Original Article

Judging sexy women in late medieval France

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Abstract  Blindfolded Lady Justice with her scales rarely features in modern representations of medieval European justice. Instead, it is the female sexual sinner bound to the stake for burning who dominates modern imaginings. This reflects a widespread perception of medieval criminal justice as committed to the fierce judicial repression of women, and of women’s sexual activity in particular; an idea that persists in scholarly circles as well as in popular imagination despite a growing body of evidence to the contrary. Working primarily from the records of late medieval northern France, this article demonstrates that this idea is in fact a medievalism, a modern imagining about the Middle Ages. It attributes to medieval judicial authorities the disciplining and punishing of female bodies and female sexuality that instead emerged only with modern patriarchies. Heeding this difference allows us to recognise in Medieval Europe a patriarchal darkness of another kind: a world able to maintain stark gender and sexual inequity without any such use of judicial powers.

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Introduction: judging sexy women

From the novels of Walter Scott and Victor Hugo to twenty-first-century movies and television series, it is a commonplace that Christian authorities in the Middle Ages feared and hated women. This idea is not without scholarly foundations. Modern scholars have pointed in particular to medieval clerical denunciations of women’s propensity to sexual sin, as well as clerical fulminations against women’s powers as temptresses and seductresses, their dangerous ability, like Eve, to bring about the ruin of men (Rieder 2012). Such condemnations of ‘daughters of Eve’ intermingled with the patriarchal and misogynistic orderings of family and society that held sway in their world. As Christianity became the dominant religion, so the thinking goes, Christian ideology and its misogyny came to have a predominant role in governance and in law. This resulted in the development of judicial ideas and practices that sought to police women’s sexual activity with special energy, a body of law whose legacy is still with us today.

These ideas have led many to assume that medieval secular and religious officials would have judged a woman caught at extramarital sex with considerable severity. Indeed, scholarly accounts regularly assert that medieval western European judicial officials had little tolerance for women’s illegal sexual activity. As Ruth Karras, the pre-eminent authority on medieval gender and sex, wrote: ‘church and legislative authorities saw the high risk of this activity as a threat, and as a reason to keep women under strict control’ (Karras 2017, 118). When it came to illegal sex, therefore, ‘in most cases the woman received more opprobrium than the man’ (Karras 2017, 122). Some men might also be punished, but generally, ‘the woman involved bore the brunt of the penalty’ (Karras 2017, 131).

Not only did medieval courts inflict harsh punishment on women for adultery, as this line of argument goes, they also judged more harshly the women charged with other offences who they deemed sexual sinners. For example, such is assumed to be the fate of a woman named Colette Phelipe, who in 1392 stood accused of the abandonment of her one-year-old daughter, as well as theft and repeated fornication (Duples-Agier 1861, v.2: 525–533). According to her confession, and as reported in witness testimony, Colette had come to Paris from Normandy looking for work. She had found employment as a domestic servant and wool weaver, and had sex during that time with two men: first, the Florentine father of her infant, and second, after his departure, another foreigner who helped her find work and a room to live in.

The authorities who sat in judgement over Colette clearly did not have much sympathy for her. In particular, they were not impressed by her claims that she had not abandoned her daughter. She had testified instead that a woman she did not know, and could not name, had taken the infant to the church and left her
there. These officials also criticised Colette for ‘having surrendered her body to loose-living men,’ when, they asserted, she could have found ‘honest work.’ They observed that she seemed young and healthy and well dressed, capable of supporting herself and her infant. How did they punish her? We do not know. The officials continued their deliberations, but the record stops there, the one proceeding of this register for which we do not know the outcome.

Left wondering, scholars are necessarily guided by their working assumptions about gender and justice as exercised in medieval France. They have generally assumed the worst. In her brilliant study of silk workers in medieval Paris, Sharon Farmer, for example, writes that Colette was likely executed as punishment (Farmer 2016, 147). This conjecture makes some sense if we think that medieval justice exercised such harsh justice with regularity. It makes still more sense if we think that these courts would have acted with extra viciousness against women like Colette because they considered such women to be dangerous sexual seductresses whose behaviour called for fierce punishment. Not so, as this article will now demonstrate.

To be sure, the idea that medieval courts must have frequently and harshly punished women for sexual offences is the standard interpretation. There are quantitative studies based upon local court records that support this idea, notably from England and from Italy (Bennett 2003, 131–162; Lansing 1997, 33–59 & 2002, 293–309). Increasingly, however, scholars have identified quite different patterns in northern and southern France, in the Low Countries, and in Iberia, as well as other parts of the Mediterranean and northern Europe, including England (Kelleher 2010, Chapters 3 and 4; Naessens 2004; McSheffrey 2006, 166–75; Otis-Cour 2009, 347–392; McDougall 2014b, 491–524 & 2014a, 206–225). In these findings, men predominate among those punished for extramarital sex.

For those familiar with the broad sweep of history of criminal justice, this demographic distribution does not entirely surprise: men essentially always outnumber women in records of criminal prosecution and punishment (Hanawalt 1975, 253–268; Gonthier 1984, 25–46; Dubois 2005–2006; Bourguignon and Dauven 2012, 215–238; Charageat 2010, 243–254; Barberet 2014; van der Heijden et al. 2020). What is more surprising is that in medieval western Europe this gender difference holds for sex crimes as well as more generally for crimes such as murder or theft. Where scholars have recently counted cases, men usually outnumber women among those punished. These courts, secular as well as ecclesiastical, punished men both more often than women, and also with heavier penalties. Perhaps even more surprisingly, sex has a less serious role than is often assumed: adultery was routinely judged with less severity than other offences such as theft, murder, arson, heresy, or treason. The sex crimes of rape, pandering, defloration, sodomy, or bestiality also met with harsher punishment than adultery.

