

THE SENEGAL CASE STUDY

Abdou KHADRE LO

SUMMARY: I. *Introduction*. II. *Population (estimation in 2005)*. III. *Political views*. IV. *Political institutions evolution*. V. *Theoretical equilibrium in the Constitution*. VI. *An imbalance in the institutional practice*. VII. *Conclusion*.

I. INTRODUCTION

Before saying anything about the Senegalese political system, let me first introduce this West African country.

Senegal is in sub-Saharan Africa, with the Atlantic Ocean in the West, Mauritania in the North, Mali in the East, Guinea and Guinea-Bissau in the South and Gambia encroaching in more than 300 Km. Cap-Verde islands are 560 km off the Senegalese coasts.

II. POPULATION (ESTIMATION IN 2005)

Superficie	196 722 km ²
Total population	11 millions d'habitants
Urban population	45.1%
Inhabitants under 15	43.6%
Average number of persons per household	8.9
Life expectancy	51.3 ans
Schooling rate	82.5%
HIV/AIDS prevalence	0.7%
Official language	French
Religions	Muslims 94%, Christians, 5% others 1%

III. POLITICAL VIEWS

Politically, Senegal is among the most stable and democratic African countries in a continent that has been shaken by numerous coups, armed conflicts and political upheavals, the “Senegalese model” is always quoted.

1. *Executive Power*

The President of the Republic is the Head of state elected by direct universal suffrage for a tenure of 5 years, renewable once. He appoints the Prime Minister who chooses members of the cabinet and presents the list to the President for approval.

The first President was Leopold Sedar Senghor, a charismatic leader and a well-known poet.

In 1981 his Prime Minister Abdou Diouf took over and after being re-elected several times, he was defeated in 2000 by Abdoulaye Wade, the Senegalese Democratic Party leader who was re-elected in 2007.

2. *Legislative Power*

After being a unicameral Parliament, Senegal returned to a two Chambers system, since the Senate that was abolished in 2001 (after a constitutional referendum) was re-established again in 2007.

The National Assembly today has 150 MPs elected by universal suffrage for five years. It is first-past-the-post system in the provinces for 90 MPs and proportional representation on the national list for 60 others.

The 2007 legislative elections ended with the presidential coalition winning largely, but about two-thirds of the voters did not participate in the poll because of the boycott led by the opposition parties who were unhappy with the conduct of the presidential elections a few months earlier.

The new Senate comprises 100 members. 35 of them elected by indirect suffrage (in the provinces), while the Head of State selects the remaining 65 members.

3. *The Judiciary*

The Supreme Court was abolished in 1992 and replaced by four specialised bodies: the Supreme Court of Appeal, the council of state, the constitutional council and the accountability Court which is similar to those of their French counterparts.

Their members are appointed by the President of the Republic. They are the highest judicial authorities of the country.

IV. POLITICAL INSTITUTIONS EVOLUTION

The Republic of Senegal gained its independence in September 1960 after three centuries of French rule. The poet and writer Leopold Sedar Senghor became its first president. The political system was then a single party created in 1966 by President Senghor. That party is now known as the Socialist Party of Senegal.

1. *Senghor and the fear of multipartism*

As mentioned by the Senegalese sociologist Mar Fall,¹ multipartism is not new in Senegal. Even during colonial times, there were several parties affiliated to France-based parties that later became Senegalese institutions.

It's the post-colonial era consolidation process under President Senghor that put an end to the existing pluralism, with the help of some political scientists who argued that the one party system was the linchpin of a nation's construction.

At independence, Senegal had a President of the Republic (Leopold Sedar Senghor) and a President of the Council, who was Head of the Government (Mamadou DIA). They were the two leaders of the Senegalese Progressist Union that will later become the Socialist Party.

Senghor had to face all kinds of opposition, notably from the scientist Cheikh Anta Diop.² The competition between the President and Cheikh

¹ Sénégal, Mar Fall, *L'Etat Abdou Diouf ou le temps des incertitudes*, Harmattan, Paris, 1986, p. 10.

² Lavroff, Dimitri G., *La République du Sénégal*, Paris, LGDJ, 1966, pp. 182-239.

