, <https://doi.org/10.4000/etudesaficaines.22112>.

⁷⁷ Barré, 3.

⁷⁸ Le Roy, 'Why, in Africa, does 'the law' always refuse the pluralism that communitarianism induces?', 11.

⁷⁹ Barré, 'Des femmes 'évoluées' pour une nouvelle Nation (Côte d'Ivoire, 1964)', 11.

Faced with the circumstances that the new Ivorian state faced as soon as it gained its independence, Chantal Vlěi-Yoroba reports that "the legislator is faced with a delicate situation: while a minority of people are subject to French civil law, the rest of the population is governed by customary law. In 1964, the country adopted a dozen laws directly affecting the organization of the family, a revolutionary civil code defended by President Félix Houphouët-Boigny on the occasion of the VIth anniversary of independence in August 1966: When it appeared to us that the survival of certain traditions constituted an obstacle or a brake on the harmonious evolution of our country, we did not hesitate to print the necessary changes. Thus, after a long campaign of explanation undertaken by our activists and our political and administrative leaders to the populations concerned, essential texts have emerged. A renewed Civil Code enshrined the abolition of polygamy and reformed the dowry; a modern civil registry is being set up"⁸⁰.

Contrary to the intentions of the legislator of 1964, which aimed to unify the Ivorian population around a single form of marriage by abolishing the dowry (the central symbol of customary and religious marriages) and prohibiting polygamy; while conferring legal legitimacy only on marriages celebrated by a judicial officer⁸¹, the population did not react favorably to the new Family Act. The persistence of religious and customary marriages is clear proof of this. In this context, Aude Dibi and her colleague criticize this legislation, stating: "Despite this prohibition, almost all marital unions are now preceded by the payment of the dowry or by religious celebrations, but do not necessarily lead to a civil celebration"⁸²

In the observation of this situation of incompatibility between the law adopted by the legislator of 1964, the opinion of some would be that the lifting of the sanction on the Dowry by the legislator of 2019 would have been one more reason for the non-compliance of this law about the mixed nature of the Ivorian population, as Aude Dibi and her colleague point out: "Indeed When a law enacted does not offer a response to the aspirations of the society to which it is supposed to apply, as is the case here, it is unlikely that it will be followed by its addressees. It then raises questions about its legitimacy"⁸³

⁸⁰ Chantal Vlěi-Yoroba, 'Family Law and Family Realities: The Case of Côte d'Ivoire since Independence', *Clio*, no. 6 (1 November 1997): 2, <https://doi.org/10.4000/cli0.383>.

⁸¹ Aude Dibi and Louise Langevin, 'The non-recognition of customary and religious unions in the new Ivorian family law: a lack of respect for women's right to equality', *Canadian Journal of Women and the Law* 34, no. 2 (1 December 2022): 11, <https://doi.org/10.3138/cjwl.34.2.01>.

⁸² Dibi and Langevin, 11.

⁸³ Dibi and Langevin, 12.

However, the example of the 1964 family law of the Ivory Coast, aimed to abolish the dowry and prohibit polygamy with the aim of unifying marriage practices around a unique and modern model of civil marriage. This initiative, while well-intentioned, failed to take into account the deep cultural and religious roots of dowry and polygamy in Ivorian society. These practices are not simply archaic customs to be eradicated, but they represent values and traditions that are deeply rooted in the identity of the country's various ethnic and religious communities.

The dowry, for example, is seen not only as a marriage tradition but also as a symbolic act of respect and commitment between families. By attempting to abolish it without providing an alternative framework that respects these cultural meanings, the law has failed to meet the expectations and needs of the population. Similarly, the prohibition of polygamy, while it may align with modern principles of gender equality, has failed to take into account the social and economic dynamics that make the practice acceptable and sometimes necessary in some communities.

When laws do not reflect the realities and values of the societies they govern, they lose their effectiveness and legitimacy. People can then see these laws as external impositions, disconnected from their experiences and aspirations. This leads to a situation where laws are massively ignored or circumvented, as shown by current marriage practices in Ivory Coast, where the majority of unions are still marked by customary or religious ceremonies, often including the payment of the dowry, without necessarily being followed by civil marriages.

Thus, for a law to be effective and legitimate, it must be developed in close consultation with the communities it aims to regulate. It must respect and integrate the cultural and social values of local people while working for progressive reforms. In other words, a law must reflect the aspirations of society, otherwise, it risks remaining a dead letter, fueling mistrust, and resistance among those it is supposed to protect and guide.

In conclusion, the vision of the founding president to unite an entire nation with several ethnic groups within it seemed very ambitious, but not taking into account this diversity was revealed by the non-adherence of the population already rooted in its culture, religion, and tradition, especially in the field of marriage, which proves the need for a more inclusive system that takes into account the diversity the rich and diverse Ivorian population. However, in order to highlight and reflect the cultural, ethnic, and religious diversity of the Ivory Coast, a pluralist system could be established accordingly. However, it urges significant

administrative and judicial reform in order to guarantee the same rights and protections before the law for all citizens, regardless of the type of marriage. This new reform of the family code in 2019 and especially the repeal of the sanction against the dowry, a representative and fundamental symbol of religious and customary marriages, could indicate the willingness of the Ivorian legislator to consider the adoption of a pluralist system that embraces this ethnic and religious diversity of Ivory Coast. The following point will shed light on this hypothesis.

3.1.C. Complexity and Administration of Justice

The implementation of a pluralistic legal system poses significant challenges in terms of legal administration. Managing multiple legal systems in a country can be complex and cumbersome, especially with a newly independent state. It requires a judiciary that is well-versed in various customary and religious laws, as well as the ability to judge conflicts that arise between these systems. Such an arrangement could reduce the legal infrastructure and complicate the delivery of justice. A uniform civil law simplifies legal processes and ensures consistency in court proceedings, which is essential for maintaining order and predictability in the legal system.

To avoid this complex legal mechanism, especially after independence, the states and infrastructures were fragile with few experts in the field of comparative jurisprudence, President Houphouët Boigny, with a vision of excessive centralization, considered that it is preferable to opt for a unified legal system of the Ivorian civil family law, according to which, the adoption of a system would have been a brake and obstacle to the development and harmony of the country as highlighted by Chantal Vlèï-Yoroba citing from the former president Houphouët Boigny "When it appeared to us that the survival of certain traditions constituted an obstacle or a brake on the harmonious evolution of our country, we did not hesitate to make the necessary changes. Thus, after a long campaign of explanation undertaken by our activists and our political and administrative leaders to the populations concerned, essential texts have emerged. A renewed Civil Code enshrined the abolition of polygamy and reformed the dowry; a modern civil registry is set up"⁸⁴

Regarding the fragility of African institutions and infrastructures during the acquisition of their independence, and speaking of the state of education, Laurent Manière states that "it

⁸⁴ Vlèï-Yoroba, 'Droit de la famille et réalités familiales', 2.

was difficult to brutally break with this colonial legacy, for various reasons. Firstly, because the structures in place could not function without temporary aid from France: the economic gap between partners, the lack of administrative structures, and the absence of trained elites, therefore, led to the establishment of a special relationship, where the former metropolis offered its technical assistance and French personnel"⁸⁵.

In the same vein, speaking of managers and qualified personnel in the aftermath of the independence of the former French colonies, Patrice and Monique affirm that "Faced with the shortage of cadres in the aftermath of independence, the new African states, whose students had until then been preferentially trained in the colonizing countries, then also turned to the USSR and the countries of the former socialist bloc to accelerate the training of a significant part of their cadres"⁸⁶

However, Ivory Coast, due to the complexity of a pluralistic legal system, has adopted an approach of judicial unification of its civil code, due to the lack of infrastructure and qualified legal personnel. After half a century, during the last reform of its civil code relating to the family in 2019, the Ivory Coast, despite an improvement in its educational and legal infrastructure, has not yet legalized customary and religious marriages in its family code.

Unlike other countries that emerged from the French colony which, despite a lack of infrastructure or jurisdictional structure when they became independent in 1960, chose to take the path of plurality in the civil code of their newly independent countries. Ivory Coast, although it was in similar or perhaps better conditions, did not opt for pluralism in its civil code, neither then nor now. Somehow some attribute Ivory Coast's failure to apply a pluralist system and the obligation to adopt a unitary legal system to the detriment of a system already familiar to the population to a breach of freedom of choice⁸⁷. To decipher the reason and factor for the non-inclusion of religious and customary marriages in the Ivorian civil code until today, it is necessary to explore other potential factors such as the influence of international norms and human rights.

3.1.D. Influence of international standards and human rights

⁸⁵ Laurent Manière, 'French policy for the adaptation of education in Africa after independence (1958-1964)', *History of Education*, no. 128 (1 October 2010): 3, <https://doi.org/10.4000/histoire-education.2281>.

⁸⁶ Patrice Yengo and Monique De Saint Martin, 'What Contributions of 'Red' Elites to the Shaping of Post-Colonial States?', *African Studies Notebooks*, no. 226 (1 July 2017): 2, <https://doi.org/10.4000/etudesafricaines.20661>.

⁸⁷ Dibi and Langevin, 'The non-recognition of customary and religious unions in the new Ivorian family law', 18.

The influence of international and human rights standards also plays a crucial role. International human rights organizations and treaties advocate for the uniformity of legal rights and protections, particularly concerning the rights of women and children. Customary and religious laws often include practices that conflict with these international standards, such as polygamy or discriminatory inheritance rules. By maintaining a singular and secular legal framework, Ivory Coast aligns more closely with international human rights standards, ensuring that all citizens receive equal protection under the law.

