

Emily Burrill

## Disputing Wife Abuse

### Tribunal Narratives of the Corporal Punishment of Wives in Colonial Sikasso, 1930s

#### Avertissement

Le contenu de ce site relève de la législation française sur la propriété intellectuelle et est la propriété exclusive de l'éditeur.

Les œuvres figurant sur ce site peuvent être consultées et reproduites sur un support papier ou numérique sous réserve qu'elles soient strictement réservées à un usage soit personnel, soit scientifique ou pédagogique excluant toute exploitation commerciale. La reproduction devra obligatoirement mentionner l'éditeur, le nom de la revue, l'auteur et la référence du document.

Toute autre reproduction est interdite sauf accord préalable de l'éditeur, en dehors des cas prévus par la législation en vigueur en France.

**revues.org**

Revues.org est un portail de revues en sciences humaines et sociales développé par le Cléo, Centre pour l'édition électronique ouverte (CNRS, EHESS, UP, UAPV).

#### Référence électronique

Emily Burrill, « Disputing Wife Abuse », *Cahiers d'études africaines* [En ligne], 187-188 | 2007, mis en ligne le 15 décembre 2010, consulté le 15 janvier 2015. URL : <http://etudesafriaines.revues.org/8242>

Éditeur : Éditions de l'École des hautes études en sciences sociales

<http://etudesafriaines.revues.org>

<http://www.revues.org>

Document accessible en ligne sur :

<http://etudesafriaines.revues.org/8242>

Document généré automatiquement le 15 janvier 2015. La pagination ne correspond pas à la pagination de l'édition papier.

© Cahiers d'Études africaines

Emily Burrill

## Disputing Wife Abuse

Tribunal Narratives of the Corporal Punishment of Wives in Colonial Sikasso, 1930s

Pagination de l'édition papier : p. 603-622

- 1 While there has been a recent surge in the field of African history on marriage and court cases, very little of this research has specifically examined domestic violence as a historical element of marriage and society. Scholarship on the history of marriage disputes, divorce, and other family-related civil conflicts sheds light on issues related to power and control in marriage, often examining how the management of marriage on the part of new states and local authorities changed during the colonial period (Byfield 2001; Hawkins 2002; Tashjian & Allman 2002; Roberts 2005). Some of this work mentions violent treatment and abuse in marital disputes, but there is little discussion of violence and corporal punishment as a historical subject for analysis.
- 2 This article examines tribunal testimony from divorce and homicide cases from the Sikasso subdivision court and criminal court in the 1930s. I use the testimony of litigants and witnesses in an attempt to understand the conditions under which physical punishment of wives occurred at the hands of their husbands<sup>1</sup>. Husbands committed mundane acts of physical punishment upon their wives, which were seen as appropriate corrections in maintaining the balance of a marriage. These acts help us to understand the meaning of physical control and abuse in domestic relationships. However, punishment—often slapping, hitting or whipping—was a precarious instrument, and could potentially exceed the limits of acceptability. These limits were up for interpretation and open for debate not only between a husband and a wife, but neighbors, other compound members, court assessors and colonial adjudicators.
- 3 Rather than propose an essentialist assessment of the fact that husbands beat their wives and therefore subjugated them, I present some of the ways in which compounds and households interacted—as units and as individuals within a unit—to support a patriarchal system in which wives were physically punished and controlled. Here, Deniz Kandiyoti's notion of the “patriarchal bargain” is useful, and I employ the same rationale on the abuse of women in Sikasso during the 1930s (Kandiyoti 1991; Kozma 2004). The “patriarchal bargain” asserts that women are also active agents in the implementation of patriarchal systems, even as they are subjected to them. Women who participated in the subjugation of other women were rewarded with certain protections and benefits at the hands of men. In the case of co-wife abuse or abuse of female lovers, wives directly benefited from the physical subjugation of other women, vis-à-vis their relationship with the male perpetrator. However, I take this notion of the patriarchal bargain further by arguing that in a context such as a village compound in the rural region of Sikasso, women had the potential to form an informal system of observation of male behavior, which held men to their part of the bargain. This enforced not only a certain balance within a marriage itself (in which physical punishment was acceptable, but within limits), but also the place of the conjugal compound within the larger village. This comes to the fore in the role that mothers and other women played as witnesses or alleged *provocateurs* in homicide and divorce cases.
- 4 While criminal cases involving death were uncommon, the involuntary homicide cases examined here are rich for the simple fact that the claims rest on the notion that husbands were otherwise behaving *normally* (in other words, acting in ways where death was an unexpected outcome), that physical punishment was common and even expected at the hands of husbands, and it was only in those atypical cases that this everyday form of subjugation resulted in death. By contrast, divorce cases were some of the most common civil level court cases of the 1920s and 1930s in Sikasso, and while it appears that the courts were not as commonly used to regulate marriage crises as they were in the earlier years of the colonial period, the fact that the

divorce cases remained so common reveals the persistence of marriage-related problems that women may have found difficult to resolve at the household or village level (Roberts 2005)<sup>2</sup>. The information revealed through the detail of the subdivision courts indicates that women in Sikasso who argued for divorce regularly cited abuse as the reason for the divorce.

5 Subdivision court cases on marriage and divorce as well as homicide cases are rich sources for understanding gendered, corporal punishment and domestic violence in a historical context. While physical punishment as correction of a wife's bad behavior was legally acceptable in the French Soudan and therefore not punishable by law as such, I find that evidence of abuse and physical punishment in marriage appears in testimony where women are arguing for divorce in the colonial tribunals, as well as involuntary homicide cases. In sum, women persisted in making claims of abuse in divorce cases, despite colonial and local, patriarchal notions that this was an acceptable element of marriage in Sikasso.

## Court Records, Domestic Violence, and Social History

### African Studies and Comparative Approaches

6 Work on domestic violence, where female bodies are the object of violent acts, is historically useful because it not only helps scholars understand the role of power and authority in relationships between African men and women, but also because it reveals the central role of women and control over female bodies and sexuality in the debates on customary law between colonial administrators and African male leaders<sup>3</sup>. In studies of the Middle East and India, work on *sati* (self-immolation of widows at the death of a husband) and honor killing is useful to Africanists because it provides a theoretical framework for understanding gendered acts of violence upon the female body relative to a woman's relationship with men and her place in society at-large. The research on these forms of gender violence is instructive because it highlights the debates that occurred (often between local men deemed customary experts, and colonial authorities) over the place of physical subjugation of female bodies in the colonial, and even post-colonial state. While French colonial authorities wanted to delegate authority to local court authorities who were assumed experts on local custom, they were concerned with crimes that they determined "contrary to French civilization" such as corporal punishment of wives. The involuntary homicide cases were clear examples of acts that were "contrary to French civilization" in the eyes of the administrator presiding over the criminal court, but the divorce cases where women pleaded abuse tended to more ambiguous<sup>4</sup>.