4 For England, see the forthcoming work of Judith Bennett and Alice Raw cited in the bibliography.
What does this tell us about gender, sex, and justice in the medieval societies whose court registers scholars have mined for these findings? Clearly the documentary record as reflected in these recent quantitative studies is hard to square with the standard assumption that ‘the woman involved bore the brunt of the penalty.’ In essence, scholars have ignored or rejected these findings, dismissing them as not representative of what must have been true about medieval justice. Given patriarchy, given misogyny, it must be the case that medieval judicial authorities had, and acted upon, a special mandate to prosecute and punish women accused of sexual sin (Elliott 2007; Harper 2016; Hutchison 2020).

Maintaining this perspective, I would argue, runs the risk of missing a great deal: about the role of the courts in medieval society, and about the kinds of offences that most disturbed medieval authorities. It also hinders our reckoning with the ubiquity of extramarital sex in their world, the interests in concealing that sex to avoid causing scandal, and, as a result, the wide range of possible responses and consequences for that sex. Moreover, we also risk losing sight of a critically important fact about medieval society, one that Hannah Skoda’s work in particular has highlighted: the constant threat of extrajudicial violence and of sexual exploitation, much of it tolerated as appropriate or at least understandable behaviour (Skoda 2013). If we allow ourselves to maintain the belief that women were regarded as the principal sexual villains, we distract our own attention from the authentically frightening behaviour of men, as well as those who enabled them or who looked the other way.

Two anachronisms have hindered our reckoning with all this: one, a belief in medieval judicial authorities as having some sort of drive – and ability – to discipline and punish as theorised by Michel Foucault; and two, the idea that these judicial authorities perceived women who had extramarital sex as especially dangerous to their patriarchal social order, and used all the tools they had at their disposal to restrain and punish them. It is harder to identify from whence precisely this second notion emerged, but it clearly aligns with a widespread notion of the oppression of women in the Middle Ages as fuelled in particular by clerical misogyny. We can find this exemplified in the writings of Georges Duby on women in the Middle Ages, and also that of Elaine Pagels on Eve. Both these scholars popularised the idea that medieval clerics hated and feared the women who for them represented manifestations of the sexual seductress, the temptress (Pagels 1988, Ch. 6; Duby 1996, v.3 ch.1). Duby, Pagels, and many others after them have continually asserted that these clerical teachings had tremendous cultural power. As the logic goes, with this hatred and fear of sexy women so pervasive in medieval culture, medieval authorities duly saw such women as a danger to their patriarchal social order, and used all the tools they had at their disposal to restrain and punish them.

However, if judicial authorities in late medieval France thought women who had sex outside marriage were so very dangerous, they did remarkably little
about it. I would never dispute medieval France’s status as a misogynistic patriarchy; but not all patriarchies operate according to the same rules. Michel Foucault, as well as Duby and Pagels, were all witness to state powers making desperate efforts to maintain patriarchy through the exercise of judicial authority to discipline and punish; medieval France was not. Medieval French courts expressed their misogyny in their own way, without the same social pressures or urgencies. Medieval judicial behaviour as concerns women’s illegal sex reflects a paternalistic rather than fiercely repressive misogyny. They did sometimes punish women quite harshly, but rarely did so for sex alone. If we measure seriousness of an offence by the nature of the punishment that was inflicted, the female heretic, thief, or murderess all appear to have posed greater dangers than the woman who had sex outside marriage.

The most famous of ‘seductresses’ condemned as such and executed by medieval judicial authorities was certainly no adulteress, but rather the ‘pucelle,’ or virgin, Joan of Arc (Tisset and Lanchers 1960–1971; Duparc 1977–89).5 I argue that this disinclination, by contrast, to identify as temptresses women caught at sex acts is explained, at least in part, because sex, as Ruth Karras has so fundamentally demonstrated, was understood as something transitive, most often as something men did to women; or as something that men did to boys as well as to girls, which Didier Lett and Dyan Elliott’s recent work reminds us (Karras 2017; Elliot 2020; Lett 2021). Additionally, medieval authorities had a far greater problem to contend with in male sexual behaviour, and in particular male violence associated with that behaviour. These were the problems that these courts did seek to address. They made at least some effort, if one that seems all too woefully ineffectual, to restrain certain kinds of violence or coerced or unauthorised sex, and to provide some compensation or justice for women and others who sought judicial recourse as a consequence of that male behaviour.

Extramarital sex, moreover, however deplored in principle, was in practice a constant, a fact of life. In every stratum of this social order many men and women either delayed marriage or never married (Bennett & Froide 1999; Goodich 2005, 119; Bennett 2019). Even if they married, more than a few men did not refrain from extramarital sex, and some of the women they had sex with were themselves married to other men (Autrand 1982; Courtemanche 1990, 1997; McDougall 2019). This number of course included not just kings and bishops and their courts, but also their judicial authorities, the parish priest, and the journeyman, who all might have sex outside marriage. This could mean all kinds of trouble for those concerned, which could include judicial proceedings, civil as well as criminal litigation, or sanctions. But on the whole, women involved in extramarital sex had far more to fear outside the courtroom than within.

