

# Public Law and Private Life: Edict d'Henri II, Abandoned Women and Putative Fathers under the Ancien Régime

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## Introduction: The King's Law and the Women's Agency

Following conventional historical narratives that eighteenth-century rural communities in Southern France witnessed a heightened religious and moralist atmosphere, scholars who seek to reconstruct the marital and sexual experiences of women tend to focus on the increasing social pressure and moralist censorship of illegitimacy and bastardy. Jean Meyer, for example, points out that toward the second half of the 17th century, France had already begun to witness a “reaffirmation of the sanctity of marriage”<sup>1</sup> culminating in the *Catéchisme du Diocèse De Nantes* (1689), in which Jean de La Noë-Mesnard (1651-1717) condemns lustful passion and praises conjugal chastity.<sup>2</sup> In general, historians agree that renewed religious fervor in the 17<sup>th</sup>-18<sup>th</sup> centuries prompted a wave of moral sanctions against illegitimacy and increased regulations on sexual conduct in rural communities.<sup>3</sup>

It does not mean, however, that under such strict communal and ecclesiastic surveillance, single women with unwanted pregnancies were

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<sup>1</sup> Meyer, Jean. “Illegitimates and foundlings in pre-industrial France” in *Bastardy and its comparative history* (1980).

<sup>2</sup> Jean de La Noë-Mesnard, *Catéchisme du Diocèse De Nantes*, P. 344-5. For more on Mesnard in Diocèse De Nantes, see Gourmeau, Jean. *Vie de Monsieur De La Noë-Ménard prestre du diocese de Nantes, directeur du seminaire, & premier directeur de la communauté ecclésiastique de Saint Clement, auteur du Cathechisme de Nantes, mort en odeur de sainteté le 15. avril 1717. Avec l'histoire de son culte, & les relations des miracles operez à son tombeau.* [Ensemble] *Vie de M. Du Guet, prêtre de la Congrégation de l'Oratoire, avec le catalogue de ses ouvrages.* [Ensemble] *Lettres de M. Du Guet a M. Barchman Archevêque d'Utrecht, Sur l'usure & sur la conduite que devait tenir ce prélat pour déraciner cet abus.* original edition, 1734.

<sup>3</sup> Laslett, Peter; Costerveen, Karla; Smith. Richard M. edit. *Bastardy and its comparative history: studies in the history of illegitimacy and marital nonconformism in Britain, France, Germany, Sweden, North America, Jamaica, and Japan.* Harvard University press. Cambridge, MA. 1980.

reduced to helpless conditions and therefore subject to the mercy of their seducers, parents, and charities. Indeed, such a notion overlooks the means and recourses still available to them for the defense of their interests. Studies of the conditions and actions of seduced and abandoned women in particular areas of France would add nuance to this overly moralistic picture of 18<sup>th</sup> century rural France.

Using the Forez region as a case study, I argue that while women were subject to a plethora of socio-economic difficulties, they in fact had legal recourses to pressure men into either marriage or reparations. In other words, although unwanted pregnancy by all means led to serious consequences, it was not necessarily an inescapable disaster for the woman. From the surviving archives of the *déclarations de grossesses*—mandatory reports of unmarried women's pregnancy conditions, first put into law by King Henri II—abundant details about women's socio-legal experiences during this period reveal that despite their disadvantageous social status and limited resources, women took initiatives, such as holding the putative fathers accountable and demanding their reparations, to minimize their loss and to safeguard their interest. In short, women used the declaration of pregnancy as a means to pressure putative fathers into agreements that forced them to take social and financial responsibilities for their actions.

In this case study, I seek to modify and supplement, rather than negate or trivialize, the moralist outlook of seduction and abandonment in eighteenth-century rural communities in southern France. Indeed, I consider the moral censorship in 17<sup>th</sup> and 18<sup>th</sup> century French society as a critical background to women's social experience. But as this essay will argue, the way in which moral-policing of sexual conduct affected women's lives during this period can only be properly understood in the context of women's own behaviors as recorded in the primary sources. In this way, instead of making an overarching assumption about the environment of moral censorship in 18<sup>th</sup> century rural France, where women fell victim to uncaring moralists and religious zealots, one may arrive at a much clearer picture of the lives and choices of women who sought to extricate themselves from the predicaments of seduction and abandonment. In other words, one can delineate a more complex picture of courtship, illegitimacy and bastardy during this period by taking into account how women actually mobilized resources to protect their own interests.

## Part I: Foundling Hospital and the Declaration de Grossesse

At a time when increasingly systematic collection of information emerged in early modern European countries, social issues concerning sexuality and reproduction—seduction, illegitimacy, and infanticide—received particular attention from local and central governments. Henri II first put into law the *déclaration de grossesse* in 1566. The initiative was first intended to reduce the high infanticide rates in rural France by monitoring

women's pregnancies and thus ensuring that all infants be delivered and properly baptized. Failure to comply with the law resulted in the death penalty.<sup>4</sup> By the mid-18<sup>th</sup> century the law was solidified, implemented and systematically practiced in rural France.<sup>5</sup> The *declaration de grossesse* was the written record of a formal conversation between several government officials and a declarant. The interviewers, sometimes accompanied by a group of three to four witnesses, were mostly local parish officials, but styled as royally appointed agents, given that the declaration was under the mandate of the king's law. Sometimes, women reported themselves to the magistrates, but at other times the officials relied on neighbors' reports, and even rumors and speculations. Occasionally, the officials would travel to the dwelling places of the women rumored to be pregnant, and force them into an unpleasant dialogue on their sexual history. In the case of a middle-aged woman called Alix Méan, for example, Attorney Poyet and Master Claude Bochetel, dispatched by the Office of Saint Anne, took a long journey on foot in order to find the lady and complete the declaration process.<sup>6</sup> The two bureaucrats were patient enough to wait for her to wake up from an afternoon nap.