The nature of the Ivorian constitution, which describes Ivory Coast as a country with a secular state respecting all beliefs on its territory, as specified in Article 6 of the 1960 Constitution: "The Republic ensures equality before the law for all without distinction as to origin, race, sex or religion. It respects all beliefs"⁸⁸, Taking into account the statement in the preamble of the 2019 constitution which stated that "Taking into account our ethnic, cultural and religious diversity, and determined to build a multi-ethnic and multi-racial Nation based on the principles of national sovereignty"⁸⁹ Ivory Coast, whether in the 1960 constitution or 2019, could adopt a pluralist system in its civil family code.

On the one hand, based on the international human rights agreements, as stated in the first lines of the preamble to its 1960 constitution: "The people of Ivory Coast proclaim their attachment to the principles of democracy and human rights, as defined by the Declaration of the Rights of Man and the Citizen of 1789, by the Universal Declaration of 1948, and as guaranteed by this Constitution", ⁹⁰and also in the 2019 Constitution: "We reaffirm our determination to build a State governed by the rule of law in which human rights, public freedoms, the dignity of the human person, justice and good governance as defined in international legal instruments are promoted, protected and guaranteed"⁹¹. On the other hand, due to the nature of religious and customary marriages, which allow the man to marry several wives, is considered a point of conflict with international standards. This may have prevented Ivorian legislators in 1960 and 2019 from including the recognition of religious and customary marriages in the civil family code.

In addition to President Houphouët Boigny's vision of opening Ivory Coast to the whole world before the independence of Ivory Coast in 1957, Kouamé Maxime Alla reported that

⁸⁸ 'Constitution_du_3_novembre_1960.Pdf', n.d., 2.

⁸⁹ 'Constitution_2016.Pdf', n.d., 1.

⁹⁰ 'Constitution_du_3_novembre_1960.Pdf', 1.

⁹¹ 'Constitution_2016.Pdf', 1.

"Houphouët-Boigny intends to dissociate himself from all anti-colonialist demonstrations. In October 1957, he stated that "The particular message of Africa, (...) is the fraternity to bring to the world, (...) the opposite of this spirit of vengeance that is expressed in Bandung against the former colonizing peoples"⁹².

In order to align with the principles established by France as demonstrated by the Declaration of the Human Rights and the Citizen of 1789, Ivory Coast aspires to harmonize its laws and rights with those established by France⁹³. The 2019 legislation maintains these basic principles while introducing flexibility for customs and religions. In particular, the abolition of the dowry penalty could mark a step towards its integration into the Ivorian civil family code. This leads us to consider another factor, which is social resistance and the evolution of customs, as elements likely to promote the integration of religious and customary marriage into the civil family code in Ivory Coast.

3.1.E. Societal resistance and changing customs

Societal attitudes and changing customs influence the legal landscape. While many Ivorians respect and follow traditional and religious practices, there is also a growing recognition of the benefits of a uniform legal system, especially among younger generations and urban populations. As societies modernize and integrate more deeply into the global community, there is often a shift toward legal uniformity that supports economic development and social progress. This change may lead to resistance against the reintroduction or maintenance of pluralistic legal systems that might be considered outdated or incompatible with modern values.

The founding president of Ivory Coast was very much driven by the feeling of seeing Ivory Coast with a new Ivorian standard whose new Ivorian slogan and especially with the image of the Ivorian woman evolved for a new nation is at the basis of the adoption of the new civil code of the family which puts an end to the old civil code of the family of a dualistic nature which definitively excludes customary and religious marriages from the Ivorian civil code as Louise Barré points out with these words: "After independence on August 7, 1960, the Democratic Party of Ivory Coast (PDCI) of President Houphouët-Boigny established an image of the so-called "evolved" woman, whose attributes and tasks were to

⁹² Kouamé Maxime Alla, 'FELIX HOUPHOUËT-BOIGNY BETWEEN WEST AFRICAN POLITICAL INTEGRATION AND TERRITORIAL FUNDAMENTALISM (1944 - 1971)', n.d., 12.

⁹³ 'THE LAW OF PERSONS AND THE FAMILY IN CÔTE D'IVOIRE', n.d., 2.

strengthen the national project. In October 1964, a new Civil Code replaced the old colonial legal duality which assigned Africans to customary jurisdiction"⁹⁴

However, the adoption of the Ivorian Civil Code in 1964 took place without sufficient consideration for the majority of the population, which was historically rooted in its traditions, religions, and customs that were governed by customary law. Faced with a minority governed by French civil law⁹⁵, this leads to the hypothesis that the Ivorian legislator at the time of independence did not attach significant importance to this majority, or the majority did not attribute a significant interest to their forms of marriage, which would have prompted the legislator to exclude these marriages from its civil code when it was adopted in 1964.

As in any other nation in the world, and particularly in Africa and the Ivory Coast, the Ivorian people attach great importance to their religions, customs, and traditions. This is reflected in the percentage of religious and customary marriages since the adoption of the new Ivorian Civil Family Code in 1964. A statistic reveals that "a low percentage of married couples in front of the civil registrar or the persistence of non-institutionalized polygamy (customary marriage, parallel marriage, etc.) testifies to this situation. For example, a survey conducted in 1977 by the Ivorian Institute of Public Opinion (I.I.O.P.) indicated that out of a hundred women over the age of 18 in urban areas, 29% were single, 49% were married customarily, 9% were married customarily and at the town hall, and 7% only at the town hall. Twenty years after the establishment of the Ivorian Civil Code, in 1984, a survey revealed that of all married men over the age of 15, 83% had one wife, 14% had two wives, 2.5% had three wives and 0.5% had four or more wives⁹⁶.

In the same vein, Aude e Dibi and her colleague state that a survey carried out by RGPH 2014 states that "almost all marital unions are today preceded by the payment of the dowry or by religious celebrations, but do not necessarily lead to a civil celebration. It should be recalled that it is estimated that 79.1 percent of Ivorian couples are married under customary and religious rules"⁹⁷.

⁹⁴ Barré, 'Des femmes 'évoluées' pour une nouvelle Nation (Côte d'Ivoire, 1964)', 2-3.

⁹⁵ Vléri-Yoroba, 'Droit de la famille et réalités familiales', 2.

⁹⁶ See Yoroba, 5.6.

⁹⁷ Dibi and Langevin, 'The Non-Recognition of Customary and Religious Unions in the New Ivorian Family Law', 11.

These surveys reveal the attachment and importance that the Ivorian people have for their religions, traditions, and customs, which is evident in the way they celebrate their marriages. Despite legal prohibitions, religious and customary marriages have always been perpetuated by the Ivorian population, thus refuting the hypothesis of an alleged lack of interest in these traditions, which would have motivated the legislature to exclude these forms of marriage. Another hypothesis is that the Ivorian legislator has marginalized the majority of the population and their matrimonial practices by officially recognizing only marriages celebrated by a civil registrar.

In conclusion, the exclusion of religious and customary marriage from independence until now is attributed to various elements, the historical factor of the Ivorian constitution which is the result of colonial influence, the political vision of the founding president to unify his people around a unitary form of marriage, the administrative complication of the time and the conformity to the international human rights agreement and the societal reality continues to slow down the integration and effective implementation of religious and customary marriages in the Ivorian Civil Code of the Family.

3.2. the possibility of an effective pluralistic and harmonized system in the family law of Ivory Coast

The implementation of a pluralistic legal system in the Ivorian Civil Code seems to be a very ambitious proposal and qualifies as complex, but proves to be more appropriate and adequate to the rich ethnic, religious, and cultural diversity of the Ivory Coast. However, according to my opinion, the application and effective integration of this system are based on various factors, including cultural relevance and inclusivity, flexibility, and adaptability, challenges of legal coherence and administration, impact on human rights and gender equality, and promoting social cohesion and national unity. to elaborate further on these factors, the following lines will shed light on the possibility of applying a pluralist system in the Ivorian civil code of the family.

3.2.A. Cultural relevance and inclusivity

A pluralistic family law system could be very effective in Ivory Coast because of its relevance and cultural inclusiveness. By recognizing and incorporating various customary and religious laws, such a system would respect and preserve the diverse cultural identities that make up Ivorian society. This inclusiveness could lead to greater acceptance and

legitimacy of the legal system among different communities, fostering a sense of belonging and reduced estrangement.

As defined by Ido Shahar speaking of the application of the pluralistic system in a mixed society of culture, religion, and custom clarify that "A situation of 'classical' legal pluralism occurs when a sovereign imposes different legal bodies on different groups of the population according to their ethnic origin, religion or geographical location"⁹⁸ This description of the pluralistic system takes into consideration the religion, ethnicity, and geographical location of a group of people living in a given territory and applies the law to them according to their religious, cultural, and traditional affiliation without violating the law established by the State.

In other words, Ivory Coast, whose population is of more than sixty ethnic groups and different beliefs and religions on its national territory, should be able to envisage after more than half a century of adopting a pluralist system in its civil family code.