Further quantitative work on the prosecution and punishment of sex crimes by courts would be one way to attempt to prove these claims. But that approach
does not seem to be winning hearts and minds. Also, the French fornication and adultery cases usually offer us very little beyond numbers, as is so often the case for other places as well. Most examples include no information beyond the sentencing; or, if there is an investigation, no sentence. They, therefore, provide few answers where we need them most, namely why a given act of sex came to a court’s attention, and what the consequences were for all parties involved. These sources, therefore, fall far short of our needs. Worse, with so little on offer, they are all too ripe for misinterpretation. Also, as suggested above, paying too much attention to these kinds of cases out of context can be quite misleading.

What this article sets out to do instead, therefore, is offer an analysis of accounts from trial records of women who were involved in extramarital sex, but who came before the court for other reasons. To best understand these examples, we must first situate them in the larger context of the workings of these courts, and their handling of sex crimes. Such an analysis is necessary well beyond the narrow field of medieval legal history. It matters not just because we are getting it wrong and it would be better to try harder to get it right. It matters because of why we have been getting it wrong. In our modern world, patriarchy is everywhere in various stages of crisis. We in this modern era are witness to fierce battles pitched between those seeking equality, on the one hand, and, on the other hand, those seeking to maintain and even expand the powers of patriarchal authority. At the core of these disputes lie efforts to police, discipline, and punish sex, sexuality, and reproduction. This convergence of power has all too often materialised in the policing of women, and women’s bodies, as well sex and reproduction in general, and the policing of gender as a binary.

But none of that is true for the Middle Ages. As Judith Bennett writes, ‘[p]atriarchy might be everywhere, but it is not everywhere the same, and therefore patriarchy, in all its immense variety, is something we need to understand, analyse, and explain’ (Bennett 2007, 54; see also Rieder 2012). In medieval Europe, there was no battle for equity or reproductive rights for that patriarchy to have anxiety over or to seek to repress. Instead, the ideal of male dominance and the exclusion of women from power, especially political and religious authority, reigned supreme. Recognising this difference is a critical first step to reconstructing our ideas about the place of gender and sex in medieval punishment. It is my hope that these findings can also help us to reconceptualise our broader understanding of the place of gender and sex in medieval society.

**Gender and justice in medieval France**

Let us consider one by one the assumptions that have led modern scholars to suppose that medieval courts harshly punished women caught at extramarital sex. I begin with the practice of judicial punishment. As recent scholarship on
the subject insists, execution was anything but routine. Medieval France was quite violent and dangerous, to be sure, but most of that violence did not happen at the hands of medieval judges. Authorities could inflict extremely harsh punishments, but they did so relatively rarely, and followed a logic we struggle to identify and understand. Many of the alleged offenders were pardoned. Sometimes pardon came because the offence seemed somehow justified or mitigated by circumstances, but in other instances royal mercy expressly sought to perform power by pardoning the absolute worst of offenders (Gauvard 2018, 187–214; Verreycken 2019). Among those in fact executed, while it is hard to understand why they, and not others, died for their crimes, we can at least recognise some clearer patterns in the ways in which they were executed (Gessler 1939; Cohen 1993, 96–98; Turning 2016; Gauvard 2018). Generally, for example, women were not hanged, instead they were usually burned or sometimes drowned or buried alive, particularly for theft. Men were usually only burned for heresy, bestiality, or same-gender sex, boiled alive for false money, and beheading was reserved for treason, or as a privilege accorded to higher-status men, instead of hanging. These patterns we can see, but the underlying reasons are largely beyond our ken.

What does seem clear is that capital punishment was a rather rare occurrence in medieval France. Executions of women were rarer still (Gauvard 2018; McDougall 2021a). And these executions were even more rarely about sex. Murder or theft were the crimes most frequently punished by execution. This held true for men and women alike, if always a much smaller number of women. In France, this pattern applies even especially as concerns punishment for illegal sex. But whoever was executed and why, the numbers were small (Turning 2016; Gauvard 2018; Mathieu 2019, 328–329).

That capital punishment was rare does not mean it was not horrible. And Paris had some especially dark moments (Soman et al. 1999, 565–566). Between 1389–1392, over a period of 33 months, 94 people were executed in Paris, 82 men and 11 women (Gauvard 2018, 229–231; Hutchison 2020, 144, notes 7 and 18). Of the 11 women, eight were burned and three buried alive. Two men were burned, one man was boiled alive. 11 men were decapitated. The remaining 68 men, and therefore the majority of those executed, were ‘simply hanged’ (Gauvard 2018, 229–231). All horrific.

Of course, even if we recognise that executions were rare, and that executions of women were rarer still, we might still assume that women who had illegal sex would have appeared with some frequency amongst those singled out for harsh punishment on account of their violations of Christian morality. What we find instead is a different hierarchy of offence. If we use the instruments of prosecution and punishment as measuring tools to identify the worst offenders accused of crimes involving sex, they are those persons charged with bestiality, sodomy, rape, defloration, seduction, procuring or pandering, incest, or abduction. In short, by and large, these are the crimes of men, with the
exception of some truly exceptional prosecutions of women for same-gender sex, and the less exceptional prosecutions of women who helped men have sex with other women, the procurer or go-between, or a woman charged with keeping an unlicensed brothel or accused of arranging the abduction and assault of young women from ‘good families’ (Murray 1996; Bennett 2000; Gonthier 2007; Puff 2000, 51 and 2013; Roelens 2015).

Being a woman who men had sex with, by contrast, fell lower down on the hierarchy of judicial concern. Prostitution in itself was legal, particularly in licensed brothels; though any sort of extramarital sex in principle could incur penalties, in both religious and secular courts, and was supposed to be addressed in confession as well. As a result, women accused of having sex outside marriage certainly might be imprisoned and investigated, might have to pay fines, and in some cases could be subject to public punishment and even banished. That is not nothing, to be sure, but we should not make it any worse than it is. We should also seek to understand how gender functioned in the context of both judicial and extrajudicial responses to extramarital sex.