7 Furthermore, justification, or at the very least, explanations of violence against women bring to the fore societal notions of a woman's place in her household and society, and senses of propriety surrounding a woman's behavior, particularly towards men. They are examples of the role that men played as the keepers of a young woman's or a widow's virtue, and the central role of subjugation of the actual, physical embodiment of womanhood (*i.e.*, abuse of a female body) in maintaining normative gender roles for females. Recent research on forms of gender violence in colonial settings remind us that because acts of domestic violence are ultimately political in nature and linked to larger socio-cultural values, we should look more closely at the links between brutality directed towards women in their conjugal relationships and families, social and economic strife, and challenges to local political authorities and issues of state power dispute (Hodgson & McCurdy 2002; Sharzad Mojab 2002: 1; Thomas 2003). Such conclusions and observations are suggestive of new directions that Africanist scholars can take in understanding domestic violence in the colonial period.

8 The 1930s were a turbulent time in the region of Sikasso. By the late 1930s, farming villages in the Sikasso region were under tremendous pressure by the colonial state to produce crops that would pay for taxation and the functioning of the colonial state in a period when the global depression had seriously ground French Soudanese cotton export to a virtual standstill (Roberts 1996). Forced or coerced labor in Sikasso was a bleak reality from the late 1920s through the 1940s. The *Office du Niger*, a large-scale irrigation project initiated in 1932 in order to bolster cotton production for French textiles, relied on the labor of African men throughout the colony (van Beusekom 2002; Fall 1993).

- 9 An increase in male migration to Côte-d'Ivoire for work on cotton and rubber plantations further undermined local labor conditions and field cultivation responsibilities. Young men left the region for work in the big cities which were closer to Sikasso than the other colonial outposts in Senegal, Kayes or even Bamako. In a 1947 census and regional assessment of the canton of Folona, where Kignan was located, the colonial administrator lamented the fact that after the harvest each year, in approximately September, more and more young men left their villages to make money in Côte-d'Ivoire<sup>5</sup>. This had been occurring throughout the early 20<sup>th</sup> century, but dramatically increased in the early 1930s. While the young men who left often returned for the next harvest with currency for tax payment, their absence created more of an agricultural burdened for those who remained.
- 10 The region of Sikasso was primarily valuable to the colony of French Soudan because of its fertility and village output of cotton crops, but also because Sikasso cultivators and farmers produced millet, vegetables, shea butter and other consumable goods for local and trans-regional markets. The legal abolition of slavery in 1905, coupled with the introduction of hut taxes under the colonial administration, resulted in increased demands on free female labor in the fields and in the home. These pressures provoked an inordinate number of women to demand divorce at the tribunal level<sup>6</sup>. However, divorce cases declined quickly by the 1920s, as chiefs and patriarchs began to identify new ways to exercise control over households, and as the French colonial administration attempted to curtail divorce in an effort to save the "African family". In the 1930s, West Africa as a whole, particularly the French Soudan, experienced a resurgence in the pawning of young girls and women to pay of family debts in this time of economic crisis (Klein & Roberts 1987). In this sense, girls and women bore the brunt of a regional socio-economic crisis, as they were potentially expendable as pawns. The French colonial administration, aware that this was a growing problem, attempted to curtail the use of girls and women in pawn relationships. This was a direct challenge to the authority of patriarchs and their decision-making within their families as providers. The confluences of these social, political and economic factors reveal the multiple ways in which girls and women were at the epicenter of the brutalities of colonial development and power plays between colonial administrators, local village leaders and male heads of household.

## Court Testimony as Historical Record Limitations and Possibilities

- 11 Only the Dioula know how to speak to the Whites (Banfora in Colin 2004: 184).
- 12 Recent contributions to social history by Richard Roberts (1969)<sup>7</sup> provide scholars with a methodology and analytic framework for using civil-level court cases in order to identify what he calls "trouble spots" in aggregate social data. Roberts argues that identifying clustered trends in disputes in the French Soudan allows historians to understand wide-spread points of social conflict, despite the fact that many Africans did not use the colonial courts as a venue for dispute resolution. In the early 20<sup>th</sup> century French Soudan, the majority of these trouble spots fell around issues of marriage and divorce disputes. Notably, Roberts found that divorce cases (which were identified as attempts to dissolve a marriage) were overwhelmingly brought by women, while marriage cases (which he identified as attempts to require a woman's return to the conjugal home) were primarily brought by husbands or other male guardians. In this way, he highlights the gendered quality of conjugality claims, and the predominance of conflict in and over marriage in colonial French Soudan. While Roberts reveals the trends in conjugality disputes in the early years of the colonial court system of the French Soudan, the type of records that comprise his study of over 2,000 court cases do not allow for a detailed, historical analysis of witness and litigant testimony. Furthermore, he is more concerned with developing a methodology for understanding aggregate court data as an alternative to the case-method of analysis that dominated legal anthropology and history for many decades. However, we can conclude from Roberts's study that many women who initiated divorce proceedings argued that they were mistreated or abused in marriage (Roberts 2005: 126).
- 13 Court cases are useful for gleaning information about everyday life in African society, but they are not without their pitfalls. The court experience in Sikasso (and elsewhere in the French

Soudan) usually required the work of a translator, who directly mediated the communication between litigants and judges, and as a result, between subject and historian<sup>8</sup>. Roland Colin (2004: 280), the former deputy Commandant of Sikasso from 1952 to 1954, tells us in his memoirs of the problematic quality of court testimony in a colonial setting:

“In the time of my predecessor, the stature of the great interpreter significantly impacted the decisions of justice. Bakary Doucoure explained to me that there existed, in fact, two episodes in the course of the trial. The first took place at the residence of the *chef de canton*, between all of the African actors, and the decision’s outcome was a function of force, primarily between the chieftaincy and the peasants. At the time of the administrative hearing the great interpreter recapitulated the state of the debate in front of the concerned parties, in dioula, and fixed his own opinion [...] the great art was to give (the colonial administrator) the illusion of having settled the matter and declared the law himself.”