Anta Diop whose reputation equalled Senghor's in the 1960s³ is well known in the political history of Senegal.

In 1960, few months after the failure of the Federation of Mali (which was supposed to comprise Mali and Senegal), Cheikh Anta Diop created the party called Bloc of Senegalese Masses (BMS) while deploring Senghor's anti-federalist attitude and his submission to neo-colonist foreign influences. This party was declared illegal by the existing constitution and was then dissolved.

In 1963, Cheikh Anta Diop created again the Senegalese National Front (FNS) which also will be banned.

Every time he dissolved a party created by Cheikh A Diop, Senghor immediately invited him (in vain) to join his government. This means, in effect, he preferred a pluralist State-Party to a multi-Party system.

By banning the different political parties of Cheikh Anta DIOP (between 1960 and 1964) and the African Party for Independence of Majhemout DIOP (created in 1957), the Senegalese Progressist Union of President Senghor stood *de facto* as a single Party, in contravention of the Constitution.

Plus, Senghor succeeded to govern the country with no one to compete or control him after removing, in December 1962, the President of the Council and Head of the Government (Mamadou DIA) who was accused of a coup plot and imprisoned.

After amending the Constitution to establish the base of Presidentialism in Senegal, he ended the dual head executive and won the presidential election of 1963 by 99% of the votes. He was the only candidate in the election.

Senghor's politics, even if it is in a different context, reminds one a little of his Tanzanian counterpart Julius K. Nyerere, who wrote: "When there is a party that identifies itself fully with the Nation, then the democratic foundation will be stronger more than ever than if you have two or more parties and each of them reflecting a portion of the community".⁴

³ He was admired by young African students in France at the time of independence across the Continent. An opinion poll showed that among personalities who had worked on the revitalisation of negro-African culture, Ch. A. Diop scored (31%), after Aimé Césaire (42%) and Senghor (38%). See Jean-Pierre N'Diaye, *Enquête sur les étudiants noirs en France*, Paris, Ed. Réalités Africaines, 1962.

⁴ Nyerere, Julius K., cité par Denis-Constant Martin, "La houe, la maison, l'urne et le maître d'école. Les élections en Tanzanie 1965-1970", *Revue Française de Science Politique*, vol. 25, núm. 4, 1975, p. 680.

From 1963 to 1974 Senegalese political life was marked by the confiscation of power by an authoritarian presidency.

2. *The multipartism of the “three schools of thought”*

In 1976 when Cheikh Anta DIOP created the National Democratic Assembly (NDA) using the growing enthusiasm of the workers and the youth, Senghor proclaimed a self satisfying new law called the “three schools of thought”.⁵

What will be called the restricted multipartism was born. But it is only in 1976-1977 that it took shape when Senghor chose three schools of thought that were supposed to represent the country’s political life.

To do it, the law 76-01 of March 19 1976 revising article 3 of the Constitution, was voted.

The “three schools of thought” were:

1. The social-democrat wing, called Senegalese Progressist Union later renamed Socialist Party (PS).

2. The liberal-democratic wing, under which the Senegalese Democratic Party (PDS) of Abdoulaye Wade created in 1974, half heartedly accepted to subscribe to the concept. In fact, in article 1 of its statutes, the PDS declares representing the liberal democratic ideology and in article 2, it considers as its goal to set up a socialist society. Actually, Wade considered Senghor’s division to be pure theory that did not fit into the political reality of Senegal.

3. Enfin, le courant marxist-léniniste était censé être attribué au RND. Mais Cheikh Anta DIOP ne voulait pas accepter cette dernière étiquette dans un pays musulman à plus de 90%. Aussi, ce courant sera finalement incarné par le Parti Africain de l’Indépendance (PAI) de Majhmout Diop.

