

On Colonial Laws and the Treatment of Young Female Delinquents in Senegal: The Case of Léonie Guèye

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Abstract

This article provides a rethinking of juvenile delinquency in colonial Senegal using gender as a critical category of analysis. It focuses on the case of Léonie Guèye, a thirteen-year-old girl sentenced three times for robbery. Acquitted in all three trials in virtue of Article 66 - as having acted without discernment - Léonie was nevertheless sent to Bambey penitentiary, a male institution. The central argument presented is that the treatment of juvenile delinquency in the colonial period differed for boys and girls. Presented with the case of Léonie Gueye, gender came to mediate the colonial authorities' attitudes in dealing with young delinquents.

In 1920, Léonie Guèye, a thirteen-year-old girl living with her mother, Maréme Sarr Diop, and stepfather, Amadou Sall, in the city of Saint-Louis in north Senegal, was brought to trial for robbery. She was set free, based on provisions in Article 66 of the 1810 Metropolitan Penal Code which stipulated: "if the accused is under sixteen years of age and is judged to have acted undiscerningly, he will be acquitted. Depending on the circumstances, he will be returned to his parents or assigned to a correctional house, where he will be held for a number of years to be determined by the judge and which cannot exceed the delinquent's twentieth birthday." In 1921 Léonie reoffended, but she was handed back to her mother who was expected to watch over her daughter until she came of age. Acquitted for a third time of robbery in 1922, the court this time ordered her incarceration at the Bambey penitentiary.

Between July 1922 and May 1925, different authorities entered into negotiations over whether or not Léonie would be housed in the penitentiary of Bambey, a prison for young delinquents, which was, however, a male-oriented institution. Moreover, the problems created by her criminal activities caused tension in her family. Maréme Sarr Diop, deemed an unfit mother incapable of raising Léonie properly, lost custody of her daughter after her release. The portrayal of Léonie as a vicious and unruly child whose mother failed to educate her, and the fear that she might fall into further delinquency if returned to Maréme Sarr Diop, were expressed as reasons for granting custody to the stepfather, Amadou Sall, after Léonie was set free in 1925.

The details of this case, particularly the colonial authorities' insistence on sending Léonie to the Bambey penitentiary and the subsequent battle over her fate, reveal a great deal about colonial laws and the treatment of young female delinquents in Senegal. The nature of this case and the ways in which it was handled also indicate a large flexibility in gendered colonial meanings of delinquency in Senegal. Laws implemented to address youth delinquency and the institutions founded to accommodate young delinquents, as well as the treatment, which they received in these institutions, suggest that gender came to mediate the French rulers' responses to juvenile delinquency in Senegal - a reality not usually acknowledged in the literature.

This paper provides a rethinking of juvenile delinquency and its treatment in the colony of Senegal. Firstly, it addresses the connections between gender, juvenile delinquency, and colonial laws. Secondly, it will use Léonie's case to describe the colonial state's attitude and negligence in the treatment of minor female delinquents. Particular attention is also devoted to how the custody battle over Léonie after her release led to a reconfiguration of the African family. The colonial state in Senegal linked girls caught up in delinquency to unfit mothers, thus favoring paternal custody and orientating a shift in social roles.

Gender and Age, Two Crucial Categories of Analysis of Delinquency in Colonial Senegal

In her exploration of gender as a useful category of historical analysis, Joan Scott argues that gender is a "primary way of signifying relationships of

power”, or “a primary field within which or by means of which power is articulated” (Scott, 1986: 1060). Furthermore, Scott points out that measures against women enacted by (particularly repressive) states might make little sense in terms of the women themselves, or in terms of gains the state might make from the control and repression of women, but may represent an assertion of domination and consolidation of power given form as a policy about women. Linzi Manicom makes a similar argument by stressing how gender meanings are sometimes used as metaphors of governance and of domination and subordination in relation to specific historical regimes and then concretized in particular measures (Manicom, 1992: 458). A number of recent studies have shown that in Africa colonialism was central to the transformation of the role of women, as it created a set of ideas about women in order to impose specific roles on them. Certain authors discuss how colonialism influenced a female gender construction created through day-to-day colonial administrative practices (Santoru, 1996: 254); others show the importance of colonialism in the construction of gender roles and consequently in influencing the representation of the role of women in movements such as nationalism (Kanogo, 1993).

Juvenile delinquency is defined here as all forms of criminal behaviors among young people. In the context of the colonial period, the notion of juvenile delinquency reflected an ideology which judged children in a separate category, and emphasized the role of social environment as the primary determinant of their behavior. Juvenile delinquency and its treatment in colonial Senegal, I argue, were in fact mediated and structured by gender and differentially experienced by girls and boys. As will be discussed later in the paper, there were structures in place to support young male offenders in need of care and protection, whereas similar structures for juvenile females were inexistent. In order to rethink juvenile delinquency in colonial Senegal, such re-thinking has necessarily to take into account the theoretical and epistemological implications of gender (Manicom, 1992: 445). The main concern of this study is to use “gender as a starting point in the first step” (Oyeronke, 1998: 1060) to avoid falling in the category of those scholars interested in writing women’s history and to break with any analysis that starts from a male/female pairing, which simply produces further dichotomies (Tcherkezoff, 1993: 55). The aim here is to avoid writing about women in the colonial period as though they were “people of gender”

enclosed within a “separate sphere” created by patriarchy (Dagut, 2000: 555).

In her study of gender and European imperialism, Marisa Formes urges historians to step completely outside what she calls the “colonial matrix” of class, race, and gender if they really want to recover the silenced voices of “resistance heroines” or “ordinary women,” or to assess whether colonizing women were among the “villains or victims” of European imperialism. Formes encourages us to think of that matrix as an object of study rather than as a set of givens within which to understand action (Formes, 1995: 637). This study builds on Formes’ argument to show that juvenile delinquency and its treatment reveals itself as one more example of colonialism being multifaceted, incoherent, even shallow - and yet having a profound effect (McKittrick, 1999: 267).