- 14 Bakary Doucoure outlined a process for Roland Colin which reveals the basic problem with using court testimony from particular periods to understand social history: the testimony comes from the “second episode” of justice, and represents to some degree the intervention of the “great interpreter” in the original case. Translators and court interpreters wielded tremendous power, impacting not only the court experience and outcome, but the interaction between stewards of the colonial state and local Africans. Colin eradicated the role of the translator during his tenure, preferring litigants to speak freely in Jula, but this also caused problems. The court assessors, often chosen by the *chefs de canton* and appointed by the deputy Commandant to assist with rulings according to certain customary laws, were typically implicated in the power structure described by Colin and his assistant, Bakary Doucoure. Assessors were interested in maintaining the power base of the *chefs de canton*, and were potentially threatened by unmediated testimony where litigants could speak directly to the court, voicing their issues to the colonial administration (Colin 2004: 279). And while Jula, or Bamanankan, was the *lingua franca* of most colonial intermediaries and administrators (in addition to French), it was one of many languages spoken in the Sikasso region, and associated with pre-colonial dynamics of empire that subjugated many people in the countryside of the Sikasso region. The quote at the beginning of this section highlights a common belief that Jula was not only the one language that was useful with the French colonial government, but that Jula or Bambara *people* (as opposed to Senufo Fulbe, or Gana, for example) were the only possible intermediaries between local Africans in Sikasso and the French colonial administration. It may be that this impacted Senufo-speaking litigants’ decisions to appear before the *tribunal de province*, despite the fact that Senufo customary authorities were appointed to the tribunal as assessors.
- 15 In divorce cases, litigants had previously appeared before the *chef de canton* for a required reconciliation attempt. It is unclear how many of these reconciliation attempts were successful, but we can assume that fewer cases made it to the *tribunal de province* level as divorce cases. Thus, by the time a case reached the level of the *tribunal de première instance*, the grounds on which a woman requested divorce were heard by her husband, who was in turn able to secure a core of witnesses who could attest to the qualities of their marriage. Equally, a woman could hear her husband’s argument as to why a divorce was not a desirable outcome, develop an argument, find witnesses, and amass proof of her claims. As we will see here, some women proved adept at working within the colonial legal system, while others did not.
- 16 In involuntary homicide cases, the colonial state constructed a case against the accused. The *chef de canton* gave the Commandant and his office permission to investigate the conditions of the homicide in the village<sup>9</sup>. The defendant in the few Sikasso cases of the 1930s was represented by the deputy Commandant. What is particularly noteworthy about the involuntary homicide cases discussed here is that in each case, witness testimony was heard directly at the court, which was unusual at the criminal level. In both the involuntary homicide cases and the divorce cases, witnesses were asked to give their names, age, place of birth, place of residence, marital status, occupation, and the names of their parents. They issued written testimony, namely through the translation and assistance of a letter writer, but could also be asked to provide verbal testimony under some circumstances, such as the involuntary homicide cases. Mediated testimony such as this, then, particularly from illiterate men and women in a colonial

context, is a source rife with challenges (Berk-Seligson 1990; Roberts 1990)<sup>10</sup>. However, it remains useful and instructive because though mediated through translation, transcription and the gendered authority of the colonial tribunal, testimony provides an indication of the role and meaning of violence in conjugal relationships. At the very least, mediated testimony reveals what *chefs de canton* and interpreters may have deemed “acceptable” ways of claiming abuse and talking about the role of corporal punishment in African marriages in Sikasso. At the most, the testimony reveals the voices of women who claimed abuse in their marriages, and who were willing to reconstruct proof of abuse according to the demands of the court.

## Punishment and Disobedience in Marriage in Sikasso Tribunal Narratives

- 17 Here, two different sets of cases will be studied: divorce cases heard at the *tribunal de province* level, in which women requested divorce based on claims of abuse and mistreatment, and involuntary homicide cases heard at the *tribunal de cercle* level, in which husbands were tried for causing the death of their wives through physical abuse. These latter cases of “death without intention” examined here are valuable not because of their quantity; in fact, there were only 16 criminal cases heard in the *tribunal de cercle* in Sikasso between 1932 and 1944. What is valuable about these criminal tribunals is their depth of testimony and what they reveal about the “patriarchal bargain” at work, but it also helps us to understand the moral economy of marriage, the ways in which this code could be broken, and responses to such an imbalance.
- 18 The first case of Salia Sangare and Massara Dembele reveals a number of components that help us understand both the moral economy of marriage and the role of evidence of abuse. The case supporting Salia’s claims of involuntary homicide rests on the autopsy performed by the colonial doctor assigned to the *cercle* of Sikasso, and the testimony of Ouraba Bayogo and Salia’s first wife, Kadidja Traore. In this case, the neighbor and the co-wife were the important witnesses that helped construct a moral sketch of the defendant in light of the charges against him. Ouraba Bayogo’s testimony is powerful both because she did intervene, even going as far as crossing the compound wall to physically separate the couple. However, while her calls to Salia to leave his wife alone and her intervention indicate that perhaps she perceived the dispute to be either unwarranted or excessive, her testimony asserted that Salia’s physical punishment was not extreme. Ouraba’s testimony indicates that she did not find Salia’s strikes to be violent; that she could not determine the subject of their dispute because they were talking too fast; that the couple did not often fight; that she was surprised that the blow she heard had killed Massara. Similarly, Kadidja, Salia’s first wife, stated in her testimony that she knew of no quarrel between her husband and his co-wife; that Massara had not been eating for some time; and that the morning that Massara died, Kadidja was in her own hut, and only heard Salia hit his second wife twice. After that, Kadidja heard her husband’s mother “announcing” the death of Massara.
- 19 Both women who were called as witnesses are deeply embedded in a patriarchal bargain at play both within Salia’s compound and in the larger village. For Kadidja, it was in her best interest to maintain that Salia was a model husband. Kadidja relied on Salia’s support as the *fama*, or head of her household; if she is implicated negatively in his punishment for the death of her co-wife, then she would suffer as well as an abandoned woman with an imprisoned husband. Similarly, if Ouraba testified that her neighbor beat his wife excessively and caused her death, she could be ostracized in her village. Thus, we can see how these two women in particular participated in the patriarchal bargain, and how Ouraba’s actions indicate that she also formed a mechanism for observation of Salia’s physical treatment of his wives.
- 20 The involuntary homicide case of Salia Sangare also indicates the role of the patriarch in enforcing good behavior in his compound—in this case, of a younger, second wife who chooses not to eat, is seen perhaps as ungrateful or sullen. Massara’s older co-wife testified that at times she left her conjugal home to visit her mother. In younger co-wives, this can be seen as a sign of homesickness and a rejection of the conjugal home and her role as second wife. In polygamous Senufo and Jula communities of southern Mali, such as the village of Kignan, second wives were expected to bear the brunt of the housework, particularly the preparation