This is difficult to unpack for a number of reasons. First of all, medieval authorities of all stripes proudly proclaimed themselves as anti-adultery, denouncing it as a crime on the level of rape, murder, deflowering or abduction of virgins, incest, or sodomy. But however loudly they proclaimed these values, many of their same proclamations also allowed that adultery was to be punished by fines, or with a civil suit instigated by a husband against a wife, or even a wife against her husband (McDougall 2019b, 489–501, 511–51).

This generalisation holds for both secular and religious law. French secular laws unambiguously condemned illicit sex, denouncing especially rape, adultery, incest, deflowering, bestiality, and same-gender sex. In addition, customary law collections occasionally threatened women with fines or with civil penalties such as disinheritance or loss of dowry, which their families or spouses could demand if they could prove that the women had strayed. As for the relevant religious law, both the standard texts and the local legislation issued by bishops, which included both the remedies of the courtroom and those obtained via confession, had a good deal to say about sex. In principle, as with all other sins, Church authorities had an obligation to assign the appropriate penance or punishment that best facilitated redemption. For sexual offences this typically meant fasting, prayer, or fines. Sin had to be atoned for, but at the same time, a host of other interests might necessitate discretion and moderation. Jealous husbands, for example, should not come to suspect their wives of adultery because of any penance assigned by a confessor (Mazour-Matusevich 2004, 159–161; Larson 2014, 469). Indeed, church authorities had a special mandate to act in ways that did not create scandal, and this included both the internal forum of the soul and the external forum of judicial and potentially public punishment (Fossier 2009; Helmholz 2010).
To be sure, canon law condemned all sex outside marriage, and menaced offenders with penalties (Brundage 1987, 347–48). Husbands (and wives) could sue in church court for the right to live apart from an adulterous spouse. Canon law also allowed that men might demand that an adulterous wife be confined in a monastery as punishment, though evidence for this in medieval legal practice is scant (Reno 2017; McDougall 2014b, 500–501). When it came to married couples, repentance, penance, and reconciliation, where possible, was quite strongly urged. The local legislation, synodal statutes, frequently call for harsh punishment, and then urge moderation, in light of the weakness of the flesh, or in recognition of the generally low morals of the time. And there was never a time in which contemporary morals were deplored as anything other than low.

For the purpose of this article, it is important to recognise that discussions of illicit sex in the statutes pertained most often to the regulation of individuals that medieval authorities identified not as women, but as men. In the section on the sin of luxuria (lechery or lust), for example, it is most often men assigned penance for sexual misdeeds, not women (Pontal 1971, 86). Men are asked if they have committed adultery or fornication, or more specifically if they had ‘deflowered’ a virgin or seduced her, raped a woman, had sex with a nun, had sex with a close relative, or if they had sex with their wife during her period or pregnancy. All this of course had implications for the women, and for any children, but it deserves emphasis that the compilers of the statutes seem particularly concerned with male behaviour. Moreover, part of the man’s penance for the sin of seduction or defloration is to compensate the woman, or rather her family; marriage or financial settlements are the suggested solutions. There is much more that could be said about this body of law, but taken as a whole it displays a lack of interest in policing women. This focus on men had both positive and negative implications for women. There is no evidence of an overwhelming mandate to prosecute women for sexual sin, but also no sign of a great deal of effort to help them either, beyond the stipulations for defloration of virgins.

The judicial punishment of illegal sex operated along the same lines. As I have argued elsewhere, when both ecclesiastical and secular courts went about addressing extramarital sex, they most often punished offenders with fines, and most often punished men (McDougall 2014a and 2014b). Certainly we can see economic incentives in this gendered difference, a reflection of the reality that it was men who generally would have had more money to pay, but there are also cultural explanations. Men were the authority figures, and women the persons acted upon. In addition, paternalism worked to women’s advantage in criminal matters as ideas of female irresponsibility mitigated their responsibility more broadly. Notions of female weakness as applied in court practice contributed to these women being punished with relative leniency, since they were thought of as less responsible for their behaviour than men (Skoda 2013, 228).

9 Here, with ‘deflowered’ as elsewhere, I use language that we might find offensive in an effort to stick as closely to the language of the original source so that we can remain mindful of their language and what they might have meant by it.

10 There are exceptions, to be sure. See for example Beaulande-Barrard 2012, 112.
This brief survey of gender and justice in the Middle Ages, then, helps us to understand why women involved in extramarital sex were not prosecuted and punished in the way a post-medieval audience is too quick to imagine. Modern scholars have too often allowed these assumptions to colour their interpretations of events that we usually have at best a fragmentary picture of. Certainly women, like men, were punished for extramarital sex, but this happened on a sliding scale of seriousness that rated the woman closer to the bottom than the top in the hierarchy of greatest concern.

Far more worrisome in fact, than anything women did with their own bodies, was male desire, what men did about their sexual urgings, or what other men did in violent reprisals for that sex. Sexual violence, assault, coerced sex, all were all too common in this society. And medieval authorities did not by any stretch of the imagination make it easy for women to bring forward accusations of rape or defloration or impregnation. That said, they did in fact prosecute these cases. When it came to illegal sex, just as with other crimes, judicial prosecution and punishment was both more necessary and also, somehow, more appropriate for addressing male behaviour.