Colonialism in Africa was also about legal processes. Law, which was inseparable from order, seemed primarily concerned with controlling subject peoples, and as such was merely another aspect of colonialism (Bernault, 2003; Mann and Richards, 1991). Colonial powers developed a series of legal mechanisms to control Africans’ mobility, criminality, and daily activities. In this context, the colonial laws worked as an instrument of social control by providing the bases with which to criminalize, police, judge, and punish Africans, and settle disputes. Moreover, colonial authorities clung to the rule of law as a civilizing justification for the domination of African populations. Sally E. Merry underlines how European legal systems were imposed on large regions of Africa and how European law was typically expected to “civilize” colonized people, to reshape their family lives, work habits, land ownership, and ways of handling conflicts (Merry, 1992). Comaroff and Comaroff converge with Merry to point out how along with other institutions of the colonial state, European law contributed to the reformulation of culture and consciousness, creating new conceptions of time, space, work, property, marriage, and the family (Comaroff, 1985; Comaroff and Comaroff, 1991).

The reshaping of African societies by colonial laws were highly visible within African families, as every member experienced different legal situations related on the one hand to a certain number of factors defined and put forward by colonial authorities, and on the other hand to parameters such as the social, civil, and married statuses of individuals. Within African families, men and women, young and elders alike

experienced colonial laws in many domains and at the same time often managed to escape the law. Children were perhaps most subject to an increasing body of colonial legislation, particularly when they were seen as having fallen into delinquency.

The definition of a legal age was a crucial element in dealing with youth issues in colonial Africa. To better handle juvenile delinquency in the colony of Senegal and elsewhere in West Africa, the French authorities attempted to set an age limit that classified or defined an accused person as a young delinquent when he/she was less than sixteen years. Consequently, Article 66 of the 1810 Metropolitan Penal Code defined sixteen as the penal majority (civil majority was set at twenty-one). The French authorities also set the same age limit in domains such as taxation. They enforced a system of taxation from the age of sixteen and viewed this as the most powerful way to compel the child to break with his home (Sharp, 1970: 78). Similar policies took place in the British African colonies. In colonial Kenya, the Poll and Hut Taxes required every “able-bodied” male over the age of sixteen to pay a fee to the colonial administration. Yet it was likely that numerous youth under the age of sixteen were also required to pay tax (Zwanenberg, 1975: 4-5). The definition of a legal age for children reveals the colonial authorities’ willingness to take on a greater role in the control of African youth. This control was, at its simplest, a way of manipulating the movements of youth labor and the flow of young migrants from rural areas, but it also attempted to control the behavior of minor delinquents within and around urban areas.

In colonial Senegal, French authorities produced an array of legal remedies to address juvenile delinquency. This legislation followed the emergence of a large philanthropic movement that began in France in the nineteenth century, whose purpose was to assist children exploited by industrial capitalism and those considered to be abandoned (Faye, 1997: 781-782). Following the abolition of slavery on 27 April 1848, philanthropic movements in Senegal started to focus their attention on young freed slaves in order to better control them. This resulted in the development of patronage and tutelage systems, the creation of laws for minors, and the opening of penitentiary colonies in Senegal (Faye, 1997: 783). The decree of 13 April 1849 instituted two counsels of tutelage in Dakar and Saint-Louis that appointed guardians and patrons for freed minor slaves. Not prepared to care for the needs of freed slaves, the colonial authorities co-opted private

persons to instruct the children in a profession until they came of age. These counsels of tutelage were nevertheless public institutions which directed the formal welfare for minors, both freed slaves and youth who had been in trouble with the law (Thiou, 2003a: 80). However, most of these freed children continued to be the slaves of these “patrons” under the disguise of tutelage, as these patrons were in fact their former owners. As abuses and exploitation of freed slaves continued, the colonial authorities issued a decree on 11 October 1882 which ended the patronage system and handed tutelage power over to a new institution: the head of the colonial judicial system, who was now legally in charge of freed slaves who were minors (Thiou, 2003a: 1).

The French authorities also enacted a decree on 27 June 1904 to protect abandoned children and passed some laws to protect “racially-mixed” children (Faye, 1997: 783). Moreover, they created private and religious institutions, education centers, and orphanages to provide professional training to young freed slaves, abandoned children, and pupils. Successively, the French opened the orphanages of Ndar-Toute at Saint-Louis, the Sisters of Immaculate Conception at Kaolack, the Fathers of the Saint-Esprit Congregation at Ngazobil, and the Indigenes Sisters at Joal (Faye, 1997: 784). The colonial state can be seen here as giving as much importance to assistance as to the punishment of the child in the nineteenth century. Yet, race, class, and social status seemed to matter in the French authorities’ desire to assist, protect, and punish children. Some studies show that the period between 1901 and 1958 witnessed more assistance and less punishment in Senegal as colonial authorities attempted to aid children it saw as vulnerable because “racially mixed,” beggars or vagrants, or examples of “young natives” who in their minds incarnated the “unhappy child” (Faye, 2003: 21).

Patronage policies and assistance programs all failed due to a lack of financial backing, abuses and exploitation of minors by guardians and patrons, and the authorities’ difficulties in defining a coherent program to control marginalized groups (Thiou, 2003a: 81). The colonial administration was well aware of these failures; yet was reluctant to deal with the question of slavery after its abolition. Again, it was not well prepared for managing the flow of freed slaves moving into cities. These difficulties became more acute when those freed children who were under

no guardianship mixed with young delinquents, threatening the urban order with behavior deemed as deviant by the colonial administration.

