

The Surname in Western Europe

Liberty, Equality and Paternity in Legal Systems in the Twenty-First Century

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Abstract:

This article examines the different transmission systems of the surname in Western Europe. The analysis focuses on the oppositions of Northern and Southern Europe (about single surnames vs. double surnames), on the freedom of uses and the selection criteria, and on the new symbolic hierarchy of patronymic (father's surname), matronymic (mother's surname) and double name. Particular attention is paid to the tension between male and female in contemporary systems compared to traditional naming systems and to the paradoxes of equality and freedom, particularly in the context of homosexual who may face very limited freedoms regarding the process of re-naming.

Résumé en français :

Cet article examine les différents systèmes de transmission du nom de famille en Europe occidentale. L'analyse porte sur les oppositions Nord/Sud (noms simples / doubles noms), sur les critères de choix engendrés par la libération des usages, sur le nouvel ordre symbolique des patronymes, matronymes et double nom. Une attention particulière est portée sur la mise en tension du masculin et du féminin dans les systèmes contemporains comme dans les systèmes traditionnels ainsi que sur les paradoxes de l'égalité et de la liberté par rapport aux processus de re-nomination qui se heurtent parfois à des libertés très mesurés, notamment dans le cadre des familles homosexuelles.

At the start of the 21st century, most of the European countries, concerned about equality between men and women, started reforms about the use of the surname in response to the patrilineal and sometimes sexist traditions for transmitting family names. But how, in the modern age, does one implement the equality between the father and the mother in the naming of a child, when this equality is technically impossible to formalize beyond the first generation¹?

Abolition of Discrimination in the Name Legal System

Drawing upon my research on this topic in 2002 and subsequent observations, all the European countries had not achieved the same stage of equality in the naming children at that time (Feschet 2004a). Though, overall, the Northern European countries reconsidered and willingly changed their legal systems, and while several southern European countries had already established bilateral systems (Spain and Portugal), the new reforms and approach was not obvious for the others. In several cases (Italy, Switzerland, Belgium), the changes could not be implemented because of the power of representations associated with the name of the father. The order for these European reforms came from the parliamentary assembly of the European Council who, from 1978, requested the member states to “delete every discrimination between man and woman in the name legal system” (Resolution 7837). In 1995, then in 1998, some countries had not even begun the smallest evolution, so the parliamentary assembly insisted on the fact that “because it is an element which characterizes the person’s identity, the choice of the name has a considerable importance”. The perpetuation of discrimination between man and woman in this field is consequently considered unacceptable. Following the European directives, it is about “establishing a strict equality between the father and the mother concerning the transmission of the name to the child; ensuring a strict equality, in case of wedding, in the eventual choice of a common surname for the spouses; abolishing every discrimination between a legitimate and natural child” (Recommendation n°1362).

Variation of Surnames in Northern and Southern Europe

Without taking into account the patriarchal pressures which reduces the most fair systems to patrilineal systems after the second generation, the European systems fall into three major categories that are geographically circumscribed : 1) Northern Europe proposes an unilateral

¹ For example, Spanish and Portuguese systems which are bilateral in the first generation and patrilineal in the second (Feschet 2004a: 74-75).

transmission, where the patrilineal or matrilineal choice is left to the parents' judgments (Germany, Austria, Denmark, Norway, Sweden, Finland, Iceland, Luxembourg). In these countries, which propose an alternative system, the parents pass on to the child either the father's name or the mother's name. A striking characteristic is that this group rejects almost systematically the double name; 2) Some countries have maintained a patrilineal transmission of the name, regardless of the principles put forward by the European Council (Belgium, Italy, Switzerland); 3) In the south, on the contrary, the bilateral transmission was clearly preferred, that is to say the simultaneous and compulsory transmission of the father's and mother's name(s) in Spain and Portugal, or that it is more flexible as in France and in Greece. Another striking point is that, unlike northern Europe, the double name is imposed or thought as an alternative to the mother's name transmission.