of the early morning meal before the women departed for the fields. That particular morning, Massara was not only shirking her breakfast preparation duties, she herself was not eating.

21 Let us turn now to another case of involuntary homicide with slightly different elements at play. On July 26 1934, Lamoussa Traore was tried in the criminal court of Sikasso for causing the unintentional death of his wife, Sikanga Berete. In this case, there was no autopsy performed on the body, though it is not indicated in the records why this would have been omitted from the process. Testimony from five witnesses was taken in this case; a neighbor, the father of the accused, the mother of the accused, the second wife of the father of the accused, and a maternal relative of the deceased. The neighbor, Babou Sanogo, did not witness the act of violence which contributed to Sikanga's death, but he asserted that Lamoussa often "disciplined" his wife, who was very disobedient. On June 9, 1934, Lamoussa had asked his wife to bring him his water pot so that he could perform the ablutions necessary for Muslim prayer. According to the testimony of Lamoussa's father, Sikanga, the wife, "seemed to make fun of (her husband)" and either refused to bring the water or took her time doing so. He saw Lamoussa punch his wife in the neck with a closed fist, knocking her to the ground and killing her. Lamoussa's mother, who also lived in the compound with her son and husband, offered her testimony. Her account is basically similar to that of her husband, but with one notable exception. According to her testimony, she heard two loud "blows" ("*clagues*"). She believed that it was her son beating his wife, so she immediately went to where they were in order to intervene (*pour les séparer*). She left them, and a bit later she heard more blows and cries. She went back to her son and his wife, and it was then that she saw Sikanga on the ground, dead. Her testimony concludes with the sentence "my son was in the habit of hitting his wife" ("*mon fils avait l'habitude de frapper sa femme*"). Finally, the testimony of a female relative of the deceased, by the name of Kamissa Dembele, confirmed that Sikanga did not react when her husband asked her to get him water to prepare for his prayers. Lamoussa began to beat his wife, until his mother came and intervened. A bit later, he resumed beating his wife. Sikanga fell on the ground, dead. Kamissa's testimony ends with her stating "I don't think Lamoussa intended to kill his wife, but she often needed to be disciplined"<sup>11</sup>. In the tribunal records for Lamoussa's testimony, the interrogation of the accused was recorded as follows:

Q. Were you in the habit of beating your wife often?

A. Yes, she didn't obey me—I was even obliged to do her work myself.

Q. How did you kill her on 9 June 1934?

A. I disputed with her because she did not want to bring me water for my ablutions. The first time, my mother came and separated us. A little later, after she refused once more to serve me, I became very angry. I hit her in the neck with a closed fist. She fell to the ground. She was dead. I only wanted to discipline her, not kill her. I've had an unfortunate time of it<sup>12</sup>.

22 Lamoussa's defence attorney, who was a French councillor assigned to him by the criminal tribunal, argued in his closing statement that his client was following the behavior of local custom when he beat his wife, but that certain corrections should be enforced by the tribunal. These corrections should be enforced not because he beat his wife, but because he beat her about the head. The defence council attempted to minimize the severity of the beating by adding that "he hit her about the head the same way you might punish a child, but too hard". While he had hit her forcefully about the head, he did not intend to kill his wife. In the end, Lamoussa was convicted of causing unintentional death, and was sentenced to five years in prison.

23 In this case, while Lamoussa was described as a man who beat his wife often, all witnesses were quick to add that his wife was "disobedient" and that she required "correction" and discipline. Her ultimate act of disobedience was to show disrespect with regard to a particular religious idiom, in this case the so-called "water pot" or *selidaga* as it is called in Bamanakan or *sèrècwòdo* in Senufo. This "prayer pot" for ablutions signifies a man's propriety as a Muslim; in Southern Malian villages, a man's water pot for ablution is virtually ubiquitous, and if seen in common space, evidence that he uses it 5 times a day to prepare for his requisite prayers as a good Muslim. In this particular scenario, Sikanga "insulted" or "made fun of" her husband's

authority as the head of household by refusing to serve as a handmaiden or interlocutor in the maintenance of his role as a proper Muslim man. As a result, she showed that she was a very improper wife and was subsequently beat about the head, an uncommon and unacceptable way to reprimand a wife. In this way, both Sikanga the wife and Lamoussa the husband upset the balance of the marriage and the place of the marriage in the compound, requiring the intervention of others in their conjugal affairs.

24 Family compounds in Bamana and Senufo villages of the Sikasso region of Mali were distinct entities within a larger village space. Compounds were directed by a male head of household, and this man typically had several wives. They all lived within the compound in their own separate huts. Their children also lived with them, but a daughter was expected to move to her husband's village or compound when she marries. Often, a son would remain in his father's compound after he married, bringing his wife with him. If the head of household's mother was a widow, she would typically move to her eldest son's compound. In the center of the compound was typically a small cooking hut, and a shaded area where the head of household could sit, nap and eat by himself. Thus, a single compound is comprised of many smaller, semi-private structures, is multi-generational and contains almost all of a household's resources. The compound itself was separated by a low wall with an open entry way. This description of the fundamental physical layout of a village compound in southern Mali is to illustrate the openness of the design, and the permeability of the boundaries between domestic compound space and village space. Even within the compound, though co-wives were separated and had distinct domiciles within a compound, family interactions were almost always observed and known by others. In the involuntary homicide cases I am highlighting here, we see that other women outside the marriage—in one case an elder mother, in another, a neighbor of the same age grade as the husband and the wife—intervened when they believed that the physical punishment was outside the realm of what was normal, or safe punishment. The outside women attempted to facilitate reconciliation or at least served as intervening forces. When the acts of punishment resulted in the death of the victim, the opinion of the intervening woman who served as a surveillance mechanism was solicited by the court for her knowledge on the frequency and quality of punishment that the deceased received as a wife, and their testimony contributed to the sentencing of the accused man.