The anxiety of French authorities in Senegal about former slaves, depicted as vagabonds, and a growing youth delinquency clearly appears in this correspondence from the General Attorney to the General Governor of the colony:

Alongside freed slaves, thrown into a chaotic life of idleness and vagabondage, delinquent minors are huddled in colonial prisons, mixed up with malefactors of all ages and all kinds, their only masters being their jail companions; their only training being in evil. They come out of prison without resources, without professional instruction, having in general a great aversion to work, which has only been presented in forms the least likely to give them such an inclination. Thus ready for crime, they can only become a burden or a danger for the society that opens before them.¹

The General Attorney's main worries were:

Children of Europeans, mulattos, and even Blacks, who had been abandoned or practically abandoned by their parents. Most often, they run the streets or the bush, lacking in instruction and education. Completely free, with nothing to do and nowhere to lay their heads, they form a generation of vagabonds.²

This correspondence underscores the sense of urgency on the part of the French authorities to define adequate legal solutions to halt behavior considered deviant and to contain this outcast population of freed slaves. One solution was found in Article 66 of the 1810 Metropolitan Penal Code, quoted at the beginning of this article, which provided a legal foundation to

¹ Archives Nationales du Sénégal (ANS), 3F/00028, General Attorney of Senegal to the Governor of Senegal, 20 December 1900. All archival documents quoted in this paper were originally in French, therefore all the subsequent quotes are of my own translation.

² ANS, 3F/00028, Director of the Penitentiary of Thiès to the Governor of Senegal, 10 March 1901.

address the issue, keeping young minors in private institutions supervised by public authorities (Thiou, 2003a: 82).³

According to Sarah Fishman, the 1810 Penal Code's provisions for legal minors were written in response to a set of questions: Why do young people commit crimes? To what extent should their age be taken into consideration when charged with a crime? Should the state respond with punishment or rehabilitation? At what point do minors become adults? (Fishman, 2001: 13-14). The application of the ideas behind the 1810 Penal Code to colonial Senegal illustrates the French creation of a juvenile marginality, as well as their changing notions of what constituted an African young delinquent and how they should be treated. For instance, the majority of young offenders appeared before the correctional courts which judged and sentenced them by applying Article 66.⁴ Created in 1840, the correctional courts ruled on civil, criminal, and correctional affairs involving both French citizens and French subjects. They also shared with existing jurisdictions in the colony the *monopole* to judge child delinquents. This inconsistency was a result of the absence of juvenile courts in Senegal during the larger part of the colonial period (Thiou, 2003a: 92). According to Sarah Fishman, while the 1810 Penal Code acknowledged that the law should treat minors differently from adults, it did not establish separate courts or procedures for minors. Nor did the code mandate separate institutions where minors could be held in preventive detention before their court appearance, or sent if convicted or found to be in need of correction (Fishman, 2001: 14). In France, jurisdictions for children which had taken hesitant first steps by the end of the nineteenth century, were clearly

³ It is interesting to note that the legislation regarding juvenile delinquency was almost the same in all colonies in French West Africa. Article 66 was not only specific to the Four Communes. It was applicable in the entire colony of Senegal and the rest of French West Africa. Indeed, the Bambey Penitentiary received delinquents acquitted in virtue of Article 66 sent from the colony of Sudan.

⁴ Prison reports show little evidence on the number of young delinquents appearing before the correctional courts. In 1892, for example, twenty-nine delinquents had been acquitted in virtue of Article 66 and sent to the Thiès penitentiary. From the time of its creation, by the decree of 5 February 1926, to its closure in 1927, the Bambey penitentiary received 108 minors acquitted in virtue of Article 66 of the penal code as having acted without discernment. It is interesting to note that among the inmates in the Senegalese penitentiary schools were numerous subjects of the colony of Sudan and that a few young delinquents also remained in the thirty-six adult prisons scattered around the colony of Senegal.

affirmed with the declaration of the law on children's courts of 22 July 1912 (Fishman, 2001: 26). In French West Africa, it was in 1928 that a decree instituted special jurisdictions and probation for minors, but it was not promulgated in the region before 28 June 1958 (Thiouh, 2003a: 92).

Supporting our argument that juvenile delinquency was a colonial invention in Senegal is the fact that whoever lived on the fringes of colonial society or violated norms promoted by colonial administration was labeled as delinquent. One might also add the contribution of youth policies (patronage and tutelage programs) initiated by the French following the abolition of slavery to the creation of the idea and the existence of juvenile delinquency. Many freed slaves preferred to live on the streets rather than under the abuses and exploitation of their guardians. Subsequently, the vagabondage and vagrancy regulations passed in order to contain their growing number in urban areas fostered their new image as delinquents, whereas they were not considered as such in their own societies. The colonial ideology of juvenile delinquency marked a real rupture with the ways in which youth misbehavior was considered and penalized within African societies.

Sources on how African societies punished young delinquents are too scarce to be able to reconstruct a complete picture. Boubacar Ly stresses that Wolof and Toucouleur, two of the main ethnic groups in Senegal, are very sensitive to anything that could affect their personality, therefore, they easily feel ashamed. He explains that to be honest means not to lie, but also not to steal. According to Ly, robbery was considered among the Wolof as a moral disgrace, and thus he argues that it was an inexistent practice among the Wolof and Toucouleur. The accusation of robbery and the punishment of that crime, he stresses, often led to suicide (Ly, 1967: 55). Abdoulaye Bara Diop shares a similar argument. He explains that the importance of honor among the Toucouleur meant that delinquency was inexistence (Diop, 1965). To say that there was no theft or violence in pre-colonial Senegalese societies is no doubt a romantic and exaggerated view. What we need to emphasize, however, is that imprisonment and prison sentences as sanctions against those who broke the communities' rules did not exist.