On one hand, The pluralistic system in the domain of marriage has been significant and most important for the integration, enhancement, and promotion of religious and customary marriages in countries with large and diverse populations such as Nigeria in West Africa as emphasized here "In Nigeria, marriage and divorce law is characterized by a distinctive legal pluralism that includes statutory law based on English law and customary law, as well as Islamic law"⁹⁹, furthermore, the same situation is observed in Indonesia, a country in South Asia as highlighted "Indonesia, committed to nation-building and development, has continued its modernization since its independence in 1945, adopting a comprehensive catalog of human rights in its 2000 Constitution. Despite a vibrant civil society that promotes these rights, conservative Islam is increasingly influencing state policies and laws. As the largest Muslim-majority country, Indonesia is also home to various religious beliefs whose perspectives on marriage and family must be considered for social stability. The country's social groups are equally diverse, from feminists to fundamentalist Muslims and traditional adat (customary law) communities. Therefore, it is almost impossible to create a single, uniform law on marriage equality. Instead, Indonesia maintains a system of legal pluralism,

⁹⁸ Ido Shahar, 'Legal Pluralism Incarnate: An Institutional Perspective on Courts of Law in Colonial and Postcolonial Settings', *The Journal of Legal Pluralism and Unofficial Law* 44, no. 65 (January 2012): 3, <https://doi.org/10.1080/07329113.2012.10756684>.

⁹⁹ 'A Review of Family Law in Anglophone West African Countries Nigeria and Sierra Leone on Focus', 5.

which remains a controversial political issue"¹⁰⁰. On the other hand, as a small population the pluralist system has been a factor in unifying people such as Ghana where "The Ghanaian legal system is a plural system in which customary, religious, and statutory law all govern in certain areas of law, such as family law"¹⁰¹. Additionally, Sierra Leone another small country in West Africa has not been subject to that trend "Geographically, Sierra Leone shares borders with Guinea and Liberia, it is divided into sixteen ethnic groups. However, the main ethnic groups are the Mende in the south and the Temne in the north. Within family law in Sierra Leone, three legal systems govern the population: customary law, Islamic law, and statutory law"¹⁰², and several countries all over the world.

By implementing the pluralistic system, these countries have succeeded in valuing the religion, customs, and traditions of their inhabitants, thus protecting their rights and promoting the rights of their people, not only in terms of law but also concerning their religious, traditional, and cultural identities. As Serge Raynal and his colleague have clearly put it: "Cultural integration becomes an important factor, influencing not only our individual behaviors but also fundamentally the conception and destiny of a nation"¹⁰³.

Today, the world is so interconnected that nations and peoples teach each other. In the context of globalization and interculturality, Serge Raynal and his colleague argue that "without interculturality, multiculturalism leads to communitarianism, to the confrontation of communities in a climate of hatred, to the quest for recognition of unrecognized cultures, and social unrest. Only the synergy of cultures can lead to the performance of a country and a nation"¹⁰⁴. Therefore, Ivory Coast, with the diversity of its population, could draw inspiration from countries that have managed to integrate a pluralistic system into their civil family code, thus avoiding marginalization, loss of identity, and social frustration arising from the exclusion of their forms of marriage. fundamental elements of their culture, religion, and tradition.

Therefore, it can be strongly concluded from the analysis of this hypothesis that much importance and an undeniable attachment are given to their marriages, and this is implied in

¹⁰⁰ Adriaan Bedner and Stijn Van Huis, 'Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia: A Plea for Pragmatism', *Utrecht Law Review* 6, no. 2 (4 June 2010): 2, <https://doi.org/10.18352/ulr.130>.

¹⁰¹ Johanna E Bond, 'Pluralism in Ghana: The Perils and Promise of Parallel Law', n.d., 6.

¹⁰² 'A Review of Family Law in Anglophone West African Countries Nigeria and Sierra Leone on Focus', 6.

¹⁰³ Serge Raynal and Louis B. Ferguson, 'Integration: From Multicultural to Intracultural!', *Humanism and Business* n° 287, no. 2 (1 April 2008): 2, <https://doi.org/10.3917/hume.287.0077>.

¹⁰⁴ Raynal and Ferguson, 17.

their family matters by the religious and traditionalists. Recognizing and including such marriages in the Ivorian Civil Family Code will bridge the irregularity that exists between marriages of these kinds and civil ones, matching the values and identity of the whole community. This could strengthen compliance with the law and reduce conflicts resulting from the imposition of a uniform legal system that may not resonate with all strata of society.

3.2.B. Flexibility and Adaptability

In a diverse cultural landscape, a pluralistic system of family law offers significant flexibility and adaptability. It endorses the enforcement of different laws by different communities concerning private matters such as marriage, divorce, and inheritance issues. This adaptability renders the legal system more responsive to the needs and expectations of diverse groups, enhancing overall contentment and effectiveness.

The socio-legal system, as defined by Schiff "is an analysis of the law intrinsically linked to the social situation concerned, this law must be considered in the context of this situation, taking into account the role it plays in creating, maintaining, or modifying it"¹⁰⁵. According to this theory, the law is essentially flexible and must adapt to the context of the society it governs, while contributing to its construction. Thus, it would be advantageous for the Ivorian State to consider its population's religion, traditions, and customs concerning the Ivorian Civil Code. In other words, it should be flexible with its people and adapt laws to their religion, tradition, and custom. As Serge Raynal and his colleague pointed out "Culture defines and shapes the ways of thinking, feeling, perceiving, communicating, acting and creating material objects for a given group. It is made up of many codes, symbols, languages, myths, beliefs, and values that give it a specific morphology"¹⁰⁶. However, the law aims to harmonize and protect the norms, customs, and religion of the population it governs. This can be understood through the words of Serge Raynal and his colleague "The apology of a single way of thinking, corresponding to one's own culture, leads to communitarianism and the marginalization of individuals"¹⁰⁷.

¹⁰⁵ Schiff, 'SOCIO-LEGAL THEORY', 2.

¹⁰⁶ Raynal and Ferguson, 'L'intégration', 10,11.

¹⁰⁷ Raynal and Ferguson, 25.

Implementing the approach of flexibility and adaptability for the Ivorian legislator in its civil code could have a positive impact on rural areas, where traditional authorities and customary and religious laws are more widespread¹⁰⁸, a pluralistic system can ensure that local practices are confirmed while maintaining a link with the national legal framework. As we can observe in Indonesia where "Muslim marriages are also registered with another office (the Bureau of Religious Affairs (KUA)) that marriages based on other religions and non-Muslim marriages are registered with the civil registry offices (Kantor Catatan Sipil)" ¹⁰⁹. Likewise, in Senegal, the same procedures are observed "The celebrated marriage is the marriage passed directly before the civil registrar. It obeys a certain formalism. The civil registrar asks the spouses various questions, including their agreement to the marriage, the husband's option of monogamy or polygamy, and the matrimonial regime chosen. Customary marriage must be established when the spouses obey a certain matrimonial custom in use in Senegal. The marriage is celebrated directly by the customary or religious authority (e.g. imam or priest), but the civil registrar or his representative attends in the presence of the two respective adult witnesses of each of the spouses"¹¹⁰ This double recognition can help to reduce tensions between the state authorities and local leaders, promoting a more harmonious legal environment. However, this pluralistic approach can create challenges in terms of the coherence of jurisdictions within the same administration. we will elucidate this ambiguity in the next point.

3.2.C. Challenges of legal coherence and administration

Despite its potential benefits, a pluralistic family law system also faces significant challenges, particularly concerning legal coherence and administration. One of the main concerns is the potential for conflicts between different legal systems. In a pluralistic setting, disputes may arise when customary laws contradict the laws of States or international human rights standards. These conflicts can create confusion and undermine the rule of law, as individuals may find it difficult to navigate between overlapping legal jurisdictions.

To address the challenges of legal coherence and administration in the application of a pluralistic legal system, the harmonization approach is often considered to be effective. Prinsloo defines it as follows: "Harmonization seeks to reduce friction between different legal

¹⁰⁸ Dibi and Langevin, 'The Non-Recognition of Customary and Religious Unions in the New Ivorian Family Law', 11.

¹⁰⁹ Bedner and Van Huis, 'Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia', 6.

¹¹⁰ 'Forced marriages in Senegal', n.d., 4.

systems while allowing them to coexist separately. For example, harmonizing customary marriage and civil marriage would mean treating them fairly, thus recognizing both forms of marriage as valid and protecting the rights of spouses and children"¹¹¹, this may involve the creation of a ministry of religious affairs or a competent structure in charge of religious affairs, as in Indonesia: "As early as 1946, The Indonesian government has established the Ministry of Religious Affairs (MORA), not only for the needs of the Muslim community but also for the needs of all the country's major religious communities"¹¹². The state could also set up a group of experts in religious jurisprudence and customary law to adjudicate on laws of a religious or traditional nature, as the Indonesian government does. Adriaan and his colleague explained, "The government has opted for a more inclusive approach to marriage reform, now involving Islamic jurists in the legislative process, thus avoiding public controversies and taking into account the perspectives of Islamic scholars earlier in the process"¹¹³. Thus, Ivory Coast could draw inspiration from these examples to develop a pluralistic legal system that integrates all religious and traditional structures.

Administrative challenges are a major obstacle. The establishment of a pluralistic legal system requires a competent judiciary capable of interpreting and applying various laws, such as conventional, customary, and religious. This required extensive training and resources, which was perceived as difficult at the time of Ivory Coast's independence. Today, with adequate infrastructure and experts in modern jurisdiction, Islamic jurisprudence, and customary law, Ivory Coast can ensure that judges and legal professionals are prepared to handle the complexities of a pluralistic system, which could be effective in overcoming logistical and infrastructural challenges.

3.2.D. Impact on human rights and gender equality

Another critical aspect to consider is the impact of a pluralistic family law system on human rights and gender equality. Customary and religious laws often include practices that may conflict with international human rights standards, particularly regarding women's rights and equality. For example, practices such as polygamy are considered as a kind of disparity of rights between the man who has the right to several wives in the sense of marriage of

¹¹¹ MW Prinsloo, 'Pluralism or Unification in Family Law in South Africa', 1990, 2.