25 These women were participants in the patriarchal bargain that operated in the village compound, as they bore witness to the beating and death of other women, but justified to some degree the beating (in the first case, Ouraba underscores the fact that though Massara received a blow strong enough to rupture her spleen and kill her, the hit wasn't that hard and that "it was difficult to believe that one blow could kill a person, Salia was not in the habit of seriously reprimanding his wife"). In the second case, the role of the patriarchal bargain is much clearer—Lamoussa is simultaneously described as someone who frequently beat his wife, but as someone who endured the hardship of a disobedient wife. His beatings of his wife are justified by the women of the compound—one who is even a direct relative of the deceased—because she, the wife, did not uphold her responsibility in marriage and therefore upset the moral economy of the marriage.

26 In divorce cases, claims of abuse in Sikasso were more ambiguous, in part because the husband and wife could debate the conditions of alleged abuse and call witnesses. Divorce on grounds of abuse was a common complaint of women, yet it was not considered "customary" practice according to the ethnographic studies sanctioned by the colonial government at the time. In 1932, A. Aubert published a study of "judicial custom" in the French Soudan. Included in this multi-volume study is a section on the ethnic groups that the colonial administration deemed most important; it is worthwhile to note that there is no study included of the Senufo or Minianka in this work. Aubert conducted a study of Buguni Bambara custom, in consultation with regional "experts" on customary practice, including village and canton chiefs. According to the counsel Aubert received, divorce could be granted in seven cases: if either the husband or wife were sterile; if the wife committed adultery; if the woman offered in wife exchange was refused; if a husband repudiated a wife for bad behavior or a sour disposition; if a wife aborted a pregnancy; if the husband abandoned his wife; if the wife died (Aubert 1939: 86).



Nowhere here is abuse listed as grounds for divorce, yet it was a common complaint. In fact, the study observes that a wife must obey her husband, and that in cases where she is disobedient, “correction is sanctioned—and often inflicted with rigor. Necessary rigor, they say” (*ibid.*: 68). As a result, divorce cases on grounds of abuse were contentious, both in the court, and one would imagine in the compound or village. In these cases, the burden of proof of abuse lay squarely on the wife, and women approached this in different ways.

27 On January 20, 1936, Tenin Diakite appeared before the civil tribunal at the provincial level of Sikasso, where she asked for divorce on the grounds of physical abuse. Both Tenin and her husband, Karamoko Traore, claimed Senufo-Muslim status. Tenin and her husband had attempted an unsuccessful reconciliation before the canton chief of Bougoula, and thus appeared before the *tribunal de premier degré*. Tenin argued that in the ten months that they were married, her husband treated her poorly and hit her. Furthermore, she argued, he still owed her family bridewealth payments. Her husband claimed that he had never hit her in their ten months of marriage. Furthermore, he pointed out that there would be no good motivation to beat her, since she had already given birth to a child, and his first wife seemed to be sterile. He argued that it was her mother who pressured her daughter into asking for a divorce, coming to their village and telling Tenin to claim that Karamoko beat her. Karamoko brought three male witnesses to back his testimony, one of them was Tenin’s uncle who was responsible for arranging the marriage between them. He stated that Tenin’s mother had wanted to dissolve her daughter’s marriage six months after it began, but that the allegations of abuse were ungrounded. All three of the witnesses argued that the mother regretted agreeing to the union and wanted her daughter to divorce. Since Tenin could provide no physical proof or witness testimony to back her claims, the divorce was not granted and Tenin was ordered by the court to return to her husband’s home<sup>13</sup>.

28 However, Tenin Diakite’s divorce request was the only divorce case brought on claims of abuse that was rejected by the tribunal between 1935 and 1940. On the same day as Tenin Diakite’s case, Assitan Coulibaly appeared before the *tribunal de premier degré* and asked for divorce on grounds of abuse. She claimed that a few months before, she had attempted to chase her husband’s lover out of their compound. Her husband interceded, and brutally beat her with a whip and a stick. At the time, the couple was living in Bouake, Côte-d’Ivoire where Malick Coulibaly, the husband, was working as a *commerçant*; Assitan promptly left her husband and returned to her parent’s home in Sikasso. Upon her arrival in Sikasso, Assitan went to the colonial doctor to have her injuries certified, attesting to their severity. Her husband responded in letter format, but was absent from the court. He acknowledged that he had beat his wife after she attempted to turn a “stranger” away from their home; however, he refused divorce on the grounds that his wife would never be able to repay the bridewealth that he had paid to her parents for their marriage. In this particular case, the judgment rested on the medical exam that Assitan received upon her arrival in Sikasso. The medical exam was performed two days after the beating occurred, and the certificate stated that “the characteristics of the lesions allow for the conclusion that they were caused by a whip and/or a stick, applied with extreme violence”. In this case, there were no witnesses, but the certificate was proof enough of excessive abuse. The court was found in favor of Assitan, and because of the conditions of the abuse and the medico-legal documentation, no bridewealth was reimbursed to Malick Coulibaly<sup>14</sup>. The medical exam here is noteworthy; it indicates that Assitan was savvy with regards to the procedures involved in making a claim for abuse when she did not have available witnesses. It is not clear whether this was common practice for women at this time, or how a woman like Assitan would have known that such services were available to her as a woman seeking divorce. What is clear is that she turned directly to colonial avenues for solving her problem of domestic abuse and request for divorce.