Finally the Marxist-Leninist wing was supposed to go to the RND of Cheikh Anta DIOP, but he did not want this affiliation in a 90% Muslim

⁵ Ce pluralisme limité n’aurait été que “le mystère de la sainte trinité (3 en 1 et 1 en 3)”, selon l’expression de P -F Gonidec, *les systèmes politiques africains*, Paris, LGDJ, 1978, p. 166. Voir aussi Zucarelli, F., “L’évolution récente de la vie politique au Senegal”, *Revue Française D’études Politiques Africaines*, juillet 1976, pp. 85-102; voir aussi, Ibrahim Fall, *sous-développement et démocratie multipartisane: l’expérience sénégalaise*, Nouvelles Editions Africaines, Dakar-Abidjan, 1977.

country. Therefore this wing will finally be used by another party, the African Party for Independence (PAI) of Majmout DIOP.

In front of this masterminded plan, lots of political parties were banned for not wanting to affiliate with any of these wings as dictated by Senghor.

3. Diouf's "Integral Multipartism"

Under President Senghor, the Socialist Party was run like a *de facto* State party; and this only changed when Diouf came to power in 1981 to see Senegal adopt the "Integral Multipartism".

In fact, on December 31, 1981, Senghor resigned and by virtue of article 35 of the constitution, his Prime Minister, Abdou Diouf took over.

Upon assuming power, Diouf decided to use article 81-16 of the law of May 6, 1981 dealing with political parties.

The innovation of this reform is that the number of parties (most of them banned) was no longer restricted nor obliged to follow specific ideologies.

But again, to avoid anarchy, the reform imposed some limits, insisting on the national sovereignty and democracy and thereby banning monarchist parties.

Plus, parties were not allowed to represent a language, race, ethnic group, gender, religion, sect or region, etc.

Since then, 113 parties have been created and now the political stake is how to make the national political institutions functional using the rules of democratic alternance with transparency.

President Abdou Diouf, taking over after Senghor will be regularly re-elected with wide margins (1983, 1988, 1993).

However, after each defeat, the most popular Senegalese opposition parties will be invited by the head of State to join his government, in what was called "a government of inclusion".

Despite theses multiple participations in the government, the opposition headed by Abdoulaye Wade and his Senegalese Democratic Party never lost its credibility because it continued to carry on to make substantial gains.

It is by putting a persistent pressure on the authorities that these parties obtained modifications of the electoral system such as:

- The adoption of the consensual electoral code in 1992.
- Obligation by the voter to show an identity card at the polling station.
- Holding a run-off elections if no candidate obtains over 50% of the votes in the first round.
- Limitation of the Presidential mandate to two tenures of 7 years.
- Lowering of the voter's age to 18 years.
- Scheduling of legislative elections every 5 years and not joined to the presidential one.
- The creation of the National Electoral Observatory.

Besides, if opposition parties separately obtained enough votes at each presidential election, it's their coalition behind a candidate (Abdoulaye WADE) that has been the decisive point for the change of regime that occurred in mars 2000 in Senegal.

So, in 2000; Abdoulaye Wade of the PDS won over the Abdou Diouf of the PS, which ran the country since its independence in 1960.

V. THEORETICAL EQUILIBRUM IN THE CONSTITUTION

After coming to power in 2000, President Wade organized a referendum to vote on a new constitution in January 2001. The reason d'être of this new constitution can be found in two purely political issues.

1. When elected, the new President (Wade) inherited a national assembly dominated by the socialists who had just lost the presidential elections. The next legislative elections were to be held in 2003 and he did not want, at all, to go through lengthy and tense cohabitation with the socialists. Given that he could not dissolve the national assembly if the body did not pass a motion of consensus against the government, he had to find a way to get rid of the "old tenants".

2. The fact that the newly elected president wanted to be "the breakaway president" and had for almost a quarter of a century promised that he would rule differently if ever he was elected.

Once in power, he tried to supplant very quickly his two successors who shared the power during 40 years. Moreover, right after his election, President Wade's team widely spoke on the fact that without that new

constitution, the President could not fully carry out his functions. Yet, he was elected to lead in a different way.

For these two reasons, among others, the new president made “his” constitution to be “adopted” at any cost, as he circumvented the national assembly to seek approval from the people.

This political act is, in our opinion, the first breaching of the intent and spirit of the laws of the republic, by the new rulers

We will refrain from splitting hairs, but still to focus on the issue, it is worth noting that there is a fine theoretical balance in the Senegalese Constitution of 22 January 2007 which fashioned after the previous ones (1959, 1960, 1963) derives from the French fundamental law.