In African societies, local rulers made judgments assisted by notables who were knowledgeable about local customs. In Senegal, for instance, the infamous "red hot iron" ordeal required the accused person to lick a red-hot blade. If the victim's tongue did not heal, he or she was convicted. If the

tongue healed, he or she was considered innocent (Lagier, 1971: 36). A number of ordeals, sometimes in the form of ingesting a concoction of plants, served to convict the guilty party. This procedure, according to Abdoulaye Séne, was found in the province of Jegëm where the methods of punishing criminals consisted of shackling the guilty party with her or his face turned to the sun before being sent back to his or her family after paying a fine (Séne, 1992: 32). Sanctions and punishments prior to the nineteenth century in Senegal ranged from public blaming, whipping, fines, exile, death, and sale into slavery. These punitive practices were linked to how crime was conceptualized within African societies. In most pre-colonial and non-Islamic African societies, groups took precedence over individuals, making the liability for felonies and crimes collective. Hence, sanctions and punishments against a delinquent or criminal affected the whole family.

Based on these elements, we can argue that Article 66 opened a new era in the treatment of juvenile delinquency in Senegal. With the colonial period, a new conception of delinquency emerged with children and their mothers being now responsible for their delinquent behaviors. Since its introduction and until 1958, Article 66 remained the only legal reference and instrument which colonial judges relied upon for issuing rulings on cases involving young offenders and eventually sending them to penitentiary schools.

Penitentiary schools developed as early as 1888, with the first established at Thiès. They were viewed as therapeutic solutions to eliminate vice, and install good morals and virtue among young offenders. In 1892, all twenty-nine delinquents acquitted as a result of Article 66 were incarcerated at the Thiès penitentiary school (Thioub, 2003a: 85). Part of the schools' disciplinary regime was the seclusion of their pensioners in remote areas, as isolation was deemed to shield children from what the colonial authorities saw as the germs of perversity and deviance. For the same reasons, the penitentiary schools also had close ties to religious institutions. The Thiès penitentiary was located inside a Catholic mission and run by the *Pères du Saint-Esprit*. Severe penal discipline was carried in the name of moral reformation. In their efforts to stamp out the children's "natural deviance", the Fathers developed two remedies that reflected the material and ideological interests of the mission: redemption through work and the Gospel (Thioub, 2003a: 84). In the mind of colonial officials, the penitentiary school would teach children to "obey and work," two qualities which they

argued were often lacking in those they termed the indigenous people (Thioub, 2003a: 83). Work and discipline were oriented towards acquiring industrious habits. Somewhat ironically, the Thiès penitentiary experience failed after the colonial administration accused the Fathers of misusing the sums received from the public treasury for the living expenses of the pensioners and the maintenance costs of the school, concluding that the money was instead being used for the benefit of the mission (Thioub 2003: 86).

After the failure of the Thiès penitentiary school, the administration opened a second school in 1916 to house young delinquents sentenced by the correctional courts in Senegal and those from all over French West Africa. Known as the Bambey Penitentiary, the school was located inside the agricultural station at Bambey, seventy miles from Dakar and forty miles from the major cities of Thiès and Kaolack. Rural settings were again viewed as the ideal places for moral rescue. Prison sources showed that the large majority of the penitentiary school populations were thieves who committed petty crimes in the cities (Thioub, 2003a: 81). There was also a significant number of orphans.⁵ The more isolated they were from the cities, the better. Indeed, at the Bambey penitentiary, children mostly performed agricultural tasks, a practice traceable back to the nineteenth century in Europe.

The way in which discipline also was applied in the penitentiary schools tell us much about the French authorities' confused attitudes and practices in the treatment of young delinquents. Strict discipline was practiced in Senegalese prisons since their inception. It was argued that the severity of punishments and the amount of suffering endured by the prisoner should correspond with the gravity of the offense. In practice this meant that certain inmate categories received extremely severe punishment. In the vision of the French authorities, prisons should be as coercive as possible so that Africans would avoid committing crimes in the future. Thus the purpose of punishment became the means to cure inmates' anti-social behavior.

⁵ In 1892, the Thiès penitentiary received twenty-nine children acquitted in virtue of Article 66, a freed slave, and twenty orphans. From 1895 to 1903, date of the closing of the school, these numbers dropped to twenty acquitted children and two freed slaves detained for insubordination (Thioub, 2003b: 126).

The nature of discipline and its significance in the colonies was distinctly different from its meaning in Europe. In his discussion of discipline, Foucault argues that the classical age discovered the body as an object and a target of power. But he stresses that:

The historical moment of discipline was the moment when an art of the human body was born, which was directed not only at the growth of its skills, nor at the intensification of its subjection, but at the formation of a relation that in the mechanism itself makes it more obedient as it becomes more useful, and conversely. What was being formed was a policy of coercions that act upon the body, a calculated manipulation of its elements, its gestures, and its behavior. The human body was entering a machinery of power that explores it, breaks it down and rearranges it. A “political anatomy” which was also a “mechanics of power” was being born (1995: 137-138).

Here Foucault defines discipline as “an art of the human body” and in particular as “a political anatomy of detail” (1995: 139) which paid attention not just to the whole body but also to its individual movements and gestures. These disciplinary practices, Foucault argues, were intended to produce what he calls “docile bodies” that obey, respond, become skilful and increase their forces (1995: 135-136). Did the French transfer these metropolitan disciplinary practices in their colonies?