¹¹² Siyafaq Hashim and Noor Shahreel 7, *Indonesia's Ministry of Religious Affairs under Joko Widodo* (ISEAS–Yusof Ishak Institute Singapore, 2020), 10, <https://doi.org/10.1355/9789814951241>.

¹¹³ Bedner and Van Huis, 'Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia', 6.

Muslim religion and African tradition¹¹⁴, whose inheritance rules are considered discriminatory as Oluwakemi D. Udoh and colleagues assert by saying "Several factors have been linked to the violation of women's property rights. Some scholars argue that patriarchal systems and institutions are the root causes of the denial and discrimination women face concerning their property and inheritance rights. Others argue that religion, customs, and traditions play an important role in the violation of women's rights, an impact that cannot be overstated"¹¹⁵ and unequal treatment in marriage and divorce can weaken efforts to promote gender equality and protect the rights of women and children.

According to Article 31 of the 2019 Ivorian Constitution "The family is the basic entity of society. The State ensures its protection. Parental authority is exercised by the parents"¹¹⁶. However, this protection of the State would only be fully effective for marriages celebrated before an officer of the court. Indeed, the Ivorian Civil Code of the Family clearly stipulates in chapter 4, articles 13 and 14, that: " The marriage must be celebrated by a civil registrar, therefore, only a marriage celebrated by a civil registrar has legal effects"¹¹⁷. Consequently, these articles mean that religious and customary marriages, which are often important in Ivorian culture and society, do not enjoy the same legal recognition and protection as civil marriages. As a result, religious and customary unions are excluded from State protection. This makes them potentially vulnerable to various abuses of rights, as spouses in such marriages do not enjoy the same legal guarantees in terms of matrimonial rights, property, inheritance, and protection against abuse. This situation creates a disparity in treatment between the different types of marriage, highlighting a major challenge for the inclusion and protection of all forms of families in the Ivorian legal framework.

In rural and urban areas of Ivory Coast, religious and customary marriages are on the rise. A study conducted by Aude Dibi and her colleague, based on data from the RGPH 2014, reveals that "79.1% of Ivorian couples are married according to customary and religious rules. Although precise data are lacking for rural areas, the strong presence of customary and

¹¹⁴ Margherita Picchi, 'Muslim Marriage and Contemporary Challenges', in *Handbook of Contemporary Islam and Muslim Lives*, ed. Ronald Lukens-Bull and Mark Woodward (Cham: Springer International Publishing, 2020), 3, https://doi.org/10.1007/978-3-319-73653-2_55-1; Eliette Abitbol, 'The Conjugal Family and the New Law of Marriage in Côte d'Ivoire', *Journal of African Law* 10, no. 03 (September 1966): 14, <https://doi.org/10.1017/S0021855300002424>.

¹¹⁵ Oluwakemi D. Udoh, Sheriff F. Folarin, and Victor A. Isumonah, 'The Influence of Religion and Culture on Women's Rights to Property in Nigeria', ed. Emmanuel O Amoo, *Cogent Arts & Humanities* 7, no. 1 (1 January 2020): 4, <https://doi.org/10.1080/23311983.2020.1750244>.

¹¹⁶ 'Constitution_2016.Pdf', 7.

¹¹⁷ 'Loi_2019-570_sur_le_mariage.Pdf', 2.

religious institutions in these areas suggests that the rate of such marriages is even higher"

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Despite their prevalence, these marriages do not enjoy the legal protection afforded to civil marriages. This situation exposes couples, especially women and children, to various abuses of rights and deprives many couples of the legal security they need. Customary and religious structures, although important for social cohesion, remain on the margins of the official legal framework.

Given this reality, the Ivorian State must consider the establishment of a pluralistic legal system that recognizes and integrates all types of marriages into the Civil Family Code. Such integration would allow religious and customary marriages to enjoy the same legal recognition as civil marriages, thus ensuring equal protection for all citizens.

This pluralistic system would offer several advantages. First, it would guarantee official legal recognition of religious and customary marriages, ensuring full legal protection for the couples concerned. Secondly, religious and customary structures could benefit from legal assistance, facilitating better application of religious and customary laws while respecting national standards. In addition, by integrating these marriages into the legal framework, the state could better protect the rights of spouses, thus reducing the risk of abuse.

By collaborating with religious and customary institutions, the State could also obtain a more accurate picture of the situation of families, allowing targeted interventions to address the specific problems faced by these groups. This harmonization of laws would ensure that traditional practices respect fundamental rights, thus reducing legal conflicts.

By adopting a pluralistic approach, the Ivorian State could not only protect the rights of its citizens but also strengthen social cohesion by respecting the country's cultural diversity. Such a legislative reform would be a significant step toward a more inclusive and equitable society, where all forms of marriage are recognized and protected.

In conclusion, for meticulous management of marriages, divorces, and inheritances in religious and customary contexts, the Ivorian state and legislator could collaborate with traditional chiefs and religious guides to monitor and guarantee the application of the laws of

¹¹⁸ Dibi and Langevin, 'The Non-Recognition of Customary and Religious Unions in the New Ivorian Family Law', 11.

each institution. This integration will require a balance that respects religious and customary practices while safeguarding individual rights. The establishment of clear guidelines and control mechanisms is essential to prevent abuses in the distribution of family inheritances, under the chosen matrimonial regime and marriage ceremonies, celebrated according to the laws or customs. With the cooperation of the State and religious and traditional authorities, legal pluralism will promote justice and equality for all citizens.

3.2.E. Promoting social cohesion and national unity

Since the independence of Ivory Coast in 1960, the founding president Houphouët Boigny had a vision of unifying the Ivorian people, already rich in its cultural, religious, and traditional diversity, around a unique form of marriage. However, aware of the complexity of ethnic, cultural, and religious diversity, President Houphouët Boigny and "the Ivorian legislator preferred to resort to a radical solution"¹¹⁹ opposing all forms of customary and religious marriage, except for civil marriage officiated by a judicial officer, the only one legally recognized by Ivorian law¹²⁰.

A few years after the adoption of the new law on the Ivorian family, its shortcomings and inadequacy for Ivorians have become apparent. Chantal Vlèi-Yoroba explains that "Thus, the legislation that was supposed to ensure the promotion of the Ivorian family is proving to be ineffective fifteen years later and requires new reforms. This is the purpose of the reform of 2 August 1983, which complements or modifies the 1964 reform. The law of 2 August 1983 therefore intervened to fill the gaps in the first by taking into account the evolution of mentalities"¹²¹. This evolution, or rather this unacceptability, at least in practice, is manifested by an increase in customary and religious marriages and their persistence in Ivorian society. However, the adoption of a pluralistic legal system could also promote social cohesion and national unity.

National unity and social cohesion have been envisioned through the adoption of a pluralistic legal system in many countries, both in Africa and elsewhere in the world. This is manifested by the coexistence of several legal systems, languages, cultures, or forms of marriage. Yüksel Sezgin pointed out that "about 80% of the populations of developing

¹¹⁹ Abitbol, 'The Conjugal Family and the New Law of Marriage in Côte d'Ivoire', 13.

¹²⁰ Vlèi-Yoroba, 'Droit de la famille et réalités familiales', 2.

¹²¹ Yoroba, 4.

countries, especially in Asia and Africa, use informal or non-state legal systems, including traditional, tribal and religious jurisdictions"¹²². Thus, Ivory Coast could adopt these principles in the application of legal pluralism to strengthen the social cohesion of its population. However, after half a century of the unitary system, the population mainly turns to religious and customary marriages because of their religious or customary affiliation, and only resorts to legal marriage to obtain status in the company or public service and to have legal protection. From now on, with the recognition of all forms of marriage by the Ivorian legislator, the protection of the rights of all would become possible, and religious and customary marriages would no longer be used by some to escape the rigor of the law.

In conclusion, a pluralistic system aims to promote the coexistence of various legal systems according to the ethnic, religious, and cultural groups present in a society, however, it is essential to guarantee equal rights for all citizens. However, after decades of failure to implement a unitary legal system in its family code, Ivory Coast may consider adopting a pluralistic system in its civil family code to strengthen social cohesion and national unity. Indeed, the lifting of sanctions on dowry, a significant element of religious and customary marriages by the legislator in 2019, suggests a certain indulgence towards these forms of unions. This development, coupled with the influx of the population towards religious and customary marriages at a time when polygamy was prohibited and these marriages were not recognized, raises the question of the feasibility of a pluralist system in the Ivorian civil family code.