This was the case of all other sub-Sahara francophone countries which “Frenchised” their judicial system. We talk about “The mother-Constitution”.

The influence of the French legislation on the various legal systems of the former French colonies is evident, but let’s provide a summary of this historical aspect, which is very important.

The application of a French legal system, before independence, naturally favoured its upkeep, at least on a provisional basis. That was the easiest solution, which would cause fewer disruptions, and which was naturally adopted everywhere, except when there existed pressing reasons for breaking away from the past.

In addition, there is the often stressed human behaviour: the follow-my-leader attitude. Most of our experts who were responsible for putting in place the new legal frameworks, were trained at French schools, or practiced French methods which they knew perfectly and most often believed in, while the technical advisors put at the disposal of the African governments by France, whose role was key during this transitional period, contributed immensely to increasing the influence.

Besides, the formulation of certain principles is particularly striking and reassuring, not only for the actors of national political scene, but also for international partners. In such texts, for instance, are mentioned the separation of powers and the respect of individual and collective freedoms. In other words, democratic principles are proclaimed.

A theoretically balanced system of government

In Senegal, the system of government established by the constitution of 22 January 2001 (from a legal perspective) is a parliamentary republic, or more exactly, a dual parliamentary system.⁶

Indeed, a parliamentary system involves the existence of four elements:

- A dual executive (a Head of state and head of government).
- A President of the republic not answerable, except in cases of high treason and - he/she cannot be impeached legally by the parliament as he/she is not subjected to political accountability.
- The responsibility of the government before the parliament.
- The possibility of the Head of State to dissolve the chamber of the parliament elected by direct universal suffrage.

In Senegal, the standing committees instituted by the organic law on the regulation of the National Assembly, enable MPs to control the executive action and influence its orientation.

Also and above all, the Senegalese constitution has made provision for two mechanisms that doctrine considers true characters of the parliamentary system.

On the one hand, the new Constitution says the government is answerable to all or part of the legislature, in the form of motion of consensus and the question of confidence.

On the other hand, the new constitution gives the Executive branch (particularly the Head of State) the right to dissolve all or part of the legislature.

So, while our form of government is obviously a parliamentary system, it is more specifically a dual system, because:

On one side, the Government reports to the President of the Republic. The Senegalese Constitution empowers the President of the republic to:

⁶ The term political regime refers here to the structure, competences and constitutional interrelations of the three fundamental organs of the State (the Legislative, the Executive, and the Judiciary).

- Appoint the Prime Minister and remove him/her.
- Appoint the ministers upon proposals made by the Prime Minister.
- And when the President of the Republic ends the mandate of the Prime Minister, the whole cabinet resigns in the name of government team solidarity.

On the other side, the government also reports to the National Assembly. Indeed, the constitution clearly states that MPs can ask written or oral questions to the Prime Minister and his/her cabinet, with or without debates; which they have the obligation to answer to. The questions and answers put to the government team are not followed by votes. Also, the National Assembly can set up at its own level, investigation committees.

Basing on all the above, one would conclude that the Senegalese form of government is from a purely theoretical point of view, a parliamentary system, and most particularly a dual parliamentary system since the government is answerable not only to the Head of State but also to the National Assembly.

So, on paper, we have a well balanced parliamentary dual system.

VI. AN IMBALANCE IN THE INSTITUTIONAL PRACTICE

1. *Hypertrophied powers for the President*

While the theoretical layout may seem attractive, in the institutional practice, the Senegalese system of government (established by the constitution of 22 January 2002) is far from being balanced.

It may even be similar to a presidential system. In *Institutions politiques et droit constitutionnel*,⁷ Philippe ARDANT describes presidentialism as a system in which:

- The Executive is mono-cameral, or more precisely, individual, as it is totally concentrated in the person of the President of the Republic, who represents at the same time the Head of State and the entire Government.

⁷ Ardant, Philippe, *Institutions politiques et droit constitutionnel*, 15a. ed., Paris, LGDJ, 2003, p. 293.