The great problem confronted by authorities who set about mandating how people should behave and what punishments might be for misbehaviour, lay not in what women did, but what was done by men, both to women, and also to other men. This included the deeds of men at the top of society, the lords, and the priests in positions of power in a community, not to mention the masters of a household whose sexual desires might extend not just to the servants, but to sisters or daughters. In short, medieval Christian society was plagued by male lust, by men’s desire for sex with women, and their competition over and exploitation of women. This was a far greater problem than female lust, or temptresses or seductresses using their sexual appeal to manipulate men.

This does not mean that women had it easy, of course not. For while these courts had to contend with the dangerousness of male desire, they did not choose to do so in a manner that would disrupt the patriarchal order. Women could not count on courts to uphold the laws that sought to limit male sexual aggression. For women who accused men of rape, sexual assault, defloration, seduction, or impregnation did not get anywhere near the help these courts theoretically offered them (Naessens 2004; Butler 2006 and 2007; Lansing 2013). Women were all too often, instead, subjected to extrajudicial violence and abuse, and had to find ways of coping without the help of the courts. In circumstances hardly unique to the Middle Ages most survivors likely suffered in silence, and indeed could not have hoped for a great deal by way of legal remedy.

But even so, women and their families did have some recourse. Some did make accusations, and some had cases resolved in their favour, resulting in criminal punishment or with compensation demanded from the perpetrator, or both. Moreover, to succeed with this litigation women did not have to be of spotless
reputation, as is sometimes assumed. In fact, even prostitutes could make rape accusations. They could seek, and obtain, at least some compensation as a result (Rossiaud 1988, 66). This is an enormous topic that requires a great deal more explaining elsewhere, as does the question of any consequences of being known to have been the victim of sexual assault. What I want to emphasise now is that male desire for women, understood as demonically inspired and diabolically difficult to resist, was perceived as the chief cause of what was obviously widespread incidence of extramarital sex. What courts were and were not willing to do about it is another matter.

**Women on trial in late medieval France**

Examples from legal practice offer richly detailed evidence of the experiences of women involved in extramarital sex. Let us return first to the Parisian royal court officials of the Châtelet in the late fourteenth century. As is so often the case, this was a court that made choices as to who it prosecuted and how. This was no passive court handling criminal matters as they came up, but an active one that had a vision it sought to implement, a court that sought to restore order to what royal officials considered to be a dangerously disordered city. These officials chose to pursue certain kinds of offences committed by certain persons, and often acting on accusations, facilitating an effort to purge those deemed undesirable from their city (Gauvard 1991 and 2018; Soman et al. 1999).

Scholars have described this court’s endeavours as deeply misogynistic, and as eager to condemn and punish women for sexual sin (Eliott 2007; Hutchison 2020). I do not dispute the misogyny, but I do think we need to reconsider this characterisation. One potential problem with that claim is how few women this court condemned. Between 1389 and 1392, they condemned only 19 women, as opposed to 127 men. A second problem is that none of the women prosecuted by this court were in fact under investigation for engaging in extramarital sex of any kind. Taking all 127 together, sex is not a dominant issue, even among the crimes attributed to women. Theft predominated among the alleged crimes, followed by murder and other serious offences. For the nineteen women, one treason, two murder, five theft, four sorcery, one arson, one procuress, one receiver of stolen property, two contraband, one slander, and one for child abandonment. We should notice that while many of these women were defamed as ‘working girls’ or ‘filles de vie’ or for having engaged in illicit sex, the only woman being punished for a sex crime was prosecuted as procuress (Duples-Agier 1861, 1:41–7). The only woman condemned for a sex crime was accused not concerning her own sexual past, but rather for having trafficked her sister-in-law to a knight.

It is possible, as some scholars have suggested, that maligning an accused woman as a sexual sinner facilitated her condemnation. Having lived a ‘bad life’

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12 For example, Rossiaud 1988, 29, 36, claims that a rape victim was unmarriageable, and therefore doomed to a life of prostitution, but later claims that most prostitutes, once they had ‘aged out’ could easily find work or find husbands. These contradictory ideas clearly require careful reassessment.

13 Some other courts in Paris did, on occasion, banish some women for what seems to have been unlicensed prostitution.
in some way, often a gendered way, seems to have mattered in sentencing, in a way that is still found in French judgments today in which the character and life history of the guilty party has an acknowledged and important role in considerations of sentencing (Gauvard 1994; Hutchison 2020). But women could be executed for theft even if they were not maligned as sexual sinners. Women who men had had sex with, meanwhile, if not accused of anything else in addition, would at worst pay a fine or be whipped or banished for the offence. I do not mean to make light of whipping or of banishment, to be sure, but I want to parse out as accurate a hierarchy of concern for these judicial officials as possible.

Certainly the women’s reputations were bound up with their sexual conduct, but this information does not appear to have had the outsise role often attributed to it. This does not mean that life was easy for women; the prosecutions of men make it all too clear that women faced terrible dangers. In her analysis of these cases, Emily Hutchison harrowingly documents men’s confessions to violent acts of rape and murder. These men sexually assaulted and killed women they had previously had sexual relations with, out of anger when the women refused to have sex with them, or because the women had new sexual partners.

One example of a rape prosecution from these records helps us to understand both that the Châtelet authorities would in some cases, at least, overlook a woman’s spotty sexual history, but also that at the same time they did not make it easy for her to seek justice. In an act of remarkable bravery, Perrete de Saintry accused a group of men of breaking into her home on the Rue Montmartre with swords drawn, dragging her through the streets to the fields outside the city where they violently raped her. She was detained in prison during the investigation, and obliged to repeat her allegations in court, in a confrontation with the accused. She did all this, admitting, as was also reported against her by those she accused, that she had been involved with one of the men who had assaulted her, that she had been for a long time, as she said, a ‘fille de vie’, ‘working girl’ or ‘loose-living’ young woman, but that she had renounced that life, and now was engaged to be married. Her past, and even her past relations with one of the accused, did not deter the royal officials in their proceedings. The misogyny and patriarchal structures that we have to confront lie instead in the gang rape itself, a horrific expression of masculine aggression, and in what that court required of the woman as accuser.