It is necessary to examine the demographics of the declarants in order to evaluate their social status and life circumstances, which form the contexts of these legal cases. The great majority of the women were manual laborers, servants, or housemaids. In fact, among the 53 documents analyzed in this research project, 54% are filed by household workers, labeled as "servant" (*servante*), "housemaid" (*domestique*), or the more advanced "chambermaid" (*chambrière*) who served a lady of high status.<sup>7</sup> Unsurprisingly, in such cases, the declarants suffer either seduction or sexual aggression from their masters, who made promises of better living conditions. Others included daughters of day laborers, artisans, and sometimes widows of small business owners that were left in charge of a tavern, winery, or '*Cabaretier*'—the equivalent of today's bar that served both food and drink.<sup>8</sup> These women engaged in premarital sex with seducers who promised marriage arrangements. Not all of them, however, were victims, as many illegitimate births resulted from failed romantic relationships.

<sup>4</sup> Ibid.

<sup>5</sup> Edit N. 364, P. 471, t. 13: "edit contre le recele de grossesse et d'ccouchement. Paris, fevrier 1556; enregistre le 4 mars au parlement", edit. by Isambert, Decrusy, Jourdan, *Recueil générale des anciennes lois françaises, depuis l'an 420 jusqu'à la révolution de 1789* (Paris: Belin-Le-Prieur), 1821.

<sup>6</sup> Alix Méan Acte du 11 mars 1729 Notaire Poyet Archives de la Diana (Antenne des archives départementales) « sur le marche pied du degré de montée dans ledit château. »

<sup>7</sup> The figures are calculated based on 53 of the documents in Forez archives, Archives départementales de la Loire (annexe de Montbrison, la Diana).

<sup>8</sup> Ibid.

All declarants, however, were grouped together as “seduced women” (*femmes séduites*), despite the diversity of their backgrounds and circumstances. Although 4 of the 53 incidents were described or characterized as rape, in which cases the perpetrators were usually labeled as “unknown” (*inconnu*),<sup>9</sup> the formula of the document was identical for the seduced, the duped, and the raped. The *déclaration de grossesse*’s lack of discrimination between these categories of sexual intercourse implies the underlying assumption that across the various types of incidents, women shared the common experience of the loss of honor due to their inability to guard their chastity and physical integrity in the form of both mental resistance to sexual temptations and physical resistance to the imposition of force. In most cases, the declarants were relatively young, with the average age being 25.8. Only 6 of the 53 women were 30s and 40s at the time of their declarations. The majority of the declarants, then in their early or mid-twenties, were both interested in marriage and inexperienced in love affairs.<sup>10</sup> For this reason, they may have been especially susceptible to seductions under the guise of serious courtship.

On average, these women waited for 6.9 months before they declared their pregnancies. Based on the recurring narratives in the declarations of the women’s failure to convince the putative fathers to take responsibility over the child, many of the pregnant women may have spent these 2-7 months attempting to persuade their seducers into either marriage or reparation. This extensive waiting period for pregnant women is not surprising, given that scholars who study courtship and illegitimacy in other areas in the early-modern period have made similar discoveries. Based on her quantitative study on abandoned women in seventeenth-century Essex, for example, Hambleton points out that women waited for an average of six months before either getting married to their seducers or appealing to the local court.<sup>11</sup> This evidence on the waiting-period provides a good context for studying women’s legal actions against putative fathers, for most of the declarants used the *declaration de grossesse* to pressure their seducers into reparations only in the aftermath of their failure to arrange a marriage—to turn ‘fornication’ into ‘pre-marital pregnancy’ and thus avoid the vexations of trials and reports, moral scandals in the community, public humiliation that comes with declaring one’s sexual affairs, and burdening local charities and hospitals with an abandoned child.

The foundling hospital records are much more concise. In contrast to the *declaration de grossesse*, the hospitals were not interested in soliciting information on the past interactions between putative fathers and unwilling

<sup>9</sup> For example, see Marie Terrasse, Françoise Peysselon. *Les déclarations de grossesse en Forez sous l’Ancien Régime : une cahier de Village de Forez publié par le Centre social de Montbrison*.

<sup>10</sup> Archives départementales de la Loire (annexe de Montbrison, la Diana).

<sup>11</sup> See Else L. Hambleton, *Daughters of Eve: pregnant brides and unwed mothers in seventeenth-century Massachusetts*. (New York 2004) P. 19.

mothers. In fact, in some cases it is practically impossible for the hospital to collect such information at all, for about a third of the infants were left at the door (*porte*), on the bridge (*pont*), on the street (*rue*), or at a random place in the neighborhood (*faubourg*) or in the village (*hameau*) with no indication of the names of their parents.<sup>12</sup> Nonetheless, the majority of them were listed alongside their biological parents, the first *nourrices*—the temporary foster parents—and the second *nourrices*—the foster parents who take care of the child until the age of 9, when he or she is usually sent to the Charité, a charity foundation for the poor.

Although unlike the *déclaration de grossesse*, the hospital records neither present coherent narratives nor deliver any moral lessons, the latter's terse and dense information can help historians sketch the contours of the lives of not only these abandoned children but also their first and second foster mothers, many of whom had experienced seductions and abandonment in their early lives. For example, Marie Cournet, a victim of sexual assault by a priest in 1743, volunteered to take care of an infant called Attandus Marguerite for a short while in 1762,<sup>13</sup> before the child was sent to a more permanent location. For those women who appear both in the hospital records and in the *déclarations de grossesse*, such as Marie Cornet, a synthetic approach to reading both types of documents will yield valuable insights into the courses of their lives. In this way, the founding hospital records are a perfect source in conducting micro-historical studies.

## Part II: Surveillance and Censorship

The *déclaration de grossesse* was a blatantly intrusive process. The magistrates demanded from abandoned women detailed confessions of past sexual behaviors with little to no concern for their privacy. In fact, the amount of detail attempted to prove their reports accurate and reliable.

On one fine day in 1729, at around the time of noon, a group of officials knocked on the door of Alix Méan, then about forty years old and seven months pregnant. In spite of the disheartened lady's reluctance to confess her misfortunes, they proceeded to question Méan on a wide range of details about her sexual history, such as the date, time, and manner of

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<sup>12</sup> The hospital records indicate the locations of the found children, using formulaic terms of location: *porte*, *pont*, *rue*, *faubourg* and *hameau*, suggesting that these are popular—and perhaps the only—places where mothers abandon their newly-born to the community.