29 A third divorce case taken from this time period shows the importance that was placed on witness testimony. On July 24, 1937, Fanta N’Diaye appeared before the *tribunal de première instance* as the plaintiff in a divorce case. Fanta’s husband, Oumar N’Diaye, was a teacher assigned to Sikasso as a teacher, though both were from Senegal. While the tribunal categorized Fanta as having “Wolof-coranique” status, her husband was considered to be of

“Toucouleur coranique”. According to the tribunal records, Fanta made a verbal request rather than a written request to the court to have her case heard. She claimed that her husband did not love her, and she knew this because he beat her frequently. The notes on her case indicate that she had first appeared the day before at the “*tribunal répressif*” where she lodged a complaint of assault against her husband; this tribunal directed her towards the civil tribunal, where Fanta filed for divorce. Fanta brought to the tribunal three notable male witnesses to back her claims of abuse; her uncle and former guardian, Mamadou Diallo of Sikasso, and two neighbors who were also colleagues of her husband. In the tribunal record, the court then turned to Oumar N’Diaye, who declared:

“It is completely natural that I would hit my wife every time she provokes me. For a slap or two—never more—she comes immediately to the administration to lodge a complaint. As I am a functionary of the state, and in order to avoid any associated prejudices regarding the difficulties between my wife and me, I do not ask for special treatment. I ask that divorce be pronounced between me and my wife, Fanta N’Diaye”<sup>15</sup>.

30 Despite the fact that Oumar N’Diaye agreed to the divorce, the tribunal proceeded to question both parties in the case.

“Q. What were the conditions of your marriage to Fanta N’Diaye?

A. I married her in Bamako on July 20, 1929, in accordance with a bridewealth price of 1500 francs, of which 750 francs were paid. There is a marriage certificate, certified and on record with the *administrateur de cercle* of Bamako. I should also add that we have four children, two of whom are very young: Oumou N’Diaye and Kadiyatou N’Diaye”.

31 After this, witnesses took their oath to tell the truth, and were warned of the consequences of lying in the tribunal. The first to speak was Mamadou Diallo, of “*peuhl coranique*” status, 39 years of age, uncle of the plaintiff, chauffeur and resident of Sikasso. Diallo stated,

“It is I who gave my ward in marriage to Oumar N’Diaye, so that he could treat her however he wanted [...] regretfully, I can attest to the incompatibility of the spouses, and above all to the serious injuries that have been afflicted by the husband upon the wife. My work as her guardian is to request that the court separate them, in order to avoid a more serious incident”.

32 The next testimony was offered by the two neighbors and colleagues of Oumar N’Diaye. These two men had witnessed the abuse, and recounted it in vivid detail. The first to speak was Dadie Traore, 30 years old and a teacher in the service of the *cercle* of Sikasso. Dadie claimed that

“Two months ago, I was called around 7 or 8 in the evening by my colleague, Mamadou Diakite (who now lives in Loulouni), to come and help intervene between Oumar N’Diaye and his wife Fanta N’Diaye. Upon my arrival at their home, I found that my colleague was already there, and that the door to the home had been thrown to the ground. Diakite was inside, and had the inanimate body of Fanta in his arms. Together, we poured water over her head. She eventually came to her senses. We sat on the bed and listened to her. After setting aside what she had said, we made amends with the husband, and the two of us left”.

33 The second friend and colleague, also a teacher in the service of the *cercle* of Sikasso, was Fakourou Coulibaly. Coulibaly added

“I have intervened twice in the affairs of Oumar N’Diaye and his wife. The first time I was in the company of Mamadou Diakite and Dadie Traore. The wife had been beaten to the point where she fainted (*elle a perdu connaissance*) [...] the second time, which was the 23<sup>rd</sup> of last July, I was in my house and I heard the couple arguing. N’Diaye asked his wife, “Why do you slap the iron on the table when you are ironing?” to which she responded, “this is not the first time that I’ve ironed the laundry (like this)”. Suspecting a quarrel, I went over to their compound. On my way there, I found the wife on the ground, and her husband next to her. I picked up the wife and brought her to my home for a time, because Oumar was still very angry”.

34 In the resume of the case that followed the testimony, the tribunal president and assessors were interested in three things: the fact that Fanta N’Diaye had first attempted to lodge a complaint at the *tribunal répressif* for assault, which indicated the seriousness of the matter from her view; the narratives of abuse offered by the defendant’s own colleagues; and the fact that Oumar N’Diaye claimed that he only corrected his wife “in accordance with customary practices of disciplining a wife”. Rather than immediately grant divorce in this case, however,

the court granted a separation, during which time Fanta N'Diaye would live with her uncle. The reasons for this are unclear, but given the circumstances, it is likely that divorce was not initially granted because Fanta did not first go through a reconciliation attempt through the *chef de canton*, and because there was an outstanding case of assault initiated by the wife against the husband in the *tribunal répressif*. Furthermore, since Oumar N'Diaye was a functionary of the state in his role as a teacher, it may be that the court did see “special circumstances” at play, and decided to postpone deliberation.

35 This case is notable to historians for several reasons. First, Fanta N'Diaye, as someone who was connected to the colonial administration through her husband, relied directly on the tribunals of the colonial state to rectify her situation, as opposed to village or canton chiefs. Fanta secured the testimony of three notable men, which strengthened her case significantly.

36 Furthermore, all parties involved, with the exception of the wife, were servants of the state in some way. While we do not know who Mamadou Diallo worked for, we can assume that it was either a European or a wealthy African working for the state, as he was a chauffeur. Oumar N'Diaye notes that their marriage is legitimate in the eyes of the state, citing the existence of a marriage certificate, which many rural *Soudanais* did not have in the 1930s.

37 All of the observers and intervening parties in this particular case were men. This indicates the ways in which men and women were both part of a community social network that enforced the proper boundaries of discipline at work in a marriage. The three men who were witnesses in Fanta N'Diaye's case, in addition to the intervening women in the involuntary homicide cases, all attempted to facilitate reconciliation as a first move towards rectifying the marital disputes based on corporal punishment of the wives. However, I would suggest that men were considered more valuable and reliable in cases of divorce: men were the ones who were best equipped to determine whether or not corporal punishment went beyond the limits of acceptable correction.

## Possibilities for Using Domestic Violence in Understanding Social History

38 Here, I have drawn out case-study examples of corporal punishment of women resulting in unintentional death as well as divorce cases brought on grounds of abuse as a means for looking at a few ways in which the social dynamics at the household and village level contribute to a system that upholds the physical subjugation of women. However, in order to understand these dynamics, historians must look to the role of other women in the maintenance of such a system. I have attempted to provide a glimpse of the seemingly conflicting ways that women in southern Mali could both uphold and constrain efforts to physically subjugate women. Further explorations of this complex dynamic can help us to better understand the moral economy of marriage and the meaning of local, every day authority at the village level.