As this case suggests, while medieval courts did not necessarily act with violence against women involved in illegal sex, consensual or otherwise, women could not hope for comparable treatment from the men (and women) around them. Domestic violence, even murder, seems all too often a very real fear, both for women and for men reputed to have engaged in extramarital sex. Nor did these court officials, as the following example will show, have a great deal of
sympathy when one of these women who had sex outside of marriage were perceived to have crossed certain boundaries of decorum.

In 1391, Colette la Buquette stood before a princely estate on the rue de Paradis in Paris, the home of Jean Le Mercier, lord of Noviant and royal treasurer. She had by the hand a young boy who wore a sign that read: ‘This boy is the son of Monsieur Jean le Mercier, lord of Noviant.’ Quite a few of Jean Le Mercier’s colleagues regularly acknowledged their bastards, as did their princely and royal betters (Autrand 1982; Courtemanche 1990 and 1997; McDougall 2019). But this public display was not appreciated, perhaps not least because Jean Le Mercier, of obscure origins, owed his high rank in that society in large part to his second wife, Jeanne de Vendôme, an extremely important heiress. The marriage had been arranged by the king himself, who had ennobled le Mercier as a reward for his services to the crown. The domestics therefore laid hold of Colette, and she was imprisoned in the Châtelet. Interrogated by royal officials, Colette claimed that she had acted as she did because the child was, in fact, Jean le Mercier’s, and that her more discreet efforts to convince his chaplain to grant her access to the lord had been rejected. Colette explained that seven years ago, while she had been living with her parents in a village in Normandy across from an inn, le Mercier had been a guest there, where he had seen her playing with the other girls, taken her to bed with him, deflowered her, gave her a gold ring, and left the next morning.

From that time to the present, she claimed, she had raised the boy with her parents’ help, but her resources had run out. Since she had no means for the boy’s advancement, on the advice of friends she had come to Paris to seek the father’s help. The next day a few royal officials sought out le Mercier to discretely inquire as to his side of the story. He admitted to having sex one night with a young woman in the inn in Normandy, but insisted that it was eight or nine years ago rather than seven. For by that time, we should know, he was already married to his eminent spouse, whose trust he never would have so abused. He was willing to help the child, but greatly resented the mother’s brash behaviour, and asked that she be punished.

The officials then returned to the prison to question Colette a second time, with some threat of force. She added some rather important nuance. She admitted, for one, that while she had gone to bed with Jean le Mercier, later that same evening she had also had sex with another man, Jehan du Bois, a local cleric in the service of another nobleman. So she knew that one or the other of these two men was the father, but she did not known which. While in childbirth, she had named Jehan du Bois as the baby’s father. This Du Bois duly took in mother and infant and provided for them, raising the boy as his son, but then he died. The cleric’s former master continued to support them out of respect for the late cleric, but then he too died. Colette next returned to her father and worked to earn her keep and support her son, but began to wonder, she said, if it was possible that in fact Jean le Mercier was the real father, especially since people
said that her son resembled him. Considering how rich and important he was, she thought she would try to get his help, especially since her new fiancé was cruel, beat her, and stole from her. Her efforts included a longer stay in Paris than previously acknowledged. A renewed effort to question her and others revealed that she had herself been caught stealing from her employer and various other offences. All this activity got Colette condemned to public punishment on the pillory, and banishment from Paris, on penalty of burial alive if she returned. What became of her once she left Paris we do not know. But for all the uncertainties in this testimony, we can recognise that until she made her public accusation against the nobleman, she does not appear to have had any trouble with the law. If ever, when first pregnant in Normandy, she faced prosecution or any other judicial consequences, we are not told.

Equally unknown is the fate of another woman who in the late fifteenth century even more egregiously violated social norms than did the scandal-provoking Colette la Buquette. According to her confession, the orphan Marie Ribou began work as domestic servant by the age of 13 or 14 (McDougall 2021b). She was seduced, she said, when she was about twenty, by a cleric living in the household she worked for. We know nothing about this cleric. Perhaps the man was a priest, or hoped to become one, in which case he could not have married Marie without ruining his career prospects. It is also possible that Marie was too far down the social hierarchy for him, though we know even less about her social status than his.

Marie claimed that after the birth of her son she provided for him and continued to do so. At the time of her confession he would have been about five years old. Perhaps the boy’s father helped her financially, or she was able to provide for one child, at least, with her own resources.

But then another man came along, this time with talk of marriage. Once she realised she was pregnant, her intended, a man referred to only as ‘de Prez,’ took Marie to the home of a kinsman in a nearby village so she could give birth in secret. De Prez’ family also helped Marie find a wetnurse to care for the infant, a baby girl. After her lying in, Marie returned to Chinon in hopes of marriage, or at least in hopes of financial support from de Prez, who not only refused her, she said, but claimed he was no longer so sure the baby was his.

In principle Marie could have sought legal remedies at this point, bringing a case against de Prez in a church court, but evidently did not do so. Instead, Marie collected her daughter from the wetnurse, paid her what she could and made her way back towards Chinon, planning, she said, to confront de Prez with the child. On her return, overcome by ‘demonic temptation... melancholy and rage,’ she drowned her infant. After the discovery of the corpse, suspicion somehow fell fast upon Marie, who confessed. Her sad case came to the attention of the king, who pardoned her, mandating that she atone for the murder by performing a pilgrimage.