<sup>13</sup> Attandus Marguerite, Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés. Attandus Marguerite : féminin, remis au bureau, Montbrison, 1 âge 11 mois, 1762, 9 septembre; enfant abandonnée, baptisée à St-Pierre, Marie Cornet ; Etienne Basset, Marols (au Montbrison). ; 2ème nourrice : Catherine Rochignieu, femme de Jean Thomas à Saint-Jean-Soleymieux (Haute-Cruze) ; 1769 : à la Charité.

her most recent sexual intercourse.<sup>14</sup> When she cannot recall the date and time of her seduction by Jean Ladret, son of her former master Martin Ladret, the officials forced her to give two educated guesses: either St. John's day or mid-August of the previous year.<sup>15</sup> This curious piece of information reveals the conceptual disparities between the private lives of rural women and the public law's demand for precision. Like many rural women of the time, Alix Méan cannot recall specific dates in the calendar system. For this reason, she refers to time in terms of important festivals in order to satisfy the requirements of the magistrates. In any case, it is easy to tell that Alix Méan did not find the three bureaucrats endearing.

More intrusive was the demand for details of the seduction. Claudine Jomard's declaration in 1741, for example, vividly details how a man called Antoine Mure "jumped into the bed in the kitchen, when she was found there alone."<sup>16</sup> Again, such details were necessary to convince the officials of the accuracy of the report. By vividly portraying the aggressiveness of the putative fathers, Mure also demonstrates her reluctance and absence of consent in the sexual intercourse, and therefore gains some advantages in her legal battle against the putative father.

Indeed, the *déclarations de grossesses* were systematically collected, formulaically written, and therefore rich in information. Each declaration begins with the time, date and year of the signing of the document, the biographical background of the declarant, as well as her current social status and employment. Because the legally obligatory declaration requires sophisticated narratives and abundant information, the women oftentimes found it difficult to go through the process alone. Therefore, some parents would accompany their daughters to the 'interview,' either to give moral support or to make their own complaint. In 1729, for example, the mother of Isabeau Desmier added the following lines to her daughter's report:

The mother of Isabeau, present, humbly pleads the rectors not to take any action against her daughter and promises to keep a better watch over [the daughter's] conduct; and of the child that she now bears for which she is responsible, she is in need of resources to nurture and take care of it, in order that it would not fall in the

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<sup>14</sup> Alix Méan Acte du 11 mars 1729 Notaire Poyet Archives de la Diana (Antenne des archives départementales) «...si elle est enceinte elle peut l'être d'environ sept mois et n'avoir cognue charnellement led. Jean Ladret après plusieurs sollicitations par luy faites que si elle luy accorderoit quelques faveurs qu'il l'épouserait, et n'aurait pour femme autre qu'elle...»

<sup>15</sup> Ibid. «...na cognu autre que led. Jean Ladret, ce qui est arrivé deux fois dans une chambre de sa maison ayant une vue sur la cour et ne se souvenant pas positivement du temps si c'est environ la St-Jean ou la my-aoust...»

<sup>16</sup> Claudine Jomard Acte du 29 octobre 1741 Notaire Morel Archives de la Diana (Antenne des archives départementales).

responsibility of the Hôtel-Dieu hospital...<sup>17</sup>

Her involvement in Isabeau's conversation with the magistrates is hardly surprising. According to the *déclaration de grossesse*, Isabeau was jobless. She made a living by helping her parents as a handmaid and housekeeper and was seduced by a young man who worked in a nearby shop.<sup>18</sup> Since the pregnancy resulted more from a failed love affair than a rape, the mother expressed anxiety that her daughter might suffer additional castigation and punishment from the officials. She also requested financial assistance from the government and promised to keep the trouble to herself, so as not to increase the burden of the local hospital. Although she may have various reasons to keep the child from the hospital, the promise to take responsibility for the child is an appealing offer to the magistrates. The last line of her request suggests that the Hôtel-Dieu at the time might have been under financial restraints—it is true that taxpayers were never happy to pay the bills for abandoned infants<sup>19</sup>—and as a result, her promise to take care of the child independently was supposed to appeal to the magistrates' concerns for the financial situation of local hospitals.

By contrast, Jeanne Chovin, daughter of a local merchant in Viverols and a rape victim assaulted by an unknown man in a nearby forest, was not willing to shoulder the burden of the unwanted child. She also probably felt no emotional connection to a child whose father she did not know and who had assaulted her. Instead, she demanded that "the child be received in the number of the said Hôtel-Dieu hospital."<sup>20</sup>

The second part of the *déclaration de grossesse* consists of the

<sup>17</sup> Isabeau Desmier Acte du 11 novembre 1729 Notaire Poyet Archives de la Diana (Antenne des archives départementales) « ...la mère d'Isabeau, présente, prie humblement les recteurs de ne faire aucune diligence contre sa fille et promet de veiller sur sa conduite et «au fruit qu'elle porte duquel elle se charge en avoir soin de le nourrir et entretenir en sorte qu'il ne soit pas à charge aud. hosteldieu... »

<sup>18</sup> Ibid. « ...un garçon de boutique surnommé Dufert, chandelier, demeurant à Lyon, rue de la Cage, paroisse de St-Pierre-le-Vieux... après plusieurs sollicitations qui luy furent faites de sa part l'a cognue charnellement dans une chambre d'un hoste du faux bourg de la Guillotière dud. Lyon où elle estoit allé promener avecq led. Dufert... »

<sup>19</sup> For more on the financial implications of illegitimacy for rural communities in other societies, see Cornelia H. Dayton, *Women Before the Bar*, P. 157-230, 285-328; John R. Pagan, *Anne Orthwood's Bastard: Sex and Law in Early Virginia* (Oxford, 2003), P. 81-116; Else L. Hambleton, *Daughters of Eve: pregnant brides and unwed mothers in seventeenth-century Massachusetts*. (New York 2004) P. 17-54, 93-108. The situation is more serious in rural French communities (and to some extent in English communities) than in American colonies. French charity hospitals were expected to take responsibility over foundlings.