Conclusion

The current study addresses the theme “Religious, customary marriage and Legal Boundaries: Navigating Between Recognition and Effective Implementation in Ivorian Family Law” which assumes that 'Given the constitutional obligation of governments to protect and promote the well-being of their populations, why is the Ivorian government isolating a marriage system that is supposed to benefit its diverse population in a globalized era where laws and Are cultures adapted to respect human dignity?' To discover the causes of this exclusion, the following was addressed: "Why does Ivorian civil law not adopt a pluralist system in the construction of family law?" In order to be able to better understand this question given its complexity, several factors were examined, namely "The legacy of colonial

¹²² Yüksel Sezgin, 'Human Rights and Legal Pluralism Guest Editor: Yüksel Sezgin', n.d., 22.

domination, the need for national unity, the complexity of legal administration, and adherence to international human rights standards. In the analysis of these factors, we arrived at the following results:

However, it turned out that the colonial legacy and the quest for a uniform legal system have clearly contributed to the exclusion of religious and customary marriages from the civil family code in Ivory Coast. On the other hand, we have managed to prove that other former French colonies that gained their independence at the same time like the Ivory Coast and shared the same colonizer adopted a pluralist legal system. This choice has allowed these countries to unify their populations, avoid internal conflicts between the population and the state law, and give citizens the freedom to choose the type of marriage according to their religious and customary beliefs. Furthermore, the Ivorian legislator can be inspired and encouraged because of its population's ethnic groups and diverse religions to adopt a pluralist system in the Ivorian family law. In addition, the idea of unifying a nation of ethnic and religious diversity around a single, yet innovative form of marriage by founding president Houphouët Boigny and the Ivorian legislator in 1964, proved to be a failure in practice. The lack of popular buy-in and support from that time until today underscores the need for a more inclusive system. Due to a deficiency of infrastructure at the time of the independence of the newly independent countries and the tight of resources in the application of a pluralistic legal system, factors indicate that Ivory Coast would have opted for a uniform legal system of its civil and family status, unlike other countries from the French colony which, despite a feeble of infrastructure or jurisdictional structure at the time of their independence, in 1960, chose to take the path of plurality in the civil code of their newly independent countries. Unlike, Ivory Coast, in similar or perhaps better conditions, did not opt for pluralism in its civil code, neither then nor now. Due to aligning itself with the principles established by France as demonstrated by the Declaration of the Human Rights and the Citizen of 1789, Ivory Coast aspires to harmonize its laws and rights with those established by France. Meanwhile, the 2019 legislation maintains these basic principles while introducing flexibility concerning customs and religions.

To sum up, the impossibility of adopting a pluralistic system or the non-integration of religious and customary marriages into the construction of family law in Ivory Coast can be attributed to a combination of historical, political, administrative, and social factors. The legacy of colonial rule, the need for national unity, the complexity of legal administration, adherence to international human rights standards, and evolving societal norms all contribute

to the preference for a uniform civil law system, while this approach aims to ensure equality and cohesion, it also highlights the ongoing tension between the preservation of cultural and religious diversity by the population and the preservation of cultural and religious diversity. promotion of a unified national legal identity.

However, the integration of a pluralistic system into the Ivorian family code could better reflect the cultural and social realities of the country. Nevertheless, this requires significant administrative and judicial reform to overcome the challenges and ensure that all citizens enjoy the same protections and rights, regardless of the nature of their union. To this end, the lifting of the sanction against the practice of dowry in the Ivorian Civil Code could indicate a desire to adopt a pluralist system

This leads us to the conclusion that admitting the influence of France on its former colonies, however, with the political will and influence of a certain non-governmental organization, association in the country, and above all the influence of the custom, religion, and culture of the population, may be considerable factors in the integration of their forms of marriage into their marriage code.

In the same perception of this study, the second hypothesis assumed that "Despite the presence of researchers, politicians, and jurists from various religious and ethnic backgrounds in the country, why is there a lack of advocacy for the reform of marriage law in the Ivorian Constitution?" and to try to shed more light on this hypothesis and see to what extent this integration could be envisaged that this question has been addressed. Could a pluralistic and harmonized system be effective in the family law of Ivory Coast?" To better understand this issue given its complexity, several factors were examined, including Cultural Relevance and Inclusiveness, Flexibility and Adaptability of the Constitution, Challenges of Legal Coherence and Administration, Impact on Human Rights and Gender Equality, Promoting Social Cohesion and National Unity. In the course of analyzing these potential points that we have taken into account when applying a pluralistic legal system in the context of Ivory Coast, we have come to the following conclusions:

The study revealed that many Ivorians continue to attach considerable importance and undeniable respect to the practices of traditional and religious norms in their marriages and family affairs, as demonstrated by the percentage of the number of religious and customary marriages compared to civil marriages since the application of this Civil Family Code until the present day. Therefore, a legal system that recognizes these practices can bridge the gap

between formal state law and customary norms, ensuring that legal judgments are considered fair and reflect community values. This could strengthen compliance with the law and reduce conflicts resulting from the imposition of a uniform legal framework that may not resonate with all segments of society.

To ensure that this is done in the best possible way, an approach of flexibility and adaptability by the Ivorian legislator in its civil code to the situation and needs of its population could have a positive impact on rural areas, where traditional authorities and customary and religious laws are more widespread.

As a result, recognizing that administrative challenges are a major obstacle. The establishment of a pluralistic legal system requires a competent judiciary capable of interpreting and applying various customary and religious laws. This required extensive training and resources, which was perceived as difficult at the time of Ivory Coast's independence. Today, with adequate infrastructure and experts in modern jurisdiction, Islamic jurisprudence, and customary law, Ivory Coast can ensure that judges and legal professionals are prepared to manage the complexities of a pluralistic system by collaborating with religious leaders and customary chiefs, which could be effective in overcoming logistical and infrastructural challenges. In addition, for meticulous management of marriages, divorces, and inheritances in religious and customary contexts, the Ivorian state and legislator could collaborate with traditional chiefs and religious leaders to monitor and ensure the application of each institution's laws. This integration will require a balance that respects religious and customary practices while safeguarding individual rights. The establishment of clear guidelines and control mechanisms is essential to prevent abuses in the distribution of family inheritances, under the chosen matrimonial regime and marriage ceremonies, celebrated according to religions or customs. With the cooperation of the State and religious and traditional authorities, legal pluralism will promote justice and equality for all citizens.

In brief, a pluralistic system aimed at promoting the coexistence of various legal systems according to the ethnic, religious, and cultural groups present in a society is essential to guarantee equal rights for all citizens. However, after decades of failure to implement a unitary legal system in its family code, Ivory Coast may consider adopting a pluralistic system in its civil family code to strengthen social cohesion and national unity. Indeed, the lifting of sanctions on dowry, a significant element of religious and customary marriages by the legislator in 2019, suggests a certain indulgence towards these forms of unions. This

development, coupled with the influx of the population towards religious and customary marriages at a time when polygamy was prohibited and these marriages were not recognized, raises the question of the feasibility of a pluralist system in the Ivorian civil family code.

CHAPTER FOUR

Persistence Despite a State of Non-Recognition

Since its independence, Ivory Coast has excluded from the Family Civil Code forms of marriage such as customary marriage and religious marriage, which were deeply rooted in the daily lives of Ivorians¹²³, in the face of the incompatibility of this new law with the ethnic, religious, and traditional diversity of citizens, reactions have been manifested since its initial adoption and persist to this day¹²⁴. In addition, as part of this study, interviews with various religious and traditional organizations and associations of the Ivorian population were conducted to understand the reasons for the persistence of religious and customary marriages after so many years of exclusion, to do a thorough study of the current situation to better have a clear view of the ongoing situation, and most importantly to know the strategies and action-plans put in place and the perspectives of Ivorian religious and customary structures regarding the non-recognition of their marriages so that the State can change the dynamic of the trajectory of this situation.

To understand the current situation of Ivorians in the face of the non-recognition of these marriages by the State in the civil code, questions were investigated according to the interest of the researcher in the context of this study, and to get some answers, various associations and structures were consulted to answer precise questions, and the results obtained will be discussed in this chapter.

4.1. Resistance to the incompatibility of the family law in Ivory Coast

According to socio-legal theory, the purpose of the law is to restore balance in a society. The analysis of the law is closely linked to the analysis of the social situation to which it applies and must be considered from this perspective taking into account the role that the law plays in the creation, maintenance and/or change of this situation¹²⁵, through this perspective, when

¹²³ Chantal Vlěi-Yoroba, 'Droit de la famille et réalités familiales : le cas de la Côte d'Ivoire depuis l'indépendance', *Clio*, no. 6 (1 November 1997): 4, <https://doi.org/10.4000/cli0.383>.

¹²⁴ Dibi and Langevin, 'La non-reconnaissance des unions coutumières et religieuses dans le nouveau droit de la famille ivoirien', 11.

¹²⁵ Schiff, 'SOCIO-LEGAL THEORY', 2.

the law is not compatible with the situation in which it applies, some reactions will be generated against that law. In the context of this study, I have come to the discovery that Ivorians since the independence of Ivory Coast, and from the first years of the introduction of this new law relating to the construction of the Ivorian family, have been in perpetual conflict with this law, as the interview shows us, and this discovery is consistent with the assertions of Chantal Vlěi-Yoroba's research who believes that "Thus, The legislation that was supposed to ensure the promotion of the Ivorian family is proving ineffective fifteen years later and requires further reforms. This is the purpose of the reform of 2 August 1983, which complements or modifies the 1964 reform"¹²⁶.

However, this resistance was not made out of ignorance of the laws and sanctions against the dowry the symbolic component of these forms of marriage by the Ivorian people, but rather out of conviction in the religion and traditions that existed long before the arrival of the colonizers on Ivorian soil.

Since the independence of Ivory Coast, religious and customary marriages have not been officially recognized in the civil family code. This reality is well-known and fully disapproved of by religious and customary associations. During my interview, I was able to observe a great deal of knowledge and very relevant details of this situation, especially among Muslim and Christian religious leaders.

For example, the secretary general of the Higher Council of Imams, Mosques and Islamic Affairs (COSIM) of the NAWA region, Soubré section, said that since independence, religious and customary marriages in Ivory Coast have not enjoyed any official recognition. Religious and customary structures are perfectly aware of this, and the majority of Ivorians who celebrate these unions do so by personal choice or by religious or traditional conviction, without being able to obtain civil status documents. Without official documentation, they have no legal proof of their marital status in the event of a dispute, as these marriages are based solely on verbal agreements between the parties involved¹²⁷.