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14 Archives nationales de France, Paris, Registres du Trésor des chartes, JJ 208 f.27r–v #48 (http://himanis.huma-num.fr/app/index.php/ui/show/chancery/415/55). This grant of remission is one of the thousands of letters by the French royal chancery now digitised and available online, the early fruits of a pioneering project (https://www.himanis.org/).
No execution, in short, even for this unwed mother who added sin to sin by killing her own infant. As this case suggests, and as I argue elsewhere, pardons for infant murder, like that granted Marie, are due for reassessment (McDougall 2021a). It is often assumed that women pregnant from illegitimate relations were less likely to be considered worthy of pardons since they had compounded sin with more sin. In fact, being pregnant in these circumstances, might have evoked if anything more sympathy from authorities, even for women suspected of offences that got other women executed. While it is immensely difficult to know for certain why some offenders were pardoned and others not, we can at least recognise that among the women accused of serious crime, those who, in addition, were pregnant from extramarital sex were not at all necessarily judged more harshly than other women. Being a sexual sinner did not necessarily exacerbate a crime.

A pardon for theft offers an example of how a woman might attempt to justify her crime by pointing out that she had acted to help her children, and because the children’s father had been derelict in providing support. In 1377 the king received a request that he remit the crimes of a woman named Perrette Mache. According to the pardon, she had been seduced and deflowered by a priest named Pierre le Maire, and had a child as a result. Perrette then sought to live ‘a better life,’ and got married to Jehan Mache. But the priest was not ready to give her up. He continued his attentions, and even beat and threatened her husband until he fled. She had another child with the priest, but then his interest shifted to another woman and he abandoned her. Desperate to find the means to support herself and her children, she entered the priest’s home while he was at mass using a key she still had, and stole from him some expensive clothing and a breviary. For this crime she was detained in prison, but ultimately pardoned.

Here we can see, I think, useful corrective to the idea often found in modern scholarship that maligning an accused woman as a sexual sinner facilitated her condemnation. These courts condemned and punished plenty of other women without any reference to their sexual history. The Châtelet register offers an example of this in an arson case (Duples-Agier 1861, 2:61–4). A woman confessed to setting fire to her neighbour’s home after what she described as an insult to honour that had no hint of sexual undertones. She was executed even though she had immediately sought help putting out the fire and it was extinguished before anyone was hurt, repenting her crime.

With arson, too, a pardon offers instructive contrast, indicating that, if anything, being pregnant from illicit sex might have made a woman seem more rather than less deserving of mitigated punishment. In 1406 the king granted a petition on the behalf of Juliotte la Buquette, a young woman of about 18 years of age. According to her pardon, she had been maintained and carnally known by a young man who lived in the same parish and who had made marriage promises. He, however, had refused to admit this relationship and refused to marry her or recognise that she was pregnant because of him. This Juliotte then

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15 JJ 110, #249, f147r. http://himanis.humanum.fr/himanis/index.php/ui/show/chancery/219/294.

16 JJ161f21r #30 http://himanis.humanum.fr/himanis/index.php/ui/show/chancery/321/57.
set about collecting firewood from a number of neighbours, and proceeded to burn down the house of her sometime lover’s father. Luckily there was no one inside, but since arson counted among the most serious crimes in medieval Europe, and since this was clearly a premeditated act, Juliette was imprisoned and risked execution for her crime. Instead, out of consideration for her young age and the ‘fruit’ that she carried inside her she was pardoned, sentenced instead to six months in prison, but beginning only after she had given birth.

To repeat, all manner of crime seems to have been pardonable. We should not assume that being a pregnant woman necessarily meant more lenient punishment. But we can at very least recognise that what evidence we have does suggest that much. Or, safer still, we can recognise that the evidence in no way suggests that these women, because of their involvement in extramarital sex, were judged more harshly than women accused of comparable offences but who had a more spotless sexual history.

In this too we must attempt to grapple with what seems to us to be a real dissonance in medieval attitudes to women’s sexuality and reputation. A woman could be a priest’s mistress, and even a priest’s mistress while married to another man, and still be described nonetheless as of good reputation, conduct, and character. We can find other women identified as honourable, despite previous, or even current, sexual sins, in the testimony recorded in the Châtelet register as well as in these pardons. Honour was extremely important but also constructed, and reconstructible; if easily lost, also retrievable.

Lest this account seems too hopelessly optimistic of an interpretation, one final example offers a last reminder of the horrors of the world these women lived in, and the dangers that the Middle Ages held for them.

Jehanne, a woman from Lorraine of about thirty, attracted a good deal of attention on arrival in Dijon in around 1470, above all for her beauty.17 This response included both welcome and unwelcome attention, for two years later she would make an accusation of sexual assault against some local men and foreign mercenaries stationed in Dijon (Gonthier 1994a, 41, & 1994b, 15–16, 20). An inquiry into Jehanne’s moral character was initiated as a result, and this is why we know something of her history.

In 1472, after she had sought and obtained refuge (sanctuary), in the hospital of Notre Dame where she was working as chambermaid, she gave the following account of her life. As Jehanne now admitted, having previously presented herself to these authorities as the chaste wife of an absent husband, she was, in fact, a married woman, but did not know for certain if her husband still lived or no.18 Three years before, her husband, an old, cruel, soldier, had left her to go fight in the wars. Since their five children had all died, and since she was a poor woman all on her own, she had not known what do to, but decided to go to Burgundy.