<sup>20</sup> Jeanne Chovin Acte du 15 mars 1705 Notaire Dumont Archives de la Diana « Elle demande que son enfant soit reçu «au nombre de ceux dudit hostel-Dieu »

narration of the entire seduction story: how the two parties first encountered and on what topics they conversed prior to their commitment of the carnal sin. The woman recounted the story to the magistrates, who then wrote it down in the format of a third-person narrative, beginning in each section with the same sentence structure “When interrogated...she said...,” with the woman revealing information in a state of passivity and the magistrates conducting the legal investigation in active interrogation. By emphasizing the interrogative nature of the conversation, this format of the document adds a flavor of legal authority and moral censorship to its tone. The woman was interrogated on her concessions to the man’s demand, the frequency and context of their affair, as well as the possible existence of other sexual partners. To the first two questions she was compelled to answer in full, but a clever declarant would usually add a series of complaints against the seducer’s violent manner and false promises of marriage.<sup>21</sup> To the third question she would always answer no, for the existence of more than one partner implies the possibility that the seducer may not be the biological father of the expected child, and in this way diminishes her chance to receive reparations from the putative father.<sup>22</sup> At last, the girl would sign her name, if she could, or let the official finish the document with a seal.

Most of the victims of seduction and sexual harassment are manual laborers of relatively low social status and oftentimes without financial means. It is not surprising that most of them were illiterate at the time of pregnancy. Of the 53 *declarations de grossesse* analyzed for this paper, only 6 contain the signature of the pregnant woman. And among them, only Demoiselle Antoinette Chirat de Montrouge, daughter of Antoine François Chirat de Montrouge (counselor to the king) and the only lady of noble descent on the list, signed elegantly.<sup>23</sup> Three young widows, Françoise Dulandoise, Elisabeth Faure, and Françoise Peysselon, signed moderately

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<sup>21</sup> For example, in 1731, Antoinette Petiton accuses her seducer Etienne Bouteille of asking her sexual favors under the false promise of marriage, and sues Bouteille for reparations : « ...de lui accorder quelques faveurs qu’il l’épouserait,.. » Antoinette Petiton Acte du 31 décembre 1731 Notaire Poyet Archives de la Diana (Antenne des archives départementales).

<sup>22</sup> Ibid. The same Antoinette Petiton, for example, vowed that she had but only partner : « affirmant n’avoir cognu charnellement depuis ledit Bouteille autre personne que luy... »

<sup>23</sup> Antoinette Chirat de Montrouge Acte du 19 avril 1721 Notaire Poyet Archives de la Diana (Antenne des archives départementales).

well.<sup>24</sup> It is likely due to the fact that widows from business-owning families oftentimes inherited and managed properties. These commercial activities required them to participate in legal processes at a much higher frequency than their counterparts in other professions. As a result, they were familiar with providing signatures on official documents such as contracts and loans.<sup>25</sup> By contrast, women who worked manually or had no professions signed their names with great difficulty. Catherine Relave and Marie Bayle, for example, signed *maladroitly*.<sup>26</sup> The manuscript clearly shows that both women struggled to connect different letters into complete words, and it is likely that a third party instructed them to write their names letter by letter.

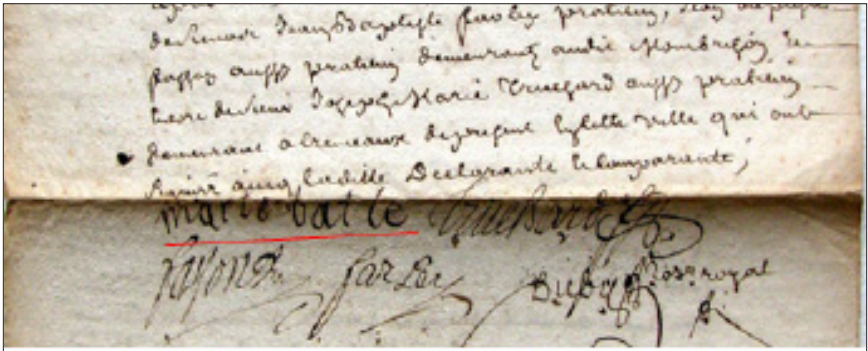


Image 1: Marie Bayle, a less educated woman, signs *maladroitly*. However, she is one of the only six women who knew how to write.<sup>27</sup>

<sup>24</sup> Françoise Dulandoise Acte du 13 février 1727 Notaire Poyet Archives de la Diana (Antenne des archives départementales) ; Elizabeth Faure Acte du 12 décembre 1785 notaire Barrieu Archives de la Diana (Antenne des archives départementales) ; Françoise Peysselon veuve de Pierre Goulioud Acte du 16 janvier 1792 notaires : Barrieu et Pugnet Archives de la Diana (Antenne des archives départementales).

<sup>25</sup> For comparative analysis on property-owning women and widows in America during this time, see Linda Sturtz, *Within Her Power: Propertied Women in Colonial Virginia* (NY, 2002), P. 89-110. Hendrik Hartog, *Man and Wife in America: A History* (Cambridge, MA, 2000) Chapter 2. MaryLynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill, 1986), 3-57, 141-184. David Narrett, *Inheritance and Family Law*, P. 69-113.

<sup>26</sup> Catherine Relave Acte du 31 août 1735 Notaire Poyet Archives de la Diana (Antenne des archives départementales); Marie Bayle Acte du 30 août 1739 Notaire Duby Archives de la Diana (Antenne des archives départementales).

<sup>27</sup> Marie Bayle Acte du 30 août 1739 Notaire Duby Archives de la Diana (Antenne des archives départementales).

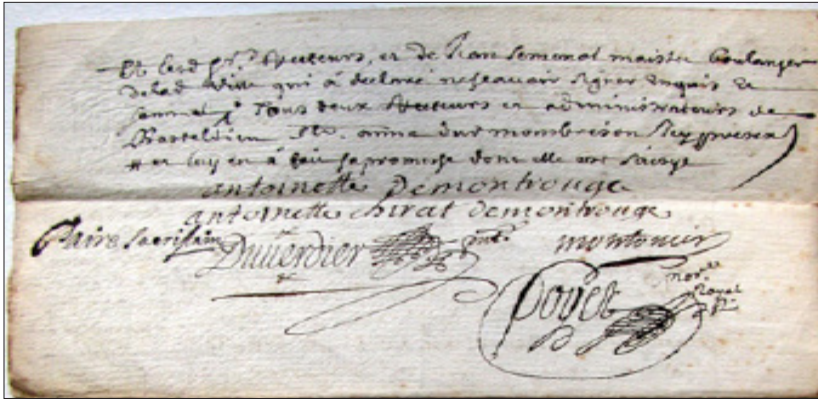


Image 2: Antoinette's signature is in elegant handwriting<sup>28</sup>

Again, such evidence reveals the gap between the requirements of the law and the realities of women's lives. To enforce the legal procedures of the censorship process, the magistrates had to improvise constantly in order to abide by the standard format, such as by signing names on behalf of the illiterate declarants or by teaching them how to write their names.