39 I have attempted to introduce a historical inquiry into the types of proof used in cases where abuse is suspected. Historical studies that rest on legal sources have examined divorce and marriage, but they have not fully explored the role of physical punishment in marriage, and the ways that historians can get at debates over acceptable “correction”, physical subjugation and punishment in marriage. Here, I have introduced narratives from civil and criminal tribunals in order to look closely at the story embedded in testimony. In doing this, I argue that the narratives reveal village and compound-level systems of observation act as deterrents to men who overstep boundaries in corporal punishment, just as they can curtail women from accusing men of unwarranted abuses. By the 1930s, medico-legal tools, such as autopsy and medical examination were used not only in colonial criminal courts, but by litigants in civil level courts seeking to authenticate the physical proof of abuse to their bodies. This warrants further research in French colonial medicine and the intersections between colonial legal systems and medical practice. While I argue that testimony reveals social practice, I am also concerned with the ways that testimony may be a reflection of changes within a legal system and the actions of particular culture experts, such as assessors, canton chiefs and interpreters. However mediated, I maintain that testimony provides a view of the justification of violence against

women in their homes in colonial Sikasso, as well as the overall ethical world of the compound that either accepts or rejects such corporal punishment and abuse.

---

### **Bibliographie**

- AUBERT, A.  
1939 *Coutumier juridique de l'Afrique occidentale française*, t. 2 (Paris: Larose).
- BERK-SELIGSON, S.  
1990 *The Bilingual Courtroom: Court Interpreters in the Judicial Process* (Chicago: University of Chicago Press).
- VAN BEUSEKOM, M.  
2002 *Negotiating Development: African Farmers and Colonial Experts at the Office du Niger, 1920-1960* (Portsmouth: Heinemann).
- BYFIELD, J.  
2001 "Women, Marriage, Divorce and the Emerging Colonial State in Abeokuta (Nigeria) 1892-1904", in D. HODGSON & S. MCCURDY (eds.), *"Wicked" Women and the Reconfiguration of Gender in Africa* (Portsmouth: Heinemann): 27-46.
- COLIN, R.  
2004 *Kènèdougou: au crépuscule de l'Afrique coloniale (mémoires des années cinquante)* (Paris: Présence Africaine).
- FALL, B.  
1993 *Le travail forcé en Afrique occidentale française (1900-1945)* (Paris: Karthala).
- HAWKINS, S.  
2002 "'The Woman in Question': Marriage and Identity in the Colonial Courts of Northern Ghana, 1907-1954", in J. ALLMAN *et al.* (eds.), *Women in African Colonial Histories* (Bloomington: Indiana University Press): 116-143.
- HODGSON, D. & MCCURDY, S. (eds.)  
2002 *"Wicked" Women and the Reconfiguration of Gender in Africa* (Portsmouth: Heinemann).
- KANDIYOTI, D.  
1991 "Islam and Patriarchy: A Comparative Perspective", in N. KEDDIE & B. BARON, *Women in Middle Eastern History* (New Haven: Yale University Press): 199-227.
- KLEIN, M. & ROBERTS, R.  
1987 "The Resurgence of Pawning in French West African during the Depression of the 1930s", *African Economic History*, 16: 23-37.
- KOZMA, L.  
2004 "Negotiating Virginité: Narratives of Defloration from late Nineteenthcentury Egypt", *Comparative Studies of South Asia, Africa and the Middle East*, 24 (1): 55-65.
- LAWRANCE, B., OSBORN, E. & ROBERTS, R. (eds.)  
2006 *Intermediaries, Interpreters and Clerks: African Employees and the Making of Colonial Africa* (Madison: University of Wisconsin Press).
- MANI, L.  
1998 *Contentious Traditions: The Debate on Sati in Colonial India* (Berkeley: University of California Press).
- ROBERTS, R.  
1969 *Law Without Precedent: Legal Ideas in Action in the Courts of Colonial Basoga* (Chicago: University of Chicago Press).  
1990 "Text and Testimony in the Tribunal de Première Instance, Dakar, During the Early Twentieth Century", *Journal of African History* (31) 3: 447-463.  
1996 *Two Worlds of Cotton: Colonialism and the Regional Economy of the French Soudan, 1800-1946* (Stanford: Stanford University).  
2005 *Litigants and Households: African Disputes and Colonial Courts in the French Soudan, 1895-1912* (Portsmouth: Heinemann).
- SHARZAD MOJAB, H. B.  
2002 "'Honor Killing': Culture, Politics, Theory", *Middle East Women's Studies Review*, 8: 1.
- TASHJIAN, V. & ALLMAN, J.

2002 “Marrying and Marriage on a Shifting Terrain: Reconfigurations of Power and Authority in Early Colonial Asante” in J. ALLMAN *et al.*, *Women in African Colonial Histories* (Indiana: Indiana University Press): 237-325.

THOMAS, L. M.

2003 *Politics of the Womb: Women, Reproduction, and the State in Kenya* (Berkeley: University of California Press).

### Notes

1It should be noted here that co-wives also abused one another. It is another compelling component of domestic abuse that introduces a new component to gender violence which I explore elsewhere. Here, I am only concerned with violent acts committed by husbands against wives.

2For example, Richard Roberts located over four hundred cases from the Sikasso tribunal for the years 1905-1912, while I uncovered eighty cases from the Sikasso subdivision for the years 1918-1927. I discuss the reasons for this decline in tribunal cases in my forthcoming dissertation.

3For a rich discussion that examines just this theme in the case of colonial India, see Lata MANI (1998).

4In the case of Salia Sangare, for example, the president of the tribunal weighed Salia’s remorse and fact that the couple was on otherwise good terms against the fact that wife abuse leading to unintended death was “contrary to French civilization”. See the trial of Salia Sangare, 19 January 1939, ROBERTS (2005: 74).

5D series, tournées, 1947, Sikasso, Sikasso *cercle* archives.

6This dynamic is also outlined in ROBERTS (2005: 119).

7Roberts acknowledges that his use of “trouble spots” is based on Lloyd Fallers original use of the term. For ROBERTS’s (2005: 6-13) discussion of his own application of the term.