Why this symbolic battle for the single or double name, and why is it linked to cultural areas? When the maps of the names and religious practices are compared, the result is surprising (Feschet 2004a: 66). In the countries with a Protestant tendency (Sweden, Finland, Denmark, Germany, Netherlands, Iceland), the lawmakers chose alternative naming procedures which massively reject the double name, pleading the Public Records Office overweight. In predominantly Roman Catholic or Catholic Orthodox countries (Portugal, Spain, France, Italy, Belgium, Switzerland, Greece), the tradition is clearly patrilineal or bilateral and the double name has the status of an ideal formula, or preferable to the mother's name (though it is never explicit). In an equation, in Europe the couple is sometimes thought as the fusion between two persons (father + mother = 1), sometimes as an association of two individuals (father + mother = 1 + 1). The child's name depends on this vision of human relationships. In the first case it is composed by only one term since the parts are considered as a whole, in the second case it is often thought as an addition of two entities.

The Child Facing its Name

In any case, whether a single or double name, the tendency is toward a freedom of uses, not only for the parents but also for the children who can ask for a new name when they reach an age of maturity (18 years or before their marriage), notably in the Scandinavian countries, but elsewhere too. For instance, in Finland since 1991, adults are able to change their name if the circumstances can justify it (e.g., if they have a very common name, or one with a foreign connotation), if the proposed name was their initial name (their name before getting married) or if the newly proposed name once belonged to an ancestor. The Norwegians and the Swedish can also change their names to change in to an initial name, an ancestral name, or a new one (invented) on the condition that it is neither ridiculous nor scandalous and that it respects the language of the country. The new name

must not be mistaken for a company's name or for a name of an institution. The first names are refused, as well as the double names. This re-naming process is found elsewhere. In Spain, for example, an major adult can invert the order of his or her names before his/her marriage and then transmit to the child his/her mother's name (and not the father's name) since only the first name is given to the child.

This "counter-transmission" process is the real revolutionary node of the texts which rule the surname in most of the European countries with alternative or composite systems. This transmission is usually defined vertically, from top down to bottom, because the father, the mother or both of them give their names to the children. With the last reforms, gradually, all over Europe, the naming process allows people to go back, to move from the bottom to the top and then, to go down again. The onomastic identity is discussed and shaped according to the wishes of those who create it and have a larger room for manoeuvre, but also according to the will of the ones who bear it. The identity is no more assigned, as suggested by the words "patronymic" and "surname". The child can now change its previously assigned name and identity. The name tends to reflect directly the individual and his or her entire social and affective dimension, that which characterizes the person. The trend is clearly the "identification" instead of the "classification" (Bromberger 1982).

In these cases of name change, only the direct family knows the change and redesignation of a name. How can you guess that a name was transmitted by a woman or a man, that it is the progenitor's one, or the adoptive's one? Surnames are neutral, contrary to first names. They do not reflect the sex of their holders. This identification is only possible in Iceland, where the first names are included in the names². Even if these changes are only known by a few close relatives, this act remains symbolically and psychologically very powerful for those who do it. The future will tell us whether these "counter-transmissions" will draw other naming systems, perhaps the lineages of merit.

The Liberation of Uses

What are the consequences of the liberation of the uses of names in terms of choice? The French, since January 1, 2005, can transmit the father's name (one term or two), the mother's name (one term or two), or the father's and the mother's name in any order, limited to only one term per parent. There are now several name types: the simple names (only one term: Dupont); the

² There might be one quarter of existing societies (according to the Alford's sample, extract from *Human relations Area Files*) where the first name is never or rarely linked to the sex (Duchesne 2005).

compound names given before the law, constituting an indivisible entity³ (Claude “Lévi-Strauss” for example or Conte de “Villeneuve-Bargemont”)⁴; the double names including several terms stemmed from the father’s or/and mother’s branch, separated by a double hyphen (Mauric--Feschet). These double names can be divided when attributed but can not be inverted (!) (not Feschet--Mauric). When, within twenty years, the children with a double name will be able to have children too, they will have to make up their mind among 14 choices. The examples given in the document which illustrates the law, sent to the prefects in 2004, allow establishing the range of possibilities.