Sometimes the same declarant filed multiple documents. These are cases in which women experienced repeated sexual aggressions. In other cases, women had to file multiple reports to ensure the proper enforcement of the agreed terms of reparations. For example, two *déclarations de grossesse* are found under the name of Antoinette Forest, and both cases involve the same putative father—her master, a farm-owner named Antoine Chercot. During her conversation with the magistrates she lamented her “misfortune to live as a servant at the Chercot’s,” for the master took advantage of her sexually “all the time when she was his servant” and “every single time whenever they were alone.”<sup>29</sup> She briefly left the household after giving birth to a child on St. Catherine’s Day, whom Chercot baptized as quickly as possible. In a convenient arrangement, the affluent farmer asked his wife to be the godmother and his son to be the godfather and demanded his nephew be the foster parent.<sup>30</sup> Upon her return, Antoinette was again subject to relentless sexual harassment by Antoine Chercot “at

<sup>28</sup> Antoinette Chirat de Montrouge Acte du 19 avril 1721 Notaire Poyet Archives de la Diana (Antenne des archives départementales).

<sup>29</sup> Antoinette Forest, *Les déclarations de grossesse en Forez sous l’Ancien Régime : une cahier de Village de Forez* publié par le Centre social de Montbrison.

« tout le temps quelle a été son domestique il la connoissait charnellement toutes les fois qu’ils étoient seuls »

<sup>30</sup> Ibid.

each occasion where they are alone,” even in the stables and at meals.<sup>31</sup> Eventually, she was pregnant again in 1743.

Similarly, Marie Cournet's seducer, a former priest referred to as Pastor Pauche, pursued Marie all the way to another county. Previously, Pauche had threatened to kill her. Marie took care to account that by the time he found her, the priest had returned to laic life. And she, too, was pregnant twice.<sup>32</sup> These stories, colorful yet dismal, illustrate the vulnerabilities of women to sexual aggressions and the scarcity of means and resources available to them during the seduction. As survivors and victims, they still had to face the relentless interrogations of local magistrates. All of the above observations make it the more remarkable to see women turn the *déclarations de grossesse* into their own legal recourse to battle the putative fathers.

### Part III: Pressure on the Putative Fathers

Despite the laconic style of the hospital records, they provide a wealth of biographical information on individuals not mentioned in the *déclarations de grossesse*. For after all, the primary purpose of the declarations was to enable the government to exercise control over illegitimacy and bastardy, rather than to record women's life conditions. Because the official document of the *déclaration de grossesse* is concerned solely with the development of the sexual relationship, it only covers the story in the past few months, her plight and concerns at present, and her plans for delivery of the child in the near future. It is therefore difficult to gain from the declarations a fuller picture of the woman's life. Foundling hospitals, on the other hand, record the names of all persons involved in the birth and care of a child, including his or her biological parents, godfathers, godmothers,

<sup>31</sup> Ibid. « pendant ce temps là led. Chercot a continé de la connoitre charnellement à chaque occasion qu'ils étoient seuls tantot dans l'écurie lorsqu'elle alloit fermer son cheval quand il venoit la nuit à toute heure de cette ville et de St-Galmier tantot lorsqu'il la faisoit souper avec luy, enfin de ce dernier commerce elle est encore devenue enceinte... »

<sup>32</sup> Marie Cournet Acte du 1er août 1743 Notaire Morel Archives de la Diana (Antenne des archives départementales) : « Jusqu'aux deux derniers mois qu'elle se seroit aperçue d'être enceinte par les fréquentes connoissances charnelles que ledit Sieur Pauche avoit eu avec elle depuis le mois de mars dernier, qu'il venoit coucher avec elle dans son lit et lorsqu'elle vouloit se dérober à ses assiduités criminelles et presque journalières, il la menassoit de la tuer... Ne sachant où se retirer pour gagner sa vie et faire ses couches elle s'est rendue en cette ville... Mais le prêtre indigne la poursuit jusqu'à Montbrison. « Le Sieur Pauche est venu la semaine dernière, rendu en habit laïque et luy a parlé dans la grange de Robert Faugerand, luy a dit quelle étoit cause qu'il avoit été chassé de sa cure de St-George qu'il ne sçavoit plus ou donner de la tête, luy proposa encore de se laisser connoitre charnellement... »

and foster parents. Sometimes, in cases of infants found abandoned, the names of the individuals who first witnessed him or her are written down.<sup>33</sup> In this way, the foundling hospitals enrich the pool of information on the patterns of behaviors of the women before and after their misfortunate affairs.

The life of Claudine Roux, for instance, is one of those recorded by both authorities—the hospital and the magistracy. In her case, it seems obvious that the hospital staff had over the years collected more information than their administrative counterpart. The daughter of Imbert Roux, a local baker, the twenty-seven-year-old Claudine was only briefly introduced in her *déclaration de grossesse* submitted to the Rector of Saint-Anne precinct on September 30<sup>th</sup>, 1731. In addition to being one of the most rigidly formulaic declarations, little more than one page long and barely legible even by paleographical standards, the document provides excessive details on the sexual intercourse but scant mention of the girl's living conditions.<sup>34</sup> Again, it is because the document only contains information that may prove to be useful in regulating sexual behaviors and avoids other types of information that may be socially significant but legally irrelevant.