On the contrary, the main purpose of discipline within colonial prisons in Senegal was not to “put bodies through spaces until they became docile, efficient, useful machines that carried out of the functions to which they had been trained”(Foucault, 1995: 135-139) but to break them to obtain a total submission from “natives” who were viewed as childish. Hence, prison officials in Senegal did not enforce a “discipline” in the nineteenth century sense of the term (Ignatieff, 1978: 39) because for most of them, penal discipline was to be limited to the body, and should not attempt to reach the native’s soul (Bernault, 2003: 25). The system of imprisonment in colonial Senegal attempted “to colonize the body” (Arnold, 1997: 7), not to rehabilitate the prisoner. Later on in the colonial period, the process of penal discipline revealed more of an “emphasis placed on developing character” (Sen, 2004: 60). Yet those who ran prisons continued to be mainly military-

trained and re-articulated the views that some groups were more difficult to tame than others. In penitentiary schools there was little by the way of a program to educate and rehabilitate the pensioners, and penal discipline remained coercive and physical.

Moral reformation in penitentiary schools was indeed based on a process of coercing the body. It aimed to modify the physical and mental habits of pensioners, change their personalities, and introduce them to “civilized” ways. Ibrahima Thioub (2003a: 82-83) shows how physical labor with busy work schedules became important strategies within the penitentiary schools. Delinquents were also separated out to eliminate what was seen as moral contagion. At the Thiès penitentiary, the Fathers of the mission considered vice and perversity as something that could spread among young delinquents if precautions were not taken, which led to them classifying children in distinct categories. Child offenders were ranked by capacity, age, and severity of their disturbed behavior and were kept in prisons or returned to their parents when they showed no changes or moral reformation. Depending on how they were classified they were subject to different levels of disciplinary practices. Juveniles were put into the following categories: “barren headed”, “of rebellious nature,” “suffering from primitivism,” “incorrigible thief,” “not enough brain to learn to read” (Thioub, 2003a: 85). The professional school of Carabane, which opened in 1928 after the closure of the Bambey penitentiary, was reorganized on such principles in 1939.

Carabane offered general teaching classes and professional training to youngest offenders, based on the idea that their “memory and mind are not yet deeply spoiled by deviance and vice.”⁶ During the early 1930s, two years after its creation, the authorities urged the school’s officials to consider more systematic classification, distinguishing the older and incorrigible from the young and reformable inmates. Consequently, the basic principle at Carabane was to separate offenders who were “definitively barren headed and old enough for the prison” from detainees “who were at different degrees susceptible to be amended, if isolated.”⁷ Here one notices a move from mass treatment to individual treatment that differentiated those still seen as children from those now considered hard-core criminals.

⁶ ANS, 3F/00118, Lassalle-Séré’s report on the prisons in Senegal, Saint-Louis, 14 March 1939.

⁷ Ibid.

Furthermore, in contrast to the Bambey penitentiary, the program of Carabane shifted from the physical to the moral realm with a focus on education and the character of offenders. The word “discipline” nevertheless continued to be part of the school’s curriculum indicating that obedience was a major part of the institution.

The history of the penitentiary schools in Senegal has been the subject of a study by Ibrahima Thioub, who thoroughly analyzed their emergence, development and failure. Penitentiary schools spread throughout the colony and received mostly delinquents acquitted under Article 66. Yet, they were primarily male institutions. Evidence shows that young delinquents were subject to special legal treatment, but that this was different where boys and girls were involved. It should be noted that Article 66 applied to both male and female delinquents. The colonial penitentiary administration in Senegal classified prison facilities based on criteria such as the length of prison sentences, age (prisons for adults and penitentiary schools for young detainees), civil status (civil prisons, military prisons), but ignored gender in this classification. So, when Léonie Guèye was acquitted in virtue in of Article 66 and ordered to sojourn in the Bambey penitentiary school, it was impossible to send her there because the internal and spatial organization of the school facilities was not designed to receive female delinquents.

The Case of Léonie Guèye: Rethinking Juvenile Delinquency in Colonial Senegal

In terms of the detention conditions of both adult and young females, the colonial authorities in Senegal decreed that: “in prisons female inmates should be kept in separate wards and cells in order to avoid any contact with male inmates.”⁸ This decree, issued when the colonial administration was reforming the penal system, indicates how authorities intended to handle the imprisonment of women in Senegal. However, the separation of the different categories of inmates as required by law was not enforced. Records in the colonial archives reveal that it was usual for men and women as well as young and adult detainees to share cells, which violated the 1850 metropolitan law requiring separate categories for inmates. This law, which was often cited as reference, had provided the model for moral education through professional instruction and had inspired a number of laws

⁸ Article 4 of Decree n° 478 of February 1929 ruling the prisons in the *cercles*.

regarding the treatment of criminals in the colony. Yet in a letter sent to the Governor of Senegal, the General Secretary of the government stated: “the 1850 Metropolitan law was never promulgated in French West Africa and that only its spirit was applied in the federation.”⁹

Reports of prison supervisors deplored the poor living conditions of young female delinquents incarcerated with adult inmates in small cells. Delinquent girls experienced such situations because the French authorities were quite simply unprepared for their presence. In 1924, the General Attorney reported to the Governor of Senegal that Léonie Guèye, condemned to eight years in prison and who was supposed to have been sent to a penitentiary school, still shared the same wards with adult common law inmates at Saint-Louis civil prison. Prison reports are silent on what she stole and from whom. The reason for this silence is that prison files, different from court files; contain more information on the types of crimes and rarely on their motives and victims.¹⁰

From July 1922 to May 1925, when she was released from Saint-Louis civil prison, Léonie became the subject of disputes between the colony’s judicial and police authorities, the General Governor of Senegal, the head of the colony’s Agricultural Service, and the director of the Bambey penitentiary. It took these authorities four years of intense negotiations to decide how to make applicable the decision of the court of Saint-Louis. What could be done with a female delinquent when the Bambey penitentiary male institution which did not allow for the incarceration of females?

On 10 July 1922, the Chief-Police of Saint-Louis, who also served as director of the Saint-Louis civil prison, reported to the Government’s General Secretary on the decision of the correctional court of Saint-Louis to acquit Léonie Guèye and to send her to a house of correction until she reached the legal age of twenty.¹¹ This was confirmed by a decree issued by

⁹ ANS, 3F/00064, General Secretary of the Government to the Governor of Senegal, Saint-Louis, 14 May, 1924.