It should be noted that this nonexistence of official recognition of religious and customary marriages is widely shared in Ivorian society. Statements collected from a member of the Supreme Council of Imams, Sunni Organizations and Structures (CODISS), as well as

¹²⁶ Chantal Vlěi-Yoroba, 'Family Law and Family Realities: The Case of Côte d'Ivoire since Independence', *Clio*, no. 6 (1 November 1997): 4, <https://doi.org/10.4000/clio.383>.

¹²⁷ interview 2, Interview with a Male, Muslim, Soubré, secretary general of the Supreme Council of Imams, Mosques and Islamic Affairs (COSIM) NAWA region, 5 June 2024.

members of the Assemblies of God churches in Ivory Coast, clearly show that the country's religious and customary structures have a solid knowledge of the status of religious and customary marriages and the implications of this non-recognition¹²⁸. As stated by Sansan Ignaté Hien, "Marriage is a common destiny, allowing a community to ensure its survival and preserve its cultural heritage, namely the language spoken, the belief and many other cultural values"¹²⁹, as if to affirm that this knowledge of Ivorians would not have been a factor in diverting this attachment of the Ivorians to his religion and his custom to the detriment of a so-called foreign law that did not converge with their religious beliefs and customary values.

In addition, concerning the reasons for the non-recognition of religious and customary marriages in the Ivorian Civil Family Code, opinions are varied, and several factors are put forward by the participants. One of the main arguments is the project to unify Ivorians around a single form of marriage, inspired by the founding president of Ivory Coast, Houphouët Boigny.

During the interview, it was confirmed that ethnic diversity plays a central role in the way marriages are celebrated in Côte d'Ivoire. Each ethnic group, such as the Djoula and the Baoulé, has its traditions and customs for wedding ceremonies. Similarly, the different religions, whether Muslim or Christian, have their nuptial rites. This diversity makes the situation complex.

However, civil marriage offers a unifying solution. By establishing civil marriage as the only official form of marriage, the state sought to standardize and simplify the process for all citizens, regardless of their ethnic or religious background. Thus, civil marriage makes it possible to guarantee equality between those who follow various traditions, establishing a common and legitimate standard for the entire population. This approach aims to create social cohesion by avoiding potential disparities and conflicts related to different marriage practices¹³⁰.

¹²⁸ interview 1, Interview with a male, Muslim member of the executive office of CODISS (Supreme Council of Sunni Imams, Organizations and Structures) of the commune of Attécoubé, office of Education and culture., 5 June 2024; interview 4, Interview with a female, Christian, Abidjan, the Church of the Assembly of God, of the Riviera2 Anono, supervises women in married on marriage life., 15 June 2024.

¹²⁹ Sansan Ignaté Hien, 'THE DOWRY OF THE LOBI WOMAN IN A RAPIDLY CHANGING SOCIETY', 2021, 1.

¹³⁰ interview 1, Interview with a male, Muslim member of the executive office of CODISS (Supreme Council of Sunni Imams, Organizations and Structures) of the commune of Attécoubé, office of Education and culture.

Moreover, it appears that the underlying reason for this non-recognition lies in the constitutional heritage of Ivory Coast, strongly influenced by the French constitution. This legacy is the result of agreements between France and its former colonies, including Ivory Coast. As a former colony, Ivory Coast cannot change this aspect of its constitution without France's agreement.

This constitutional dependence also explains why polygamy is not accepted in Ivory Coast. The Ivorian constitution remains under the control of France, thus limiting Ivory Coast's independence in the management of its laws.

This situation complicates the efforts of the population, religious leaders, and customary leaders to integrate religious and customary marriages into the Ivorian civil code. Although the Ivorian government often tries to calm tensions with reassuring rhetoric, it cannot make big changes without France's approval. This double constraint, namely the French constitutional heritage and the necessary agreement of France, are the main reasons why Ivory Coast cannot integrate religious and customary marriages into its civil code¹³¹.

For decades, the Ivorian people have faced this evidence: the non-recognition of religious and customary marriages in the Ivorian civil family code stems from this constitutional heritage of France, as well as from the idea of the founding president of Ivory Coast, Félix Houphouët-Boigny, to unify the country's various ethnicities and religions around a single form of marriage¹³². This aligns with the observations of Abd-el Kader Boy and colleagues, who assert that "During the second half of the nineteenth century, France colonized most of sub-Saharan West Africa and introduced French civil law into the Federation of its colonies that became French West Africa"¹³³. This restriction on religious and customary marriages persists today.

After becoming aware of the situation and noting the inadequacy of Ivorian law with the practices of the population, the enthusiasm of Ivorians for their traditional unions continued to grow. Despite the legal prohibitions against dowry, a symbolic element of these unions, and the non-recognition of religious and customary marriages in the Ivorian civil code, a

¹³¹ interview 2, Interview with a Male, Muslim, Soubré, secretary general of the Supreme Council of Imams, Mosques and Islamic Affairs (COSIM) NAWA region.

¹³² Vléri-Yoroba, 'Droit de la famille et réalités familiales', 1 November 1997, 2.

¹³³ Boye et al., 'Marriage Law and Practice in the Sahel', 2.

feeling of frustration has set in among the population. In response, a silent but determined resistance emerged.

Since 1964, when the State adopted its laws, the religions, customs, and traditions of Ivoirians existed long before. Religious doctrine and deep attachment to traditions are rooted in the hearts of Ivoirians, making it impossible to abandon these beliefs. For many of the faithful, abandoning these customs and traditions is tantamount to a form of spiritual death.

The fact that the country does not officially recognize these marriages does not mean that Ivoirians should give up their religious, customary, and traditional practices. All the laws recognized today have, at some point, been in a situation of non-recognition. They were recognized because their followers were deeply committed to them, as were Western laws that began by being unrecognized. If the State perceives a disengagement on the part of Ivoirians from these practices, it will not pay particular attention to them, thus making the fight for the recognition of these marriages fruitless.

The traditions, customs, and religions of Ivoirians are engraved in their memory long before the forced introduction of Western laws. They cannot abandon "the fish that is already in their hands because of the fish that is under their feet". The Ivorian Civil Code, although a novelty, has found customs, traditions, and religions already established. This cannot prevent Ivoirians from continuing their practices¹³⁴.

And this is manifested by the multiplication and increase of religious and customary marriages in Ivorian society, especially the religious among them, do not envisage marriage without a religious celebration in front of the religious guides, and for the traditionalists, a whole process had to be applied at the traditional level so that the consideration of marriage was established and respect for the bride and groom was effective in society. This could have been another major factor in the increase in the rate of religious and customary marriages in society and among the Ivorian population, as we can see through different religions and traditions

For the Imam, as a religious guide, he feels a moral weight when he decides not to officiate a religious wedding. For him, the choice of a celebration in a mosque, with prayers led by an Imam, represents an authentic and complete celebration for the Muslim. On the other hand, if

¹³⁴ interview 2, Interview with a Male, Muslim, Soubré, secretary general of the Supreme Council of Imams, Mosques and Islamic Affairs (COSIM) NAWA region.

the marriage is not celebrated in the mosque, the Muslim may perceive that his union is not fully following the religious and traditional practices that are dear to him¹³⁵.

However, in some cultures, failure to respect religious or customary rites of marriage is considered a source of shame and dishonor. Anyone who decides to circumvent these practices can be seen as someone who dishonors their family and social circle. If, despite this, he chooses to remarry, society will judge him harshly, reminding him that he has not fulfilled his obligations to his first wife according to religious and customary norms. This non-compliance is perceived as a serious act of dishonor that affects not only the individual but also his or her family as a whole¹³⁶.

For Christians, marriage has a sacred dimension and must always include the presence of God. It is crucial to avoid any separation between marriage and divine spirituality. Thus, those who choose to marry must understand that marriage is not simply a social institution like work, but rather a sacred commitment where two people become the foundations of society. It is therefore essential that they realize that marriage is not about satisfying others, but about honoring a divine principle. According to this perspective, the marital union engenders procreation, thus contributing to the formation and sustainability of society. For this person, it is a fundamental and non-negotiable principle¹³⁷.

These statements are in line with the statistics of the research conducted by Aude Dibi and Louise Langevin which shows that "Despite this prohibition, almost all marital unions are now preceded by the payment of the dowry or by religious celebrations but do not necessarily lead to a civil celebration. It should be recalled that it is estimated that 79.1 percent of Ivorian couples are married following customary and religious rules"¹³⁸.

¹³⁵ interview 1, Interview with a male, Muslim member of the executive office of CODISS (Supreme Council of Sunni Imams, Organizations and Structures) of the commune of Attécoubé, office of Education and culture.

¹³⁶ interview 2, Interview with a Male, Muslim, Soubré, secretary general of the Supreme Council of Imams, Mosques and Islamic Affairs (COSIM) NAWA region.

¹³⁷ interview 4, Interview with a female, Christian, Abidjan, the Church of the Assembly of God, of the Riviera2 Anono, supervises women in married on marriage life.

¹³⁸ Dibi and Langevin, 'La non-reconnaissance des unions coutumières et religieuses dans le nouveau droit de la famille ivoirien', 11.

4.2. Strategy to compel the authorities to recognize their practices

Serge Raynal says "Values and norms represent the beliefs of different groups within a society"¹³⁹. Therefore, for the recognition of these norms, when they are omitted in society by a state, it becomes one of depression and discontent for the adherents of these norms and the reactions are generated for the change of this situation.

The desire for change has been felt by the Ivorian people since the first moment when religious and customary marriages were excluded from the Ivorian civil code of the family in 1964, this has been manifested by the increase in the number of these marriages to the detriment of civil marriage that people engage in them only out of professional interest, After decades, in this situation that does not change, some structures have put in place a strategy in order to have a kind of pressure on the Ivorian legislator who can revisit these family laws.