The document states that, as a tenant in the carpenter Bernard's household, Claudine Roux unfortunately became a neighbor of Pierre Durand, who solicited her for sexual intercourse many times and eventually reduced her to acquiescence. The text takes care to mention that sexual intercourse happened “numerous times...from May 1730 till February 1731, with only a month of interruption in between” and employed a critical tone as it pointed out that she was “easy enough to give in...” to the seducer's request.<sup>35</sup> The moralist tone and harsh words of this document stand out in contrast to some other texts that show more sympathy than disapproval to the declarants. Rector M. Louis Caze likely upbraided Claudine Roux for reasons that might have been suppressed in the written document, possibly referring to her seeming willingness to not only surrender to, but also cohabit with, the putative father. But the local official did not produce any follow-up report on the life of Claudine. It is possible, however, to gain some insight on her later life by a close examination of the hospital records related to her.

Somewhat surprisingly, the hospital at Montbrison did not record

<sup>33</sup> Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés, 900 documents, compiled by Centre social de Montbrison, 2002, Archives départementales de la Loire (Annexe de Montbrison).

<sup>34</sup> Claudine Roux Acte du 30 septembre 1731 Notaire Poyet Archives de la Diana (Antenne des archives départementales).

<sup>35</sup> Ibid. « ayant tenu en louage une chambre depuis trois ans de Benoist Bernard, maistre charpentier dans sa maison scituée rue Neuve dans laquelle maison habitoit sieur Pierre Durand... l'ayant sollicité par plusieurs et diverses fois de luy accorder quelques faveurs lad. comparante fut assez facile d'y acquiescer... »

the name of Claudine's child with the aforementioned Sieur Durand. In in this case, silence on this piece of information speaks aloud as a peculiar type of historical evidence. It is very likely, given the absence of Claudine's child in the list of 'foundlings,' that it is after all not a foundling—that is, Sieur Durand had arranged for the delivery of the child privately. For given that the identities of the parents are certain in this case, Claudine's child would have been received by the hospital and eventually a foster family *only if* the putative father had disputed the expectant mother's claim in the *déclaration de grossesse* and thus refused to provide financial support to her.

On the other hand, he equally likely did not marry Claudine either. For although her own child, born in 1731, has not been recorded, her name along with that of her eventual husband appears several times in the hospital's 'honorary list.' It appears that the same Claudine Roux, in 1737—six years after her delivery of a seducer's child—volunteered to be the *première nourrice* of a baby boy called Gabriel. The record shows that Gabriel is a one-year-old male infant, taken care of by "Claudine Roux, Claude Rulland" from "Saint-Jean-Soleymieux."<sup>36</sup> Since the hospital almost always lists the husband's name after the wife's in the same category, it is safe to assume that Claudine Roux had by the age of 33 found a happy family in the near-by St-Jean-S county and that the couple could afford to nurture a one-year-old until a more fitting family took over the labor-intensive task.

Indeed, despite the hospital record's resemblance to a dry and dense spreadsheet, its abundant information sheds light on the otherwise obscure lives of women such as Claudine. Today a historian may penetrate deep into the past and conduct a micro-historical research into the lives of particular individuals who lived near the Loire River under the Ancien Régime, by combining the *déclarations de grossesse* with the *enfants trouvés* archives available in the archival office of the Département de Loire. One may learn, for example, that despite Claudine's unhappy encounter with an unfaithful man, she showed a spirit of charity throughout her life. One may notice, for example, that in the same year that they adopted Gabriel, the generous couple also took care of a girl, Magdelaine, who was then three years old.<sup>37</sup> Two years later, in 1739, they nourished the two-year-old Marie in the same house.<sup>38</sup> The descriptions of these acts are brief but helpful, for they allow us to keep track of some ordinary women's attempts to turn their lives around in a small and censorious community.

It is unfair to conclude that French magistrates in rural communities such as Forez always fell short of collecting supplementary

<sup>36</sup> Claudine Roux Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés. « Gabriel: masculin, premier age [...] Claudine Roux, Claude Rulland, Saint-Jean-Soleymieux... »

<sup>37</sup> Claudine Roux Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés.

<sup>38</sup> Claudine Roux Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés.

information on women's plights in their production of the *déclarations de grossesse*. In the first place, although many officials, especially high-ranking agents, could innovate and improvise in their prose (such as in the case of Alix Méan, where the official recorded the interview in the style of a journal), the transcribers were after all required to follow the formula. As France consolidated its status on the European continent by the mid-eighteenth century, the monarchy ruled the kingdom by issuing decrees from Paris. This effort to unify the kingdom by imposing standard laws culminated in Napoleon Bonaparte's reenactment of Justinian's compilation of civil laws in the making of the Code Napoléon.<sup>39</sup> The French kings' fondness for systematic, formulaic, and universal legal processes had been visible even in the time of the House of Valois in the sixteenth century. Henri II's several edicts, for example, provided elaborate formulas, both in procedure and in wording.<sup>40</sup> And as for a document such as the *déclaration de grossesse* that concerns intimate details, its legality consists precisely in its strict conformity to the imperially ordained format.

Secondly, since the bureaucrats were aware that oftentimes before the expected mother presented herself before the magistrate, the unhappy affairs had already been settled privately, either in the form of compensation or in a belatedly arranged marriage, they kept the declaration short and supplemented it with supporting documents on the details of their private deals and agreements. The following paragraphs will analyze the peculiar case of Marguerite Cognasse, whose life has been documented in three sources: *déclaration de grossesse*, a foundling record, and a private settlement contract. When put together, these texts show the Cognasse family's extraordinary skills to handle an otherwise catastrophic event.

According to the biographical section of the *déclaration de grossesse*, it is unlikely that Mlle. Marguerite Cognasse should have had any leverage against a seducer. She was the daughter of Antoine Cognasse, a manual laborer from the Montel Village of the Bard Parish. Marguerite was impregnated by a certain Claude Pallay, son of Mathieu Pallay, a miner who lived in the Jambin village of the same parish. Different from most women who waited for about 7 months before confessing their pregnancies to a magistrate, Marguerite chose to give birth to the child before submitting the declaration. Given Claude's refusal to marry her even after their child was born on January 18<sup>th</sup> 1779, Marguerite's father entered into a series

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<sup>39</sup> For more on the history of legal developments in France in the ancien regime, see Benoît Garnot, *Justice et société en France aux XVI<sup>e</sup>, XVII<sup>e</sup>, XVIII<sup>e</sup> siècles*, Ophrys, 2002. Arlette Lebigre, *La Justice du roi : la vie judiciaire dans l'ancienne France*, Albin Michel, 1988. For the Napoleonic code, see *Code Napoléon Nouv. éd.*, Paris, Garnery, 1808.