Asked where she lived and who she worked for since that time, she said there was no need for them to know that. Then, when pressed, she said that she would
say all that she could say, which is that it was true that when she had come to Dijon she encountered in the street a master who she would not name, a man of the church, who she had sworn and promised to never make any accusation against. He had promised in turn that he would provide for her. They had two children who she had baptised, all done as, as she said, a good mother ought to do. In both cases the clergy she lived with made arrangements for her to deliver the babies in some comfort and discretion. She had given birth and recovered from the first of these pregnancies in the home of a man named Adam, who was the godfather of her child, two years ago. The second child she gave birth to in the parish of Saint Nicholas in the care of a woman who priests had paid to care for her during her confinement, and a midwife.

Jehanne’s neighbours proved less reticent. Some thought she was the mistress of the priest Jehan Regnart, who had rooms in the same Cistercian religious complex in Dijon as Adam, a vintner lodged at the house and in the employ of the Cistercian monks there. Adam, along with his wife, had provided Jehanne’s shelter and care during her first pregnancy in Dijon. Jehanne had been seen in that priest’s rooms, before and after giving birth. This priest had tried to keep her hidden, above all from his superior, Dam Henry, but clearly, Dam Henry did find out. As Adam later explained, it was none other than Dam Henry who had asked him and his wife to take Jehanne in, offering to pay them to provide for Jehanne during her confinement, and promising to provide necessities such as linens and wood for the fire. They agreed on a price, the baby was born and baptised in a nearby chapel, and then put in the care of a wetnurse, all of which Dam Henry did later pay for. Yet another priest arranged for Jehanne’s care during the second childbirth in Burgundy, this time in the parish of Saint Nicolas, at the house of a woman who seems to have regularly rented rooms to women travellers, and the reputation of whose establishment seems to have been, at very least, contested among the neighbours. Some local conflict had disrupted the household of Jehan Regnart, the priest who many giving evidence suspected was the father of Jehanne’s children, but through various networks Jehanne continued to receive help. This continued even after her assault, and after she made a public accusation against her attackers, the aftermath of which frightened her so much that she went to live and work in the hospital of Notre Dame, where she sought, and obtained, permission to remain.

Finally, as she said concerning her own behaviour, she had not behaved so badly and could, in her circumstances, have behaved much worse. Yes, she had committed adultery with a priest, but she defended her choice as a better one than resorting instead to theft or worse to earn her bread. As Jehanne was reported to have said, ‘better to have been frivolous with her body to make her living thank to have resorted to stealing from people or worse’. 19 We should no longer assume that authorities in medieval France would necessarily have disagreed with this sentiment. As they knew well, they had a far greater problem to confront in the dangerousness of the men who had threatened and abused her,
and in their own evidently limited capacity to restrain them. The sanctuary she sought in the hospital provided her protection not from judicial authority, but from the vengeance of the mercenaries and their associates who had continued to threaten to kill her.

**Conclusion**

What should we allow ourselves to imagine when guessing at the fate of women like Colette Phelipe? Certainly she might have been whipped. She might also have been banished as a thief. With no other case quite like hers to compare to, it is difficult to say. But having 'just' participated in extramarital sex was not likely to have resulted in such consequences, or to have provoked authorities to punish her more harshly than otherwise. Certainly many men and women were fined for having sex, certainly some were subject to public punishment and banishment. How often this would have happened is essentially impossible to know, and must have varied over time and space and according to social status.

We should recognise, however, that nothing in the court records supports the idea of a history of decisive use of criminal justice to punish women for having sex. Not all patriarchies have the same concerns, or use the same tools the same ways. This particular variant did not see the need to inflict harsh judicial punishment on sexually active women. What does seem a dull and horrid constant in the lives of these people, however, is both casual and extreme violence, and endemic sexual coercion and exploitation. If we want to point in horror at medieval misogyny, it most clearly lies there, and in the failure of those in power to do much to address it.

It is, finally, important that we recognise these findings on the role of gender and sex in medieval criminal prosecution and punishment because it allows us to identify and call out some distinctly modern problems. Our images of sexy medieval women as obsessively hated and feared, and especially the idea that as a result women were regularly locked in towers and sentenced to execution, reflects modern rather than medieval cultural ideas and political conflicts. We, today, are witnessing patriarchy in crisis. People living in the Middle Ages, by contrast, were not. The authorities of medieval society, those of church and state, were all too comfortably able to continue to treat women as different and unequal. These authorities did not want or need to focus their energy on the policing and punishing of sexually active women. Women having sex, even outside marriage, and the behaviour of women in general, was not perceived as so dangerous as to call for serious criminal punishment. It was not perceived as any such great threat to their patriarchal order.

This difference matters well beyond the general purpose of getting it right, or at least as right as possible. If we want to be able to seek change in our own patriarchal society, having a clearer sense of what medieval patriarchy was, and
was not, could be a useful tool. Our ascriptions of extreme punishment of feminine sexual infractions are a modern projection onto an imagined medieval past. Such projections facilitate a sense of contemporary self-satisfaction with supposed liberalist sexual freedoms permitted to women. They thus serve to disguise contemporary obsessions with the policing of female sex and sexuality in cultural and legal forms like compulsory heterosexuality, the erosion of abortion rights and even contraceptives, threats to transpersons, the lack of social support for caregivers, and more. The prevalence of such images allows us to congratulate ourselves on progress while glossing over the fact that it is only in the modern era that much of what we associate with the medieval happened, and also how very few women can really claim the freedoms that we have fought so hard to obtain.

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