The Supreme Council of Imams, Mosques, and Islamic Affairs (COSIM) has developed a strategy of moral pressure on the Ivorian government. By performing many Muslim marriages across the country and distributing and registering their marriage certificates, they sought to create an impact. At the end of each year, COSIM takes stock of these marriages and transmits this data to the relevant ministry. For example, in 2019, more than 2000 marriages were registered. Year after year, by adding up these figures and advocating with the government, COSIM hopes to obtain a positive result. They firmly believe that if they become discouraged, the government will not pay attention to their grievances.

This perseverance has already paid off. In 2019, a significant step forward was made with the decriminalization of dowry, which had been considered a criminal crime since 1964. This decision represents a major step forward, as dowry is a common practice in customary and religious marriages in the Ivory Coast. Penalizing this practice could have caused considerable damage, given the population's attachment to its religion, culture, and traditions. Thus, the State has decided to lift the sanction on the dowry, preferring to let conflicts related to customary or religious marriages be settled within the communities concerned. Since 2012, COSIM has been exerting this moral pressure on the government, in the hope that one day

¹³⁹ Raynal and Ferguson, 'L'intégration', 15.

their efforts will be rewarded and that the state will reconsider the recognition of religious and customary marriages in the Ivorian civil code¹⁴⁰.

This augmentation of religious marriages is currently being used as a strategy by religious and customary structures to exert emotional pressure on the Ivorian legislature and the state. The aim would be to encourage the state and the Ivorian legislation to recognize these marriages, given the high number of people who adhere to these practices, as confirmed by the participants in this interview. This pressure may have been a factor in the removal in 2019 of the penalty on dowry, a symbolic element of religious and customary marriages. This goes in the same way what Aude Dibi and Louise Langevin attest to in their article with these words: "The persistence of this practice will lead the legislator of 2019 to make an about-face by adopting a mixed posture"¹⁴¹.

Through this certificate, we can clearly understand that this law is really inadequate to Ivorian society, which desires and inspires a change in the situation and new reforms can be envisaged by the Ivorian legislator, as was the case with the legislator of 1983 who, realizing that the family law adopted by the legislator of 1964 was not appropriate to the situation of the population considering the reform of 1983 Some authors describe this 1983 legislative reform as an awareness of the incompatibility of this law with the practices of the population¹⁴².

4.3. Religious and customary structures in the quest for recognition of their marriages

The objective of each association and structure is to promote the well-being of its members and to carry out various initiatives in their favor in their environment or host country. It is in this perspective that, during the interview with these religious and customary structures and associations in Ivory Coast, I was able to feel an ardent desire and a strong aspiration for the recognition of their marriages.

Since the independence of Ivory Coast, these marriages have remained marginalized, without official recognition by the legislator, to compensate for this lack of recognition, these

¹⁴⁰ interview 2, Interview with a Male, Muslim, Soubré, secretary general of the Supreme Council of Imams, Mosques and Islamic Affairs (COSIM) NAWA region.

¹⁴¹ Dibi and Langevin, 'La non-reconnaissance des unions coutumières et religieuses dans le nouveau droit de la famille ivoirien', 11.

¹⁴² Vléri-Yoroba, 'Droit de la famille et réalités familiales', 1 November 1997, 4.

religious and customary structures have set up marriage certificates and booklets that they issue to the bride and groom during the ceremonies. Although these documents do not grant legal recognition under Ivorian law, they serve as symbolic evidence within the community and are even used to attract the attention of the country's competent authorities. This initiative demonstrates the tenacity and determination of these associations to obtain official recognition.

Since the arrival of the late Sheikh Aboubacar Fofana as a religious guide of Muslims in 2007, we held our first congress in the same year. During this congress, Cheik Fofana presented his major projects and strategies for the Muslim community, including the recognition of religious marriages in the Ivory Coast, polygamy, and other important issues for our community. These questions were drafted in the form of grievances and addressed to the State.

At the 2012 congress, we were told that some of the points raised in 2007 had been resolved, although a large part remains to be done, in particular the non-recognition of religious marriages. Since 2012, among the progress made by COSIM is the creation of a marriage certificate and booklet for Muslims getting married in the mosque. The Sheikh informed us that our votes had reached the President of the Republic and that the Muslim marriage certificate had been submitted to the competent authorities. However, due to the agreement between Ivory Coast and France, it is difficult for the government to officially accept this marriage certificate.

COSIM has therefore implemented a strategy of moral pressure on the government by celebrating many Muslim marriages across the country, and distributing and registering our marriage certificates. At the end of each year, we report on these marriages to the relevant ministry via the COSIM office. For example, in 2019, more than 2000 marriages were registered. By adding up these numbers year after year and advocating with the government, we hope to achieve a positive result one day¹⁴³.

Other means are deployed in this direction, as can be seen with this member of COSIM who explains more about COSIM's vision and says, our approach aims to obtain the recognition of religious marriages in the years to come. To this end, COSIM has made

¹⁴³ interview 2, Interview with a Male, Muslim, Soubré, secretary general of the Supreme Council of Imams, Mosques and Islamic Affairs (COSIM) NAWA region.

available to the various mosques and Muslim communities a marriage certificate and a marriage booklet, which are issued immediately to the bride and groom.

It is important to understand that before reaching this stage, religious marriage in Côte d'Ivoire was often perceived as a forced marriage. Traditionally, the bride and groom did not show up at the mosque or the places of celebration. Religious marriages were therefore perceived as unions in which the woman had no say, often being married without her consent and at an age of less than 18. To change this perception, COSIM instructed the Imams to ensure that the bride and groom were present at the wedding venue. The bride can stay among the women and the groom among the men, or both can be placed in a place where they are visible, thus allowing them to be directly asked about their consent to this union. This measure aims to eliminate the perception of forced marriage.

In addition, the marriage certificate and booklet mentioned above are now systematically issued at weddings celebrated in mosques and Muslim communities. Today, there is no marriage celebrated in our mosques without this certificate. Even when couples then go to the town hall for a civil wedding, they take this certificate and booklet issued by COSIM. Many authorities, whose names we will not mention, also follow this practice.

Regarding the communication around the recognition of the celebration of religious marriages, I remember that last year (2023), during the celebration of the Night of Destiny, a night attended by the President of the Republic, several members of the government and diplomats accredited to Côte d'Ivoire, Sheikh Aïma reiterated that the number of marriages and divorces managed by Imams often exceeds what is found in institutions Judicial. He stressed the importance of taking into account religious marriages in order to be able to respond favorably to requests and provide relevant solutions to this reality. This declaration was solemnly made before all these authorities. This is the approach of COSIM to ensure that, in the years to come, religious marriages are recognized by the Ivorian Civil Code¹⁴⁴.

Moreover, it became clear that the issuance of these marriage certificates and booklets is perceived as a strategy to put pressure on the Ivorian legislator. By multiplying marriages and documenting each union, these structures hope to attract enough attention for their practices to finally be recognized. This movement has already had an impact, as evidenced by

¹⁴⁴ interview 3, interview with a male, Muslim, Abidjan, member of the national executive office of the Supreme Council of Imams, Mosques and Islamic Affairs (COSIM), 11 June 2024.

the abolition in 2019 of the sanction on the dowry, a symbolic element in religious and customary marriages.

Thus, following this interview, I concluded that the combined efforts of these religious and customary structures in the country have made it possible for the authorities to reconsider some of their positions. By maintaining constant pressure and continuing to promote and document their marriages, these religious and customary structures hope to obtain complete legal recognition of their practices in the Ivorian civil code, thus ensuring the well-being and respect of the rights of their members. This result aligns with the idea put forward by Syafiq Hasyim and Norshahril Saat, speaking of religious structures and associations in Indonesia, and the influence they have had on the Indonesian government, which has led to the creation of a Ministry of Religious Affairs in the country, by these words: "In response to the intense competition and mediation between these powerful entities, the Indonesian government has established the Ministry of Religious Affairs (MORA). This ministry was designed to manage and oversee the country's religious issues, ensuring that diverse Islamic perspectives could coexist within a unified framework"¹⁴⁵.

In addition, to exert a meaningful and beneficial influence on the authorities, religious and traditional institutions must not only equip themselves with the necessary resources but also must be united to make a common voice heard and lead shared struggles.

However, religious leaders must join forces. We must put aside our personal interests and work together for the common good. Religious structures such as COSIM, CODISS, CHERIFLA, and IQRA must work together. If each structure acts independently, our efforts will be in vain because of the personal interests at stake.

It is therefore essential to unite under a single entity, whether COSIM or CODISS, to establish a unified document and to collaborate. Christians can also follow this approach. If the authorities receive disorderly solicitations from the customary and religious, it will only complicate things. By aligning our efforts and consolidating our documents, we will be on the right track. With this spirit of collaboration, we are confident that our efforts will be successful¹⁴⁶. This idea is clearly illustrated by Jeanne Maddox Toungara when she talks

¹⁴⁵ Syafiq Hasyim and Norshahril Saat *Indonesia's Ministry of Religious Affairs under Joko Widodo* (ISEAS–Yusof Ishak Institute Singapore, 2020), 5, <https://doi.org/10.1355/9789814951241>.

¹⁴⁶ interview 1, Interview with a male, Muslim member of the executive office of CODISS (Supreme Council of Sunni Imams, Organizations and Structures) of the commune of Attécoubé, office of Education and culture.

about the Ivorian Women's Association (AFI) and states "The willingness of a small group of educated Akan women's professionals to obtain a number of amendments to the first civil code of the first independence has resulted in the creation of a new image of the Ivorian family for the nation as a whole"¹⁴⁷.