<sup>40</sup> Isambert, Decrusy, Jourdan, *Recueil générale des anciennes lois françaises, depuis l'an 420 jusqu'à la révolution de 1789* (Paris: Belin-Le-Prieur), 1821.

of negotiations with Mathieu, father of the seducer.<sup>41</sup> This intriguing process was not recorded in a traditional *déclaration de grossesse*. Instead, the Parish officials attached a separate contract between the two families to Marguerite's profile. And the document, inserted into a large pile of normal *déclarations*, survived to this day. According to this contract, the two fathers eventually reached the following agreement:

Mathieu Pallay pays 80 livres de compensations and interests to Antoine Cognasse,<sup>42</sup> in order that Claude Pallay would “never be bothered nor sought after on the part of the said Marguerite (...ne soit jamais inquiété ni recherché de la part de ladite Marguerite).”<sup>43</sup>

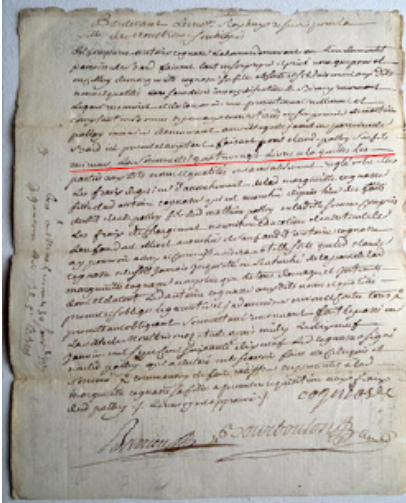


Image 3: The specific amount of payment, and the conditions for those reparations, are underlined in red.

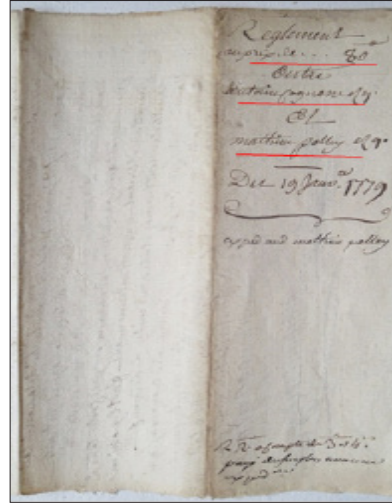


Image 4: The amount of reparation and the names of the two fathers are underlined in red.

These documents convey an enormous amount of information, explicit and implicit, private and public. The private contract between the families is attached to the public document submitted to the magistracy and is kept by the public record office in the historic Forez. For indeed, any

<sup>41</sup> Marguerite Cognasse Acte du 19 janvier 1779 Notaires : Bourboulon et Barrieu Archives de la Diana (Antenne des archives départementales).

<sup>42</sup> The French *livre*, first established in the time of Charlemagne, was in use until 1794. In most of the 18<sup>th</sup> century, 1 Louis d'or (gold coin) = 24 livres. For most rural families, 80 livres are a sizable, if not tremendous sum of money.

<sup>43</sup> Image 1 : Règlement et declaration de grossesse, Marguerite Cognasse, 1779. Archives de la Diana (Antenne des archives départementales).

modern citizen experienced in civil lawsuit would suppose that, in case the agreement was successfully settled in private, there is no need to proceed to public legal action. Certainly, the *déclaration de grossesse* is far from a purely legal document, and the ‘interview’ with the magistracy is by no means the equivalent to a court hearing, especially since the putative fathers were not required to attend (though some did sign their names, such as Jean Viot, seducer of Barthélemye Gorand in 1742).<sup>44</sup> However, if the exposure of private affairs—especially those of embarrassment, disgrace, and even humiliation that may severely impact the woman’s chance of marriage—into the public domain, that is, the formal submission of the *déclaration de grossesse*, is a less-than-ideal means for women to pressure their seducers into either marriage or reparation, then there is hardly any reason for Marguerite to pay the additional cost and suffer the loss of reputation if she had already obtained the desired monetary compensation by the private agreement.

The only explanation could be that the Cognasse family filed the *déclaration de grossesse* to ensure proper implementation of the compensation and to secure a way to take actions against the Pallay family in case of fraud and delay of payment. For it is no secret that putative fathers tended to evade their financial duties. Marguerite should have intended to avoid, for example, the tragic fate of the thirty-year-old Catherine Rizant, who was not only denied her 40 sols of reparation but also humiliated and chased away by her seducer, Mathieu Vincent.<sup>45</sup> An alternative explanation is that the local government might have demanded a copy of the contract in order to validate the private agreement and ensure the proper birth of the child. After all, the origin of the *déclaration de grossesse* lies in the religious community’s fear of infant abandonment, and it would add to their horror if more and more rural families settle disputes privately and proceed to either abort or abandon the infants. But with the contract in hand, it is easier for the magistrates to track and monitor the conditions of the mother and her childbirth. In any case, there is no reliable way to verify these hypotheses, for after all, the only remaining archives are Henri’s edict and the actual documents. The local magistrates’ specific procedures and practices have been permanently lost.

However, a close examination of the written documents yields important insights on the roles of parents in the negotiation process. Despite the fact that Marguerite and Claude were both adults, they did not

<sup>44</sup> Barthélemye Gorand Acte du 23 novembre 1742 Notaire Morel Archives de la Diana (Antenne des archives départementales).

<sup>45</sup> Catherine Rizant Acte du 19 juin 1727 Notaire Poyet Archives de la Diana (Antenne des archives départementales) « ...payeroit quarente sols par mois pendant douze années... Trois mois après ladite comparante s’adressa aud. Vincent et lui demanda le payement des mois escheus en luy faisant voir led. acte, que led. Vincent luy arracha violamant avec sa femme et se retiraire sur le chant en luy disant : vat je ne te crains plus, tu devois battre le fert pendant qu’il estoit chauds... »

play the critical roles of reaching an agreement for themselves, and their names are mentioned only in the contract. Instead, their parents reached out to each other directly, negotiated the deal and supposedly signed their names. Admittedly, Claude and Marguerite might have been illiterate and hence unable to write,<sup>46</sup> but it is not clear whether their parents signed themselves, especially given that both names are written elegantly and in almost exactly the same style.<sup>47</sup> It therefore remains possible that the magistrates transcribed their agreement onto a separate sheet of paper and kept it in record.