First generation	Father : Dupont Mother : Martin
The children can be called	Dupont Martin Dupont- -Martin Martin- -Dupont
Second generation	Father : Martin- -Dupont Mother : Dubois de Lacime des Noës- - Beauregard de Saint-Haon
The children can be called	Dupont Martin Martin- -Dupont Martin- -Dubois de Lacime des Noës Martin- - Beauregard de Saint-Haon Dupont- -Dubois de Lacime des Noës Dupont- - Beauregard de Saint-Haon Dubois de Lacime des Noës- - Beauregard de Saint-Haon Dubois de Lacime des Noës Beauregard de Saint-Haon Dubois de Lacime des Noës- -Martin Dubois de Lacime des Noës- -Dupont Beauregard de Saint-Haon - -Martin Beauregard de Saint-Haon - -Dupont

Table 1 : 14 possibilities in the name composition in France.

Determination Processes

Which different determination logics will be the basis for a decision in flexible systems or in systems allowing re-naming? To make a choice is never simple, especially in such an affective and symbolic field. Some motivations will of course be of an ideological nature (to transmit the mother’s name, in the name of sex parity, independently of any other reason), but other mechanisms are easily conceivable.

³ The foreigners who wish to transmit only a part of their compound name to their children (for example Aït El Madini) will have to give a custom certificate, establishing that the name is indivisible following the foreign law.

⁴ Not to be confused with the name of use those are sometime used by wives or children. These names compounds are not transferable (Françoise “Héritier-Augé” for example).

The parents will be able to think in terms of aesthetics, or to use poetic effects, so that the ensemble sounds as good as possible. It is interesting to note that the poetic and creative dimension of naming may lead to legal disputes. By the way, the poetic dimension is an occasion to relate other facts. Among the 7729 birth certificates delivered in Bordeaux's City Council in 2007 (France), nine were signaled to the public prosecutor. Most of the disputes concerned the first names and, considering the possibility to invent surnames in some countries, one can suppose that this trend will become widespread. After consideration, *Brésil* (Brazil) and *Plume* (Feather) were accepted, as well as *Infinie* (Infinite) and *Précieuse* (Precious) (first names given to a little girl, already had by members of her Tsigane community). *Iñaki* was also accepted due to cultural particularities in Basque Country (despite the tilde placed upon the "n" and despite the fact that identities must be spelt in French). After discussion, *Colline* (Hill) became *Colin* since it concerned a boy. On the other hand, *Lapin* (Rabbit) was cancelled by the Judge, as well as *Ayatollah* and *Quietstorm*. *Fleur de Coran* (Koran Flower) and *Parfum de Bible* (Bible Perfume), for twins, were also refused (Morice 2008b).

These examples show that the name is a way to express community or identity claims. To transmit an initial name is way to assert one's existence, as a dominated group⁵. Once again, following an identity logic, the opportunity of transmitting a bilateral name gives a child a dual cultural membership, in the scope of mixed unions (Le Gall, Meintel 2005: 189-210). The name will also be chosen regarding the economical or political context, in order to meet the requirements for a successful integration (Lapierre 2002).

In the case of patrimonial naming processes, sometimes a matrilineal name that disappears has to be rescued. As in every genetical drift process, the evolution of surnames implies a constant diminution of the total number of patronymics (Cavalli - Sforza 2002: 409). The disappearance of surnames was also one of the arguments of the French reform (Sagnes 2005: 235-252). But what is hidden behind this patrimonial notion? As for monuments, the names carry their history. They are inhabited by symbols. Notably, the patrimonial choice comes under an "eponymous" process, that is to say under a more or less conscious desire to reintroduce into the living community some names had by the deceased, whose memory is wished to be reactivated, as in Inuit and Icelandic societies (Saladin d'Anglure 1998, Pons 2002). Like the first name, the surname, more personalized than in the past, will be then a vector for a "soul" (or for a group of souls), that the community will welcome again in its midst.