¹⁰ In 1892, 68% of minors at the Thiès penitentiary were detained for robbery, 10% for violence and fights, 7% for vagabondage, and the remaining for attempted murder and attempts to derail trains.

¹¹ ANS, 3F/00064, Director of Saint-Louis civil prison to the General Secretary of the government, Saint-Louis, 10 July 1922.

Didelot, the Governor of Senegal on 11 July 1922.¹² Two weeks later, on 1 August 1922, Didelot wrote a letter to the director of the penitentiary in which he asked: "Does the environment of the Bambey penitentiary provide safety for the incarceration of a young girl by avoiding contact or promiscuity with boy detainees?"¹³ On 5 August 1922, Denis, the director of the penitentiary, responded to Didelot by pointing out that "Leonie would not be safe at Bambey because not only did the internal organization and facilities of the prison not allow for the detention of female inmates, but also because she would be in close and permanent promiscuity with boy delinquents."¹⁴

For economic reasons, detention conditions at the Bambey penitentiary were deplorable. Facilities were badly designed. The prison was organized around four non-fenced buildings. The first building was composed of two cells of 2 m x 5 m. After the ceiling of the second building was damaged, the inmates spent their nights and days jam-packed in the first building. Two remaining buildings served respectively as a storage room and a house for guards. The small dimensions of the buildings and their rundown appearance bolstered the concerns of the director of the prison about incarcerating a young girl. Denis's first responses did not impact on the authorities' firm decision to transfer Léonie to Bambey. Pressure grew when on 27 October 1922 Denis received another letter from the governor, in which Didelot renewed his request for information on how Léonie could be incarcerated at the Bambey penitentiary and be kept separated from boys.¹⁵ Difficulties in resolving the issue made colonial authorities aware of the unequal situation facing young female delinquents sentenced to prison. On 8 May 1924, the General Attorney sent a report to the Governor of Senegal in which he denounced

¹² ANS, 3F/00064, Decision of Governor of Senegal notifying the incarceration of Léonie Guèye at the Bambey Penitentiary, Saint-Louis, 11 July 1922.

¹³ ANS, 3F/00064, Governor of Senegal to Director of the Bambey Penitentiary, Saint-Louis, 1 August 1922.

¹⁴ ANS, 3F/00064, Director of the Bambey Penitentiary to Governor of Senegal, Bambey, 5 August 1922.

¹⁵ ANS, 3F/00064, Governor of Senegal to Director of Bambey Penitentiary, Saint Louis, 27 October 1922.

The irregular situation of young female delinquents, acquitted in virtue of Article 66 by the correctional tribunals of Saint-Louis and other jurisdictions, but who are imprisoned in adult prisons, whilst they are supposed to be in houses of correction for minors.¹⁶

This unfair treatment, according to the General Attorney led to further abuses as “the young girls had to endure more suffering than adults.”¹⁷ Mentioning the case of Léonie, incarcerated with adult female inmates at the Saint-Louis civil prison, the General Attorney showed some concerns about the bad influence that adult inmates might have on the girl.

The General Attorney’s involvement in the case brought the attention of the Governor to the ambiguity of the texts regulating the organization of the Bambey penitentiary. According to him, “there was no text which officially stipulated that the Bambey penitentiary, the only established minors’ institution, could receive only boys and lacked facilities to accommodate female inmates.”¹⁸ This said, prison records do not mention the presence of any girl during the institution’s eleven years of existence. Léonie’s case is thus significant because it tells us about the colonial authorities’ difficulties in enforcing, interpreting, and applying the legislation regarding the creation of the Bambey penitentiary.

In the minds of the authorities who designed the laws relating to the creation of the penitentiary schools, the delinquent was masculine. The construction of a gender-biased colonial ideology on delinquency in Senegal is readable through practices and regulations implemented in the penitentiary schools. There were no separate quarters for female delinquents or female personnel. Garments that made up the penal uniform suggest a male outfit. These included a pair of pants, a working blouse, a beret, a pair of sandals, and a blanket (Thioube, 2003a: 89). Also at Bambey, children were raised under severe discipline, and consigned to agricultural work. As work and discipline were oriented towards acquiring industrious habits, some children were assigned to jobs such as cleaning the port of Bambey, others served as metalworkers, apprentices, builders, carpenters,

¹⁶ ANS, 3F/00064, General Attorney to the Governor of Senegal, Saint-Louis, 8 May 1924.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

assistant gardeners, and peanut sorters. Such jobs were far from being roles usually carried out by girls.

The feature which marked Léonie's case as being different from the countless number of others involving young people engaged in delinquent activities was that she had committed the same crime (robbery) three times within two years. Subsequently, through her criminal activities, Léonie was part of a wider challenge to the model of the delinquent defined as male. As a result, the meaning of the delinquent in colonial Senegal was redefined and reconfigured. Her portrayal by the authorities as "a vicious and perverse child whose parents failed to educate and control her"¹⁹ made her case even more complicated. To the authorities, Léonie was the embodiment of a rebellious child who cared little about the rules of society and the consequences of her actions. The fear that she might otherwise fall into delinquency if returned to her mother was on a number of occasions expressed as a reason keeping her in detention. At a moment when dominant representations of the delinquent as masculine were directly challenged by a "vicious and perverse girl," her case shows how certain gendered meanings are constructed and might be changed. In fact, Léonie's case reinforces the argument that the focus should not be put on things that have happened to women and men and how they have reacted to them, but on the social construction and meanings of women and men as categories (Scott, 1988: 6). As some scholars have also shown, concepts such as immorality, iniquity, or badness might be useful sociological terms of reference, but they are products of historical construction more than anything else (Musisi, 2001: 175).

