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A Legal History of Madness in the French Colonial Context

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A Legal History of Madness in the French Colonial Context*

What are the consequences when the legal otherness inherent in the status of *indigène* intersects with an additional layer of difference linked to mental illness? This question lies at the heart of the volume edited by Silvia Falconieri, which brings together research conducted within the AMIAF project *(Aliéné mental et indigène. Histoire d'une double discrimination de statut en Afrique française)*, funded by the French National Research Agency and launched in 2019.

The research behind this volume was initiated at a time when the historical treatment of madness in colonial settings – particularly in its administrative and judicial dimensions – remained a largely unexplored field. In recent years, however, historiography has shifted: the phenomenon of madness in colonial contexts is now being examined in all its complexity, including its legal aspects. This volume aims to lay »the foundations for writing a legal history of madness in colonial contexts« (19; all translations by the author).

Within this perspective, the book emphasises the importance of focusing on legal and administrative structures when examining madness in colonial situations. Without claiming to provide an exhaustive account, it analyses a selection of cases in which the intersection of the categories of »mad« and »indigenous« produced legal, administrative and medical responses that were often unprecedented or at least highly unusual.

The study focuses on Indigenous populations in French-colonised African territories (*Afrique occidentale française* and *Afrique équatoriale française*) and covers the period from the late 19th century marked by the »scramble for Africa« to the 1960s, when the countries concerned in this study gained independence. Particular attention is given to the »signs« that administrators and jurists interpreted as indicators of psychological pathology among African populations. More broadly, the volume asks how madness was conceptualised in colonial Africa and highlights the double legal otherness produced by the various overlapping categories.

The introduction by Silvia Falconieri begins with the observation that »law in colonial contexts was structured« around a »fundamental diversity of legal status between the ›French citizen‹ and the ›indigène‹, who might be classified as a ›subject‹, ›protected person‹, or ›administered person‹ depending on the legal regime of the territory of origin« (17). Differences in legal treatment were also grounded in the perceived otherness – physical and cultural, but also psychological – of the Indigenous populations with whom French colonisers interacted.

All the contributors explore how the legal status assigned to Indigenous populations intersected with mental illness, analysing the legal, administrative and medical management of insanity in different colonial settings. The volume is structured into four sections, each comprising two articles that explore a shared theme from distinct disciplinary perspectives.

The first part examines how the term »madness« was used in administrative reports to describe revolt movements that challenged French authority in regions of west-central Africa during the 1920s and 1930s. The case of the Gabonese Benoît Ogoula, which lies at the heart of the two articles of the first part, illustrates the distortions involved in the mobilisation of disciplinary procedures. By diverting the *indigénat* procedure – originally not intended for the internment of persons with mental disorders – colonial authorities used it to justify confinement, even though the presence of two psychiatric expert reports clearly established that the individual was suffering from »mystical delirium«.

The second part focuses on the medical dimension and the health concerns surrounding certain colonial patients, both French settlers and Indige-

* Silvia Falconieri (dir.), Fou et indigène. L'altérité au prisme du droit colonial en Afrique, Paris: Mare & Martin 2025, 274 p., ISBN 978-2-38600-128-4

nous subjects, who were transferred to metropolitan hospitals. The system for evacuating patients was based on agreements concluded with psychiatric asylums, most of which were located in the south of metropolitan France, and it concerned several African territories under French domination such as Algeria, Senegal, Tunisia and Morocco. During the 1920s, the study of the specific characteristics of mental disorders among African patients attracted the attention of psychiatrists working in hospital institutions in metropolitan France.

The third section examines the movement of individuals with mental disorders between various sites of confinement and care in colonial territories, where treatment emerged at the crossroads of colonial law, customary and local legal practices, French medical expertise and Indigenous understandings of illness and healing. The organisation and availability of care institutions, as well as the procedures governing them, differed markedly across the territories of the French Empire in Africa. Madagascar saw the establishment of the first asylum in 1905, followed by Morocco in 1933 and Algeria in 1938, while in French Equatorial Africa and French West Africa the construction of psychiatric hospitals modeled on metropolitan institutions occurred relatively late. Indigenous people suffering from mental disorders might encounter multiple forms of confinement: the family home, police posts, prisons, hospitals and, in North Africa, sacred healing sites – precolonial institutions such as *maristans* or *tekkias*.

The fourth section explores the intersections of madness, gender and minority status. Focusing on Algerian institutions that housed or treated young girls and boys with mental disorders, it applies an intersectional lens that incorporates two additional dimensions of otherness. In both contributions, the introduction of categories such as »abnormality«, »deviance« and »deficiency« helps to blur – or at least soften – the binary opposition between Indigenous and European populations.

The originality of this work lies in its use of a wide range of sources, including archives from the colonial administration held at the *Archives nationales d'outre-mer* (ANOM) in Aix-en-Provence and the *Centre des archives diplomatiques de Nantes* (CADN), records from psychiatric hospitals that treated African patients either in mainland France or overseas, and documents produced by missionaries working abroad. Engaging with these materials raises ethical challenges, particularly given the sensitive nature of topics such as the history of mental health, which are especially prominent in patients' clinical files. The cross-referencing of sources is pushed even further in certain cases: for instance, the reconstruction of the Ougoula affair draws simultaneously on colonial administrative archives, family papers, anthropological studies of religious and witchcraft practices in Equatorial Africa, and interviews with individuals involved in the events in various capacities.

Some archives used in the book shed light on the perspectives of the colonial administration, missionaries, and local actors involved. Taken together, these sources make it possible to observe how the citizen / Indigenous divide operated in practice within administrative procedures and care pathways.

For instance, as several chapters show, the discourse of administrators, lawyers and physicians working with colonised populations subjects the Indigenous psyche to forms of essentialisation that are scarcely distinguishable from pathologisation. From this perspective, madness appears as a culturally rooted alteration that renders Africans ontologically mad according to Western norms. Some patient files from the hospital in Aix-en-Provence clearly convey the idea of an innate pathological dimension attributed to Africans, as well as the supposed specificity of mental disorders among »Arabs«. The considerations of the Governor-General of the AEF in one of the chapters are particularly revealing: »La mentalité indigène est tellement différente de la mentalité européenne […] qu'il est souvent difficile de donner une solution équitable à des difficultés qui en France, seraient considérées comme relevant de la règlementation de l'assistance psychiatrique.« (33)

Across the studies covering this period, a recurring theme emerges: the instability and permeability of the categories used to define the »mad«, whether in administrative, judicial or medical discourse. The volume demonstrates that representations of the »mad« are highly heterogeneous and often conflicting, shaped by the legal and social context of each period and territory, the training of those involved, the interactions among local institutions, and the ongoing tensions between medical, judicial and administrative authorities.

This volume is an important contribution to the field of colonial studies and the legal history of madness.

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