⁵ A name which was crushed by political nationalists, for example, concerning the Romanian of Serbia (Dimitrijevic 1998).

As previously said, the choice may be affective. One will observe the same logic as in the re-naming process, when the failing parent is punished (absence or ill-treatment). In this connection, the choice of a name will be the occasion to change a given surname from a non-biological parent or ancestor. Laurent writes *“Born in 1974, I have my father’s name. Now, I heard accidentally, which is very common, that my maternal grandfather was not actually my “biological” grandfather and that this reality had been hidden from me for a long time, because my father learned the name of his real father ten years ago. This situation is a real problem to my identity, especially as I have always been feeling close to my maternal grandparents. I would like to know if, in my specific case, I can add to my present name my mother’s maiden name.”*

But in many cases, nobody can be blamed for any really important thing or for anything at all. So how to choose? The child can only have two names in the flexible systems, or only one among two in the alternative systems, so the parents will have to renounce to some terms. One can easily imagine the tensions in the families, the pressure from the maternal and paternal lines, the doubts and the guilt.

Patronymic, Matronymic and Double Names

Without a doubt, the recourse to the tradition, sometimes given a bit of boost like in France⁶, will be for many people the best solution with regard to the extent of the possibilities. This choice is driven by two kinds of causes: the strength of custom (Beck, Bourin, Chareille 2002) and the symbolic representation of paternity. Actually the patronymic has no longer the same status as in the past. If the father’s name was embodying until today the family’s unity and the authority of the husband on his wife and children, for several decades the patronymic has become the symbol of paternity, which transcends the question of domination of women by men. That is why the European greatly values it. In the representations, a woman becomes a mother when she gives birth to her child. A man becomes a father when he gives his name.

However, the introduction of the mother’s name as a proper surname is a real revolution. Actually, the mother’s name, except some very rare cases⁷, has embodied until nowadays a default in the father’s line. The mother’s name was essentially attributed to the children born out of wedlock, who were not legally recognized by their father. These illegitimate, “natural” children were socially weakened and were led to feel uncomfortable. With the new laws, the mother’s name becomes a real surname. It is a considerable change in Europe, where the father’s name has been for

⁶ Certainly, law allows a choice, but all the alternative options to the patronymic are submitted, in the last analysis, to the father’s approval, since without a joint declaration, the patronymic prevails.

⁷ Like in Sardinia for example, where, before the 13th Century, existed several naming systems, between patrilineal and matrilineal, sometimes linked to the sex, from father to son, from mother to daughter (Murru Corriga 2002).

centuries a synonym for unity in the family. Despite some reactionary resistances, today the law provides that a mother can transmit her name, even if the father is truly present, no reason against that. Furthermore, more and more families are organized around the mothers (matrilocal descent), whatever they are single-parent, same sexed or reconstructed. One can imagine that the mother's name will be in these cases practical and symbolic and that the transmission of the mother's name will thus be multiplied⁸.

Another big change having consequences on the practices and the symbolic meanings of naming is the introduction of the double name (generally bilateral). The double name refines the classification process of individuals. The patronymic could not distinguish the children born in successive unions, nor differentiate the sub-groups of brothers and sisters. The double names allow now to identify the children of each new conjugal union. This property which characterizes each group of brothers and sisters (the children having the same name have the same father and mother) is strongly visible considering the increasing number of reconstructed families. As I researched this issue and communicated with people, I was sent many emails that show that this situation is a first, seen from the French side. The questions are numerous. They are about the symbolic significance of the order of names, about the number of terms allowed and the status of the compound names existing prior the reform, about the relevance of the double name for future genealogical researches. Some of them relate to the possibility of the deletion or addition of a term, about the double hyphens, about the difference between the marital name (for example Dupont-Gire) and the children's double name (Dupont--Gire). In France, the name of the wife may be a composed name (name of husband-name of wife) but this name is not transferable to the children. That is what is referred to as a "nom d'usage".