The case of Léonie Guèye called into question views of what was expected from girls through socialization within their families, but also provided a historical construction of the typical girl delinquent. For the first time, authorities were dealing with a "real girl delinquent" which explains why it took four long years of discussion to deal with the case. As a typical "delinquent," the General Attorney argued that Léonie should be sent to the Bambey penitentiary: "vicious and perverse girls such as Léonie need rehabilitation programs that only institutions like the Bambey penitentiary can offer."²⁰ This was one reason why the absence of female inmates at the

¹⁹ Ibid.

²⁰ Ibid.

Bambey penitentiary did not constitute a strong argument in dissuading the colonial authorities to change their mind.

The second reason related to the fact that, even if they changed their minds later on and released Léonie, the colonial authorities' obsession with transferring her to Bambey provided them with an opportunity to address once and for all the situation of young female delinquents incarcerated in adult prisons, and to redefine the legislation regulating penitentiary schools. The third reason related to the morality of Léonie's parents. The first morality investigation ordered by the general Attorney in the view of returning Léonie to her stepfather Amadou Sall, who made the request, was not favorable. It stated that Amadou Sall was not a resident of Saint-Louis, but of Louga where he lived with Leonie's mother at the time of the request. The report also concluded that Amadou Sall was jobless; therefore, he would be incapable of sufficiently supervising the girl. In reality, Amadou Sall had moved to Louga for two years to fill an agricultural job and later came back to Saint-Louis. Yet Amadou Sall's lack of a permanent address and job delayed the release of Léonie. The last solution, which was to place Léonie outside of the prison for professional training failed as the colonial authorities did not know who would be willing to care for her. All of these factors explain their obsession to transfer her to Bambey.

As she served her sentence at the Saint-Louis civil prison, the General Attorney finally recommended that Léonie be released, after agreement between the administration and the Minister of Public Affairs. Such solutions were never before enforced because of Léonie's criminal record. After trying for four years to transfer Léonie to Bambey, the concerned authorities were obliged to free her from prison. On 12 May 1925, the governor of the colony ordered her discharge.

Yet the case of Léonie provided the General Attorney with the opportunity to urge the Governor of Senegal to take positive action to avoid cases such as Léonie's in the future, and to reform the legislation of the penitentiary schools so that they could accommodate girls who he believed should be in prisons for minors rather than in regular prisons. The calls from the General Attorney to reform penitentiary schools suggest the fragmented and confused attitude of the colonial state towards the treatment of juvenile delinquency in Senegal. Throughout Léonie's case, the question of her age, for instance, seemed to be more important than the gender question. Any analysis of juvenile delinquency that fails to integrate

a gender perspective would be incomplete for a number of reasons. Firstly, all delinquents were not male. Secondly, despite a willingness to make changes in young female delinquents' detention conditions, the colonial authorities were not ready to build a separate prison and educative program for them or to design a distinct rehabilitation program, because of budgetary constraints. For those incarcerated with adult inmates, domestic work remained their only option. Finally, all efforts to rectify prison gender imbalance seemed to reinforce it. This is the reason why adopting a gender perspective to understand Léonie's case is important: it reveals both a lack of gender-sensitive policies in dealing with juvenile delinquency and how the colonial authorities struggled to fit young female delinquents into a gender-blind analysis of juvenile delinquency.

Upon Léonie's release from prison in May 1925, custody was granted to her stepfather, not to her mother. The custody issue over Léonie thus turned into a colonial reconfiguration of the African family as well as a shift in the jurisprudence of juvenile delinquency.

The Custody Battle over Leonie: A Reconfiguration of the African Family.

Juvenile delinquency in colonial Senegal involved more than punishing, incarcerating, and housing young offenders: it also involved the families of delinquents. The second morality investigation ordered for Amadou Sall was favorable. Even if Leonie's case was unique in its content, its ending made it similar to other cases. The case of Angélique Tall, a twelve-year-old girl incarcerated at Dakar civil prison, bears examination. Living with her sister, Issa Tall, she was arrested, convicted, and spent two years behind bars. As in Léonie's case, prison files are silent about why Angélique was arrested. Upon her release, the judges granted custody to Daour Dione, her sister's husband, who was expected to keep an eye on the moral education of Angélique to prevent her from falling into perversity again. For the judges, Issa Tall was too weak to impose her parental authority upon her sister Angélique.²¹ This jurisprudence seemed to be at odds with "tradition" because in the case of divorce, girls remained most often under the custody of their mothers until they reached the age of marriage, when the father would negotiate the bridewealth with the future family-in-law and keep it

²¹ ANS, 3F/00037, General Secretary to the Governor of Senegal, Dakar, 12 November 1924.

for himself. Girls were seen as a source of wealth in terms of their potential to secure goods, cash, and services (Roberts, 2004: 8).

Colonial authorities in Senegal linked girls' delinquency to unfit mothers. They pointed the finger at mothers, viewing women as being incapable of properly raising and disciplining their children, weak and without authority. According to the discharge order, "Léonie's mother did not have the authority to discipline her daughter properly."²² For the authorities, perverse and vicious children like Léonie required both a rehabilitation program and paternal custody. This new jurisprudence suggests a clear invasion in Africa of the colonial patriarchal ideology, imbued with moral values inherited from the Roman and Christian law (Coquery-Vidrovitch, 1994).