8It is interesting to note that in Sikasso today, divorce cases and marriage reconciliation hearings are still conducted almost exclusively in Bamanankan/Jula. I was present at court cases in late 2004 and 2005 where Senufo-speaking litigants required the assistance of a translator, and even very rural litigants who spoke Bamanankan/Jula as their native language but could not understand the vocabulary of the northern “Bamako” or “Segu-style Bamanakan” spoken by the educated, female judge, required a translator. There was a court clerk present (also female, in this particular instance) who recorded all testimony in French, though she herself spoke Bamanankan/Jula.

9Although there is not a lot of information on this process, I assume that the *chef de canton* had a role in determining appropriate witnesses, and possibly coaching them on what they should say within certain parameters.

10For more on how intermediaries work to shape colonial Africa and the view that historians have of Africa, see Benjamin LAWRENCE, Emily OSBORN and Richard ROBERTS (2006).

11Trial of Lamoussa Traore, 26 July 1934, tribunal criminel, Sikasso, Sikasso *cercle* archives, unclassified.

12*Ibid.* “I’ve had an unfortunate time of it” is my translation of the peculiar phrase written by the court clerk, “*J’ai eu des coups malheureux*”. While we do not know exactly what Lamoussa said in Jula, the word “*coups*” means blows or hits, and the use of the word in this context seems to indicate that he is talking about unfortunate or unlucky things that he has experienced, rather than the physical blows that he inflicted upon his wife. In either case, the sense of bad luck or misfortune is invoked.

13Diakite v. Traore, January 20, 1936, *tribunal de province*, Sikasso *cercle* archives, unclassified.

14Coulibaly v. Coulibaly, January 20, 1936, *tribunal de province*, Sikasso *cercle* archives, unclassified.

15N’Diaye v. N’Diaye, July 24, 1937, *tribunal de province*, Sikasso *cercle* archives, Sikasso, unclassified.

**Pour citer cet article**

## Référence électronique

Emily Burrill, « Disputing Wife Abuse », *Cahiers d'études africaines* [En ligne], 187-188 | 2007, mis en ligne le 15 décembre 2010, consulté le 15 janvier 2015. URL : <http://etudesafricaines.revues.org/8242>

## Référence papier

Emily Burrill, « Disputing Wife Abuse », *Cahiers d'études africaines*, 187-188 | 2007, 603-622.

**À propos de l'auteur****Emily Burrill**

University of Kentucky, Lexington.

**Droits d'auteur**

© Cahiers d'Études africaines

**Résumés**

*La maltraitance des femmes mise en question : comptes rendus de tribunaux sur le châtiment corporel des femmes à Sikasso dans les années 1930.* – En s'appuyant sur des affaires de divorces et d'homicides involontaires jugées par le tribunal de province et le tribunal de cercle dans les années 1930, cet article examine comment le châtiment corporel des femmes était considéré soit comme une forme de correction acceptable soit comme une maltraitance conjugale inacceptable dans les comptes rendus de tribunaux de la ville de Sissako, au Soudan français. L'article montre que les deux types de cas révèlent à la fois des articulations distinctes dans le châtiment corporel des femmes, la place contestée d'une telle forme de châtiment dans la préservation d'une économie morale dans le mariage, et enfin les différents rôles joués par les hommes et les femmes dans le soutien ou la contestation d'une punition physique des épouses. Ces récits révèlent toutefois davantage que la signification contestée du châtiment corporel des femmes, et l'auteur avance que les types de preuves utilisées dans les procès – autopsies, examens physiques et témoignages – reflètent les évolutions juridiques des années 1930.

Using divorce cases and involuntary homicide cases from the *tribunal de province* and *tribunal de cercle* of the 1930s, this paper examines the ways in which corporal punishment of wives was characterized as either acceptable correction or unacceptable domestic abuse in court narratives from the large market town of Sikasso, French Soudan. I argue that the two sets of cases reveal distinct, gendered articulations of the corporal punishment of wives, the contested place of such punishment in the maintenance of a moral economy in marriage, and the different roles that men and women played in supporting and contesting the physical punishment of wives. However, the testimony from these cases reveals more than the contested meanings of wife punishment in the marriages that were put on trial in Sikasso in the 1930s. I argue that the evidentiary tools used in the court cases—autopsy, physical examinations, and witness testimony—were all part of the shifting legal terrain of the 1930s. Whereas women in the early years of colonial Sikasso successfully argued for divorce in the colonial tribunals, the 1920s and 1930s marked a period where women were required by the courts to provide more proof to support their claims for divorce.

This reflected the pressure that chiefs and male heads of households placed on the local colonial government officials to uphold their patriarchal authority, but it also revealed an

increasingly codified notion of customary practice. African marriage lay at the center of so many studies on customary law, and by the 1930s there existed published studies on customary African marriage that influenced colonial court assessors and African legal intermediaries in their appraisal of marriage-related legal claims. By this time, the French colonial legal system in the French Soudan had established categories of behavior that were considered either “contrary to French civilization”—a term used often in writings on colonial judicial systems—or “customary practice”. However, I contend that claims of abuse, and the protracted debates and witness testimony concerning the physical punishment of wives in divorce cases reveal that abuse remained in a legal liminal state for the colonial civil court. This was for at least two reasons. First, while writings on customary law in French Soudan in the 1930s did not recognize physical punishment as a legitimate claim for divorce, women continued to claim divorce on grounds of excessive abuse, and they crafted their own testimony and evidence to support these claims. Second, physical abuse of wives was considered, by colonial adjudicators and African elites who served as court assessors, to be both “contrary to French civilization” and within the boundaries of “customary practice”.

Work on domestic violence, where female bodies are the object of violent acts, is historically useful because it not only helps scholars understand the role of power and authority in relationships between African men and women, but also because it reveals the central role of women and control over female bodies and sexuality in the debates on customary law between colonial administrators and African male leaders. It is also a significant contribution to the growing corpus of academic work on African marriage and law. Research on these forms of gender violence reminds scholars that because acts of domestic violence are ultimately political in nature and linked to larger socio-cultural values, we should look more closely at the links between brutality directed towards women in their conjugal relationships and families, social and economic strife, and challenges to local political authorities and issues of state power dispute. Such conclusions and observations are suggestive of new directions that Africanist scholars can take in understanding domestic violence in the colonial period.

### ***Indexation***

***Mots clés*** : Soudan français, châtement corporel, maltraitance des femmes

***Keywords*** : divorce, homicide, French Soudan, Sikasso, corporal punishment, disputing wife abuse