The Tension between Masculine and Feminine

Some concerns have been raised about the consequences of calling into question the symbolic order of the patronymic and the matronymic. The end of the patronymic would announce a society where the mothers would have a total power. The French state would have become a "gentle and infantilizing mother", listening to the "good people", deleting every jealous feeling or rivalry between children (making equal the rights of the man and woman, especially in the child naming) (Schneider 2002). In an article written by Gérard Pommier, published in the newspaper

⁸ In Quebec, where the transmission system of the name is liberalized since the 1970, as in other Canadian States, the choice of the mother's name or of a name beginning by the mother's name is a perfect illustration of the increasing importance of the matrilineal link. The past years, one child among four is first identified to the mother's line (Duchesne 2002: 150).

Libération, on January 24, 2004, the father's name was described as the symbol of exogamy and descent. According to Pommier, it might be the basis of the oedipal confrontation. Taking his father's name, the male child would be animated by a sort of vital energy. He would be driven to assert his own autonomy. "Why would the boy fight to be worthy of his name, if it is his mother's one?" [!] As for the women, the patronymic would be for them an exogamy agent. With the help of their name change, they would symbolically leave the father for the husband⁹.

Anyway, we can here underline that the started reforms did not turn upside down the tension between masculine and feminine in the naming process. They only reinforced a general trend leading to rebalance the maternal and paternal branches in the child naming. Actually the valence of sexes¹⁰ is a principle found traditionally in the onomastic processes. In France, for example, the child used to have three first names. The first one obeys to generational logic. For the second and third ones, the eldest boy receives his paternal grandfather's first name in second position and his maternal grandfather's one in third positions. The eldest daughter receives in second position her maternal grandmother's first name, in third position her paternal grandmother's one. The following brothers and sisters inherit their godfather's or godmother's first names, feminized or masculinized (often uncle and aunt), or their granduncle's or grandaunt's one. This attribution balances the patrilineal nature of the name transmission (Zonabend 1990, Fine 1994).

When we imagine the attribution of a bilateral double name, we realize that the surname and the first name lead to two terms, for boys and girls, inherited from the maternal lineage, and two from the paternal one. Before the reform, the child (male or female) had two terms inherited from the paternal lineage and only one from the maternal one. The personal complete name offers an astonishing symmetry next to the two collateral branches. The small dissymmetry which was existing prior to the reform was sometimes corrected by the "user name"¹¹ ("nom d'usage"), pseudonyms or assumed name (which are often matronymics)¹² or by nicknames. All these additional names, which complete the person, often correct a bilateralism default. In brief, the "surname" is only a part of a far more extended naming system, which has to be understood completely in order to comprehend the ins and outs of the European naming reform.

⁹ I wonder; is it therefore a husband for a woman "leaves" her father? And, is it not even more difficult to "leave" his mother who, however, does not transmit his name?

¹⁰ In order to clear up a frequent misunderstanding concerning the use of this term, I make it clear that the valence of an element does not mean its possible identical nature but its combination ability (attraction or repulsion) with other objects. The valence is not a question of complementarity but of equality.

¹¹ Name that can be used in everyday life but that can not be transmitted to children.

¹² I often saw during oral enquiries that assumed names are a part of the rebalancing process between paternal and maternal branches, between masculine and feminine elements in the personal name. The assumed name is often taken from the maternal lineage, either the mother's name (i.e. the mother's father's one) or the mother's mother's one or even the father's mother's one.