Viewed as incapable of establishing firm boundaries between governed parental authority and daughterly obedience, African women were on trial for the breakdown of the African family. The mothers were the real problem, not the girls. The colonial administration was indeed completely obsessed by the problem of the "breakdown of the African society" at this time. It is likely that this is why after World War One, judicial bodies took more conservative attitudes towards family disputes. Richard Roberts explains that in cases surrounding child custody in the French Sudan, where paternity might be uncertain or even certainly not the husband's, custody was nevertheless attributed to the husband of a formal marriage in which bridewealth had been transferred. Secondly, control over children became a dispute only when the child was ready to "provide some services whether in the form of labor or as a repository of exchange value in the form of a girl's sexual, domestic, and reproductive services." (Roberts, 2004: 11). Roberts indicates that expectations of the administrators that parents would increasingly appreciate their children as individuals and not as units of labor or exchange was at odds with the tendency within the courts to rule in favor of husbands and household heads (Roberts, 2004: 14).

Beliefs in the role of African women in the breakdown of African society were quite common in colonial Africa. In her study of gender and state in South Africa, Linzi Manicom explains how the problem of women within urban areas and the breakdown of the African family were two

²² ANS, 3F/00064, Decree issued by the Governor of Senegal ordering the release of Léonie Guèye, Saint-Louis, 12 May 1925.

gendered metaphors used at a number of points of crisis in rule during the first half of the twentieth century in South Africa (Manicom 1992: 459). She further argues that the representation of such crises as a social and moral problem focusing on “women” and family led to a construction of gender that portrayed African women as “unruly”, encouraging the colonial authorities to promote specific patriarchal forms of relationships in the “family” to overcome such crises (Manicom 1992: 459). Paternal or male control, colonial officials reasoned, was the surest way of stamping out young female delinquency. Consequently, this belief reconfigured the African family and shifted social roles within it as men were seen as the source of stability, integrity, and responsibility in families. This emphasis on paternal custody indicates the concern among the colonial authorities for “proper” and “respectable” family life amongst Africans. (Parpart, 2001: 282.).

The colonial authorities thus gave men the paternal responsibility for boys as well as girls. For instance, when in 1939 penitentiary officials failed to successfully run the Penitentiary School of Carabane, the colonial authorities co-opted chiefs, notables, and heads of families and decided to grant them full custody of young delinquents. This was exactly the same as what had been done decades earlier, when chiefs and notables were given full custody of young freed slaves. Paying a visit to the Special School of Carabane to check on the moral rehabilitation of young offenders, Parisot, governor of Senegal during that period declared that:

It is important to maintain the principle of the school of Carabane, which is designed to receive only young delinquents whose detention is absolutely necessary. The youngest delinquents in the school must be handed over to the chiefs and notables who will be granted full custody of these juvenile inmates through local decrees enacted by our administration. Meanwhile, the administration has the last decision on the young detainees’ discipline, behavior and health conditions.²³

²³ ANS, 3F/000118, Report of Inspector Lassale-Séré on prisons in Senegal, Saint-Louis, 14 March 1939.

French colonial rulers contributed to the belief that male African heads of families and chiefs should be the primary caregivers and the primary providers of education for children. This belief had widespread currency until the failure of the Penitentiary of Carabane. It was only then that the French closed penitentiary schools in Senegal and began a new program focusing on the professional training of young male delinquents at the Nianing Center, at Mbour, located 70 miles from Dakar. The Nianing Center ran from 1953 to 1956 and was intended for the reeducation of “indocile” children. In 1957, the colonial administration closed the center, and started another program through the *Centre d’Assistance et d’Observation du Mineur Inadapté (CAOMI)* which opened in Dakar.²⁴ This new institution reveals the collapse of the former colonial policy for treating young delinquents. Assistance became the key word in a new ideology based on a real intervention of the state’s agents in the reeducation of young delinquents. Again, however, young girls were not concerned by these new programs.

Conclusion

The facts of Léonie’s case have been presented in some detail because they reveal some of the problems regarding the treatment of young female delinquents. This case is a prime example of how the French rulers tried get a handle on youth delinquency by enforcing laws that did not allow for the presence of young female delinquents in penitentiary schools, while gender mediated the meaning and construction of the delinquent in colonial Senegal. For colonizers, the delinquent was a masculine; consequently, gender imbalance reigned inside the colonial penal system. While colonial authorities opened reform schools for minor male delinquents, they imprisoned under-age female delinquents in regular jails with adult inmates. Upon their release, most girl delinquents faced another challenge – that of being taken from the authority of their parents, particularly mothers, who lost custody of their children in favor of their husbands.

Post-colonial regimes in Senegal have inherited this situation. Today, the legal treatment of young female delinquents does not differ significantly from the colonial period. For instance, the first prison reserved for women was only established in 1972, twelve years after Senegal became independent. The creation of the women’s prison was the clearest break

²⁴ Assistance Center for the Surveillance of the Inadapted Child.

with the colonial period. Its architectural design, however, did not break with colonial patterns. Located at Rufisque, 24 miles from Dakar, the prison is organized around a building constructed in 1930 which used to serve as a police station. The Rufisque prison reflected the desire of the government not to correct the prejudice against women during the colonial period, but to adhere to the international standards for prison administration.²⁵ The argument here is that this attention to women's incarceration is not to be defined as a policy sensitive to gender, but as a response to the 1970s decentralization procedures initiated by the Senegalese government to delocalize services and institutions. In 1996, a project of penal reform was undertaken to attempt to improve the detention conditions of young female delinquents. The Senegalese government opened a new section at the Penal Camp of Dakar for girl delinquents and organized projects for their education. However, many additional efforts remain necessary to ensure the improvement of their living conditions and their ultimate reintegration into society. Only then will Senegal break away from the dramatic legacy of colonial laws.

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²⁵ Since 1980, the Senegalese government has tried to conform to the resolutions taken at the Sixth United Nations conference on the prevention of crime and the treatment of delinquents that was held the same year. Senegal is party to a number of international treaties and conventions relative to the treatment of prisoners such as the Basic Principles of the Treatment of Prisoners, adopted and proclaimed by the General Assembly resolution 45/111 of 14 December 1990.

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