This perspective is perfectly in line with what is said about another women's association that has greatly influenced the social and political sphere of their country. Judy Scales-Trent highlights the tremendous impact of the Association of Senegalese Jurists (AJS), stating: "The Association of Senegalese Jurists (AJS) is a small group of well-educated women in a developing country, who have been working since 1974 to improve the lives of women in Senegal. They have succeeded in putting women's issues on the political agenda and persuading the State to protect women's rights. Through speeches, meetings, media, publications, and free legal advice, the AJS has had a significant impact on discussions on women's rights and contributed to the revision of the Family Code in 1989, changing restrictive rules. Their work has been so influential that other human rights groups are seeking their assistance, and the Minister for Women has acknowledged that the Ministry's progress depends on the support of the AJS"¹⁴⁸.

Conclusion

This research is based on the hypothesis that "given the presence of scientific researchers, politicians, and lawyers of all religious and ethnic backgrounds in the country, one wonders why they would not advocate for a reform of the marriage law in the Ivorian constitution". To provide some answers, the researcher deemed it necessary to conduct this interview on the question "What strategies have been adopted by the religious institutes and customary practitioners to change the paradigm of this trajectory?" and the results of this interview I managed to discover several realities in Ivorian society.

Since Ivory Coast's independence, the phenomenon of non-recognition of religious and customary marriages has had a profound impact on the proponents of these practices. This situation drives them to go against the established law, provoking various reactions within Ivorian society. Intrigued by this dynamic, the researcher interviewed to better

¹⁴⁷ Toungara, 'Inventing the African Family', 19.

¹⁴⁸ Scales-Trent, 'Women Lawyers, Women's Rights in Senegal', 27.

understand the psychological state of the population in the face of this rejection that has persisted for decades.

The interview aimed to collect testimonies on the current situation, to know whether initiatives are being taken to change this situation such as strategies, or action plans, and the perceptions of Ivorian religious and customary structures regarding the non-recognition of their marriages by the State.

The results of this survey revealed feelings of frustration, injustice, and hopelessness among respondents. Many participants expressed a deep desire to see this situation change, emphasizing the importance of their culture and beliefs in their daily lives. They shared their experiences of living marriages that, although completely recognized by their communities, remain ignored by the official legal system.

These testimonies show that the non-legal recognition of these marriages is not simply an administrative issue, but a matter of cultural identity and respect for traditions. Respondents referred to the practical and emotional difficulties caused by this situation, such as the inability to assert their rights in matrimonial disputes, social marginalization in the eyes of legislators, and the feeling of being second-class citizens in their own country with the non-recognition of their marriages.

Looking at the data more closely, the researcher observed that the feeling of discrimination and marginalization felt by the affected communities, due to the non-recognition of religious and customary marriages by the state, could be a factor in civil disobedience to current laws. This hypothesis could be corroborated by the increase in religious and customary marriages compared to civil marriages.

The study also highlighted the initiative of various religious and customary associations and structures that are actively working to change this legislation. These organizations, precisely COSIM and CODISS, have set up marriage certificates and booklets for their members, an attempt at symbolic recognition which, although officially not recognized, is beginning to attract the attention of the competent authorities. The collective efforts of these groups are aimed at exerting moral pressure on the government to take into account the diversity of marriage practices in the Ivory Coast.

In conclusion, the results of this interview underline the presence of a collective effort in Ivorian society vis-à-vis this situation that has lasted for decades and the urgency would be

to reform the laws to better recognize and respect the diversity of marriage practices in Ivory Coast. However, the researcher emphasizes a need for these religious and customary structures to unify their voices and to set up a collective work in order to overcome this situation together. It is essential to guarantee the rights of people married according to their customs, traditions, and religions, and to promote inclusive legislation that truly reflects the cultural richness of the nation. This legal recognition would not only help to assuage frustrations and feelings of injustice but also strengthen social cohesion by affirming equality and respect for all Ivorian communities.

CHAPTER FIVE

CONCLUSION

The purpose of this concluding chapter is to synthesize the key findings of this study, assess the potential contribution of this research to the academic field, define the study's limitations, and make specific recommendations for future research.

5.1. conclusion

The objective of this research was to investigate the reasons for the non-integration of religious and customary marriages into the Ivorian civil code since its independence today. To explore why these marriages persist despite their non-legitimacy in the country of a unified legal structure of marriage, to examine the cultural and religious impacts on marriage practices in Ivory Coast, and to provide ideas and suggestions for formulating policies that promote social inclusion, cultural plurality and respect for human rights in the context of marriage, considering the possible application of a pluralistic legal system. However, to achieve these goals, a variety of data collection methods were used, an interview was conducted by using purposive sampling to select the participants from religious and customary structures, including analysis of administrative documents, newspapers, articles, and documents related to this study. After a thorough analysis, relevant results were found and will be classified into three parts.

First, since the independence of the Ivory Coast, religious and customary marriages have faced non-integration into the Ivorian civil code of the family, however, seeking to understand the factors and reasons related to this exclusion, the results of this research reveal that this non-recognition of religious and customary marriages are the result of a complex combination of historical factors such as the legacy of colonial domination that has left an imprint. The deep desire of the founding president of Ivory Coast Houphouët Boigny to unify the Ivorians around one form of marriage, the complexity of the legal administration, the fulfillment of international human rights standards, and the evolution of societal norms, have been and still are the reasons and factors that make Ivory Coast still not integrating a pluralist system in the Ivorian Family law. However, the study also reveals the inadequacy of this approach vis-à-vis a mixed population of religion and culture who are strongly attached to

their practices in the field of marriage, which demonstrates a persistent tension between preserving cultural and religious diversity by the population and promoting national legal identity by the State.

Second, exploring the probability of implementing a pluralistic legal system in the Ivorian civil family code, the study revealed that the application of a pluralistic legal system also presents considerable administrative challenges. The establishment of such a system would require a competent judiciary capable of interpreting and applying various customary and religious laws, a task that requires significant resources. At the time of independence, this seemed difficult to achieve. However, today, with adequate infrastructure and experts in modern jurisdiction, Islamic jurisprudence, and customary law, Ivory Coast would have the necessary means to train judges and legal professionals who will be able to manage the complexities of a pluralistic system. By working closely with religious and traditional leaders, the country could overcome logistical and infrastructural challenges in implementing a pluralist system of family law in Ivory Coast family law.

Finally, to understand the perceptions and reactions of the Ivorians to this situation, interviews were conducted with participants from different religious and customary structures. The results of these interviews underscore the urgent need for a reform of the Ivorian family law to better recognize and respect the diversity of marriage practices in the Ivory Coast. It is essential to guarantee the rights of people married according to their customs, traditions, and religions, and to promote inclusive legislation that truly reflects the cultural richness of the nation. Such legal recognition would not only help to appease frustrations and feelings of injustice but also to strengthen social cohesion by affirming equality and respect for all Ivorian communities.

In conclusion, since independence Ivory Coast has adopted a civil code that does not take into account the cultural, religious, and traditional diversity of its population, this situation has led to a mismatch between the laws of the State and the cultural, religious, and traditional practices of its population, however, this study proposes an alternative for the application of a pluralist legal system in the civil family code. However, the researcher is convinced that, with close cooperation between the State and religious and traditional authorities, legal pluralism could become a reality, thus promoting justice and equality for all citizens. Based on these results, the research will offer a broader view of the challenges and opportunities related to the integration of religious and customary marriages into the Ivorian

legal system, paving the way for a possible reform of the Ivorian Civil Code towards a more pluralistic and inclusive model.

5.2. Implication and importance of this study

This research highlights the significant impact on our historical and current understanding of religious and customary marriages in the Ivory Coast, which have long been completely excluded from the Ivorian civil family law. It offers an overview of the situation experienced by people engaged in these types of marriages and the strategies developed by these institutions to obtain the approval and integration of their marriages with the competent Ivorian authorities. The analysis of the data collected reveals a complex dynamic between customary norms, religious practices, and civil laws in Ivory Coast. The obstacles faced by couples married according to these traditions highlight the need for legal reform and official recognition of these unions within the Ivorian legal framework. The study highlights the importance of considering the diversity of marriage practices when formulating national family and legal policies.

5.3. Limitation of the study

While this study considers the possibility of the application of a pluralistic legal system in the Ivorian Civil Code of the Family, it must be admitted that it has its limitations. However, the research was written a perspective of Islamic study, through a historical and societal observation of the facts, moreover, an absolute coverage of the situation by a jurist in modern law especially Ivorian family law would bring more solutions to the effective application of the pluralist system in the Ivorian family law. However, it is crucial to emphasize that the integration of a pluralistic legal system into the Ivorian Civil Family Code must be approached with caution and diligence. A holistic approach, taking into account the cultural, religious, and ethnic specificities of Ivorian society, would be necessary to guarantee

its effectiveness and legitimacy. It is undeniable that diversity is an asset, but its management in the legal field requires in-depth reflection and a detailed understanding of the issues involved.

5.4. Recommendations

In this research, a qualitative approach was adopted, including interviews with some religious and customary institutions in Ivory Coast. For future research, researchers can consider applying mixed methodology research for recording religious and customary marriages in order to obtain accurate statistics. They could also conduct empirical research for an in-depth understanding, consulting not only with religious and customary institutions but also with the population. A comparative study between the Ivory Coast and other countries in the sub-region or the world would also be useful. This research will provide a comprehensive understanding of religious and customary marriages in the Ivory Coast, consequently which will help the relevant authorities in considering the application of a pluralistic legal system in the Ivorian civil family code.

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