- The Government does not exist as defined by the constitutional law, that is, a collegial team run by a leader with distinct tasks and responsibilities.
- The ministers, unlike in the parliamentary system, are simple collaborators of the Head of State.
- The ministers are individually (not collectively) answerable to the Head of State alone.
- The ministers are just of a consultative help to the President of the Republic, who is neither bound to take their opinions into account nor to even ask them to state such opinions.

In Senegal, these five points are clearly seen in practice with the president of the Republic freely in control. There is really an imbalance between the powers of the President of the Republic and those of the National Assembly.

But before being reflected in the institutional practice, this imbalance finds its roots in the 2001 Constitution, which however states in its preamble:

- “The separation and balance of powers conceived and exercised through democratic processes”.
- “The respect and consolidation of the rule of law, with the government and citizens subjected to the same legal standards, under the control of an independent and impartial judicial system”.
- “The will of Senegal to be a modern State that functions basing on a fair game between a ruling majority and a democratic opposition, and, a government that recognises that opposition as a linchpin of democracy and a machinery that is indispensable to the smooth running of the democratic mechanism”.

Meanwhile, that very constitution allocates powers in such a way that those of the President of the Republic are hypertrophied.

Articles 42 to 52 of the 2001 Constitution refers to the powers of the Head of State as follows:

- The President of the Republic is the guardian of the Constitution.
- He is the first protector of arts.
- He incarnates national unity.

- He is guarantor of the smooth running of institutions, national independence, and the integrity of the territory.
- He determines the policy of the Nation.
- He presides over the council of ministers.
- He signs orders and decrees.
- He makes civil services appointments.
- He is responsible for the National Defence.
- He chairs the National Defence High Council and the National Security Council.
- He is the Commander-in-Chief of the armed forces.
- He appoints to all military positions and the armed forces are under his control.
- He presides over the Supreme Council of Magistrate.
- He names all the members of the Constitutional Council, the State Council, the Court of appeal, and the Revenue Court.
- He accredits ambassadors and special envoys to foreign countries.
- Foreign ambassadors and special envoys are directly accredited to him.
- He has the right to grant presidential pardon.
- He appoints the Prime Minister and ceases his functions.
- He names the ministers upon proposals of the Prime Minister, fixes their attributions and ceases their functions.
- He is entitled to authorise the Prime Minister to make decisions through a decree.
- He has the power to dissolve the National Assembly.
- After consulting the Speaker of the National Assembly, the president of the Senate and the Constitutional Council, he can submit any constitutional bill to referendum.
- Upon proposal of the Prime Minister and after seeking the views of the aforementioned authorities, he can submit any constitutional bill to referendum.
- He can also exercise special powers in case of crisis, including the possibility to order a state of emergency or a state of siege, and adopting near dictatorial powers provided for in article 52 of the Constitution.

So, the President of the Republic is the first and the last resort of all the other institutions. He is the unquestionable head of the Executive and he supplants all the other powers. As well, he controls all the institutions and even independent administrative bodies.

2. Confusion between partisan and state spheres

In addition to these disproportionate powers of the President of the Republic, with no real checks and balances, confusion is evident as regards the partisan and the state spheres.

That overlapping of functions is certainly encouraged by article 38 of the Constitution, which allows the Head of State to also be leader of a party.

Such provision, of course, involves the Head of State in partisan stakes whereas he incarnates national unity.

Because of the conjunction of the majority rule and party discipline, parliamentary majority is driven by the Executive. MPs don't stand in accordance with their convictions; they rather abide by the will of the Head of State.

For instance, when he was part of the opposition, the current Head of State strongly opposed the establishment of the Senate, questioning its place in the institutional setting, its attributions, the underlying reasons of its creation, etc. But right after his re-election in 2007, he recreated the upper chamber which he had dissolved upon coming to power 2000.

This resurrection of Senate occurring 7 years after its cancellation is quite surprising. But the announcement of the idea of re-establishing the senate coming on the heels of the release of the list of candidates for the 2007 legislative elections perhaps provides a clue to the puzzle.