The Paradox of Equality

This analysis has enabled us to see that none of the reforms started in the name of “sex parity” has really led to a strictly equal system between the father and the mother in the child naming. The “sex non-discrimination” was above all translated by in terms of “freedom in uses”¹³. In the name of this freedom, the equality was thought as possible, therefore good enough. This equality, nevertheless, has some limits.

In most of the countries, the equality of the parents in the child naming does not apply to homosexual couples. When there are two fathers or two mothers, the double name is not allowed because one considers that homosexual unions do not give the right to a joint lineage. The couple is considered as conjugal, but not as parental. This situation is disconcerting for the concerned individuals, who are trying to create some link by other ways, becoming godfather or godmother for example, or transmitting their first names or, if possible, a surname instead of a first name, which will give the illusion of a double name. In Bordeaux, the family judge recently refused that the second mother’s surname was transmitted as a second first name to her child (born by artificial insemination) (Morice 2008a). The two mothers had thought about this solution to establish a symbolic link between the child and his second mother. In Nantes or Lille, the Public records office accepted similar cases (the record of a surname as a first name) but it was the first time that such a lawsuit was judged in France and the Public Prosecutor in Bordeaux did not want to create a precedent. “The patronymic is only transmitted by descent, and this is protected by the law”, said the judge. The proposed first name was cancelled and replaced by Jean.

Another paradox of equality, though some renaming procedures are more and more often available, lays in the principle of “surname immutability” (set since the Revolution by the law of the Fructidor 6th of year II) which was maintained in France by the 12th legislature (‘Législature’ in French is the lapse of time between the representative's arrival until the end of his term) in order to control the potential drifts of a law, likely to weaken a bit more the father’s place. Certainly, the renaming procedure by decree (articles 61 and following of the civil code) allows the deletion or the modification of a name, but the procedure is very complex, uncertain, and discretionary¹⁴. Notably, the renaming requests which are motivated by the re-use of the other parent’s name seriously

¹³ Behind the name reform may be hidden other purposes, more nationalist (Sagnes, 2005).

¹⁴ In order to modify a ridiculous name, a foreign sounding name, a name causing a loss or in order to turn one’s name into a famous and notorious national name. One will have to publish in the “official bulletin” [bulletin officiel] the proposed modification, to publish a legal announcement in a newspaper of the living place and send a file to the “Garde des Sceaux” in order to explain the reasons of this demand. If nobody disagrees after the publication in the local newspaper and if the reasons meet the Justice Ministry’s criteria, then the name change will be notified in the “official bulletin”.

increased (almost 30% in 1991 and 1995)¹⁵, but these demands are almost systematically rejected. The websites open for this purpose are filled with complaints. The emails I received on this subject are also very numerous and speak for themselves: “*I was born the December 27th of 1957 in Lille, of a French mother Mrs Duponcet who abandoned early after she recognized me. My father, Mr Derkaoui was in Algeria, and recognized me in 1958. He deceased 5 five years ago. I was taken in by an adoptive mother at 27 months under the name of Derkaoui. When I was 14 years old, the DASS informed my mother that, because my mother had recognized me before my father, I must have the name of François Duponcet. This name Duponcet does not meet my face, which is strongly distinctive, and I have today François Duponcet-Derkaoui as a user name. I would like to have my father’s name, and also my first name, Mohamed.*”

The freedom in choice left to the French people is therefore very paradoxical. The new law has an illogicality which will create new disparities, notably between the children having a double name, who have a wide range of choices, and those who have a simple name, who will not have the same possibilities. These differences will raise feelings of injustice and inequality. Even though parents are allowed to choose the names of their children, ultimately, their children should be able to rename themselves. Without this freedom of choosing one’s name, individuals remain hostages of an arbitrary, subjective or cyclical choice.

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¹⁵ RICHEMONT (de) Henri, 2003: *Rapport du Sénat relatif à la dévolution du nom de famille (Report of the Senate relative to the surname devolution)*, n°231, ordinary session of 2002-2003, April 2, 2002, 49 p.

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