The reparation was probably paid to the Cognasse family, not to Marguerite directly, and that the magistrate obviously consented to, if not helped to arrange, this arrangement. Secondly, both documents indicate that the parents of Marguerite and Claude were neither wealthy nor prominent members of the community. But they possessed enough financial means to settle the dispute privately. It speaks to the possibility that many ordinary laborers and farmers of similar social status might have resolved their conflicts in the same procedure.

Again, it is necessary to resort to the hospital records to track the later endeavors of Marguerite Cognasse. Evidence from the foundling records shows that her success, like that of Claudine Roux, extended beyond the putative father's monetary contributions. The hospital's records, combined with the *declaration* and the contract, delineates a fuller picture of Marguerite's life after the delivery of the unwanted child.<sup>48</sup> A record registered on January 21<sup>st</sup>, just three days after giving birth to her child, states the following: "Cognasse Magdeleine: female, natural [birth], Bard, age one, 1779 on 21 January. Natural[ly born] daughter of Marguerite Cognasse from Bard."<sup>49</sup> The situation is self-evident: she gave birth to a *natural* daughter whom she named "Magdeleine"—the child is neither *legitimate* nor *abandoned*. Marguerite apparently accepted the hospital's offer (since, in contrast to Sieur Durand, the Pallay family paid reparations in monetary form and therefore did not arrange for her delivery) and registered the baby properly. In such cases, the mother tends to the child until the arrival of the first *nourrice*. The date and details of this record shows that this is the same Marguerite Cognasse as in the declaration and

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<sup>46</sup> Marguerite Cognasse Acte du 19 janvier 1779 Notaires : Bourboulon et Barrieu Archives de la Diana (Antenne des archives départementales).

<sup>47</sup> See images 3-4. Règlement et déclaration de grossesse, Marguerite Cognasse, 1779. Archives de la Diana (Antenne des archives départementales).

<sup>48</sup> Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés.

<sup>49</sup> Ibid. « Cognasse Magdeleine : féminin, naturel, Bard, premier âge, 1779, 21 janvier ; fille naturel de Marguerite Cognasse, de Bard »

the contract.<sup>50</sup>

In another set of later records, a more interesting piece of information emerges: “Latrompette Georges: male infant exposed in Montbrison at the door of a hospice, age one, 1814 10<sup>th</sup> of June Marguerite Cognasse and Maurice Merigon of Essertines.”<sup>51</sup> The said Maurice Merigon, from a nearby village, is shown here to be Marguerite’s new husband. The baby George was *abandoned* at the front door of a hospice in 1814, in which year Marguerite would have been about 45 years old. Moreover, like Roux and Rulland, the couple was by this time comfortable enough to foster the child—at least temporarily. This is certainly not the first time Marguerite and her husband had extended their helpful hands to helpless children. Just two years prior to nursing little George, in the year of 1812, when a woman called Augustine Delacroix and her husband (presumably a soldier; the name is illegible) had been taken prisoners in Spain, their legitimate daughter Angel Valentine was left alone in the village. Fortunately, Marguerite and her husband offered a home to the child.<sup>52</sup>

Although the lives of Marguerite and Merigon have been buried in the dust of history, and whether the 80 livres from Mathieu Pallay helped her start a new life will forever be a mystery, it is still possible to tell, by the bits of information in the declaration, the contract and the hospital’s foundling records, that the two of them fared moderately well. It is remarkable to see that, for Marguerite Cognasse, the seduction, deception and unwanted pregnancy was far from the end of the world. It is also interesting to note that Marguerite gave birth to the illegitimate child ten years before the outbreak of the French Revolution and later revisited the same hospital in twenty years—that is, a month after Napoleon was exiled to the island of Elba. Indeed, Marguerite’s ordinary life may seem extraordinary in the eyes of a historian. An illiterate peasant girl, Marguerite participated in the *mentalité* of eighteenth century rural France. By a careful investigation into the two systems of records, the foundling hospital and the magistracy in charge of the *declarations de grossesses*, I have sketched a rough, but illuminating portrait of Marguerite’s struggle to continue her life despite the unhappy episode of seduction and abandonment.

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<sup>50</sup> Based on a careful comparative study of the two sources, I conclude that the chance of them being two different Marguerite Cognasse is extremely small. See Marguerite Cognasse Acte du 19 janvier 1779 Notaires : Bourboulon et Barrieu Archives de la Diana (Antenne des archives départementales) and Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés.

<sup>51</sup> Forez archives, Période 1715-1790 Notices individuelles des enfants abandonnés, “Latrompette Georges: masculin, exposé, Montbrison, porte hospice, premier âge, 1814, 10 juin; Marguerite Cognasse, Maurice Merigon, Essertines.”

<sup>52</sup> Ibid.

## Conclusion

The recognition of women's scant resources and limited conditions of free actions should not, in my opinion, lead to the quick assumption of their passivity, vulnerability, and lack of agency in pre-revolutionary French rural communities such as Forez. Indeed, anyone who makes such overarching assumptions would be astonished to see the twenty-six-year-old domestic servant Catherine Bruyère publicly reveal that d'Arnaud—her employer—had pressured her to keep their affairs in secret. Defying her master's order, she asked instead for “compensations and interests” from him.<sup>53</sup> Indeed, studies of the *déclarations de grossesse* illustrate the various ways women took actions against their seducers, pressured them for reparations, and brought their deeds to public attention. This more nuanced understanding of women's narratives of sexual experiences, life choices, specific legal recourses and expressions of agency complements and modifies our general characterization of eighteenth-century rural French women as inactive and helpless victims to the exploitations of powerful men. As the records show, women turned the tools of surveillance and censorship to their advantage in order to challenge their seducers, protect themselves, and safeguard their interests, despite dangers and difficulties.

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<sup>53</sup> Catherine Bruyère Acte du 30 mai 1743 Notaire Morel Archives de la Diana (Antenne des archives départementales).

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