It seems to us that this was an excellent way of calming those who did not appear on the ruling party list, and providing the possibility of appointment to the Senate.

It is worth recalling that the President of the Republic in reconstituting the Senate, unilaterally decided to name 65 of the 100 senators, while his predecessor had appointed 12 out of a total of 60 senators.

Besides, the former speaker of the national assembly was chosen by the President of the Republic to run the Senate and giving the position of speaker to the immediate past Prime Minister. And before leaving the

national assembly for the senate, the new head of the upper house said publicly that the President of the Republic would choose his replacement at the National Assembly. The two actions show the mixing of the partisan sphere with that of the state.

So, the national assembly, which was already suffering serious lack of autonomy, was turning into an institution under the full supervision of the Executive.

That supervision has again been shown through the crisis that arose between the President of the Republic and the Speaker of the National Assembly.

The ruling party MPs wanted to impeach by all means, the speaker of the national assembly and former Prime Minister who however belonged to the same party.

The MPs of PDS, the Democratic Party of Senegal, who occupy 138 of the 150 seats at the national assembly, were ready to combat their fellow party member, because, according to the party legislative caucus, a committee of the national assembly summoned the son of the president. The latter is in charge of the preparation of the 11th Islamic Conference Organization, which is to gather in mid-March in Dakar, all the Muslim States or States where the majority of the people are Muslims. Even secular States like Senegal are included.

The summoning of the President's son to appear before the National Assembly was perceived and presented in the media as a way of challenging the President himself, since the agency run by his son is attached to the presidency and thus, the national assembly does not have the right to summon an agent of the presidency without making an official request to the latter.

It is worth stressing that the President's son did not appear before the national assembly in answer to the summons. Besides, the speaker who was placed at the head of the parliament by the President, after the latter ceased his functions as a Prime Minister, is clearly perceived as a potential candidate to succeed Wade⁸ who is suspected of planning to make his son succeed him.

Beyond this covert war of succession, it is worth recalling that the people of Senegal, in the preamble of the 22 January 2001 Constitution, affirm their "attachment to transparency in public affairs management as

⁸ President Abdoulaye Wade was born in 1926.

well as to the principle of good governance". However, good governance is hardly ever achieved without a system of checks and balances; and parliament is the best place for, at least, collecting maximum information in order to form an opinion. Let's not overlook the fact that the National Assembly's role is not limited to passing laws.

Part of its mission is also to have oversight on government actions. Parliamentary check is exercised through structures and procedures provided for by the Constitution and the regulations National Assembly.

So, technically, the summoning by the national assembly of the head of a State agency is quite normal. If ever a procedural error were made, and in case such error is substantial, a cancellation of the procedure can be asked for at the very most, and if there is time, the procedure can be restarted.

Today, it is this partisan move at the top level, added to the omnipotent position of the Head of State, who is perceived as the only "constant" of the party (the others being variables),⁹ that represents one of the major shortcomings of the Senegalese form of government. This move weakens institutions and prevents the effective functioning of democratic model.

VII. CONCLUSION

Today, the stranglehold of the Executive on the legislative process is such that it is unrealistic to talk of a separation of powers.

The Judiciary system also suffers from the enlargement of the powers of the President, who doesn't hesitate to order the arrest or release of citizens, most of whom oppose his hegemony within the party and the government.

The ruling party system (at the Executive and legislature levels), which is *de facto* dominating, weakens the opposition and gives complete freedom of action to the President. As well, the use of state institutions to settle political scores is everything except a good initiative. On the contrary, it makes possible and legitimizes the partisan use of State and its resources.

Also, in Senegal, we think that to prevent the President from misusing his already enlarged powers, there is certainly a need to make provisions

⁹ These are expressions used by supporters of the ruling party, PDS.

for a real check and balance mechanism. Today, the ultra-powerfulness of the President does not favour the existence of such mechanism.

The President (and generally speaking the Executive) outweighs all the other institutions. He dominates the legislature, overshadows the judiciary, and does not spare any sector of the nation's life.

The form of government here is closer to the "Leviathan" of Hobbes than to the "Social Contract" of Jean-Jacques Rousseau.