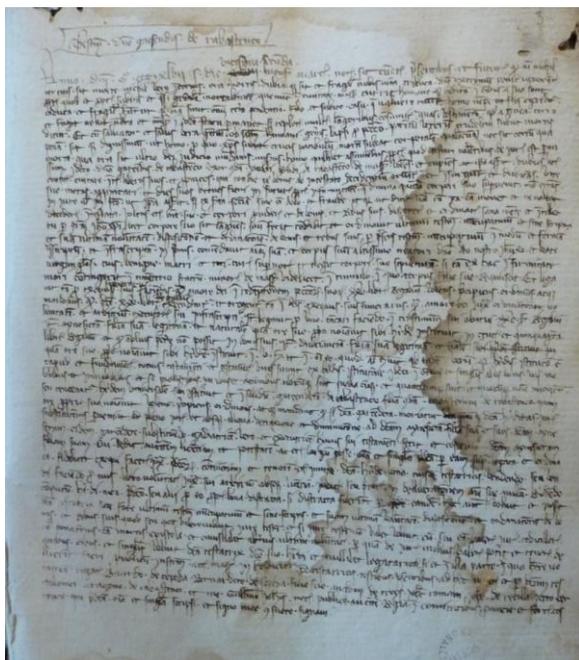


# “For the Salvation of my Soul”: Women and Wills in Medieval and Early Modern France



Edited by  
Joëlle Rollo-Koster  
and Kathryn L. Reyerson



*St Andrews Studies in French  
History and Culture*





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Municipales de Marseille: 1 II 61, f. 3r).

In memory of Shona Kelly Wray



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## Abbreviations in footnotes

ADBDR	Archives départementales des Bouches-du-Rhône
ADCM	Archives départementales de la Charente-Maritime
ADCA	Archives départementales des Côtes d'Armor
ADF	Archives départementales du Finistère
ADH	Archives départementales de l'Hérault
ADIV	Archives départementales de l'Ille-et-Vilaine
ADLA	Archives départementales de la Loire-Atlantique
ADM	Archives départementales du Morbihan
ADSL	Archives départementales de Saône-et-Loire
ADV	Archives départementales de Vaucluse
AM Marseille	Archives municipales de Marseille
AM Montpellier	Archives municipales de Montpellier
AMLR	Archives municipales de La Rochelle
CAOM	Centre des archives d'outre-mer
MIOM	Microfilm (of CAOM)

## List of contributors

**Kathleen Ashley**, Distinguished Professor at the University of Southern Maine, publishes across a number of fields, including hagiography, autobiography, ritual and cultural performance, medieval and modern literature, art history and social history. Recent books are *Being a Pilgrim: Art and Ritual on the Medieval Routes to Santiago* (Farnham/Burlington VT, 2009) and an edition of the morality play *Mankind* (Kalamazoo, 2010). Extensive archival research on the late medieval and early modern Burgundian bourgeoisie has resulted in numerous articles using a micro-historical approach to these “shapers of urban culture”.

**Nancy Locklin** is Associate Professor of History and chair of general education at Maryville College. She is the author of *Women’s Work and Identity in Eighteenth-Century Brittany* (Aldershot/Burlington VT, 2007) and “‘Til death parts us’: Women’s Domestic Partnerships in Eighteenth-Century Brittany”, *Journal of Women’s History* 23(4) (2011). Her current projects involve the social/emotional networks revealed in notarial contracts. The author thanks the respective staffs of the departmental archives in Nantes, Vannes, Saint-Brieuc, Quimper and Rennes for their assistance. The research for this project was made possible through a grant from the Appalachian College Association.

**Francine Michaud** is Professor of History at the University of Calgary (Alberta, Canada). Her publications include *Un signe des temps: accroissement des crises familiales autour du patrimoine à Marseille à la fin du XIIIe siècle* (Toronto, 1994); “From Apprentices to Wage-earners: Child Labour before and after the Black Death” in Joel Rosenthal (ed.), *Medieval Childhood* (Donington, 2007); “Le pauvre transformé: les hommes, les femmes et la charité à Marseille du XIIIe siècle jusqu’à la Peste noire”, *Revue historique* 311 (2009); and “Famille, femmes et travail: Patronnes et salariées à Marseille aux XIIIe et XIVe siècles” in Jean-François Cottier, Martin Gravel and Sébastien Rossignol (eds.), *Ad libros! Mélanges d’études médiévales offerts à Denise Angers et Joseph-Claude Poulin* (Montreal, 2010).

**Jennifer L. Palmer** is an Assistant Professor of History at the University of Georgia. She holds degrees from the University of Michigan, the University of Cambridge, and the University of Virginia. Her research focuses on race, gender, and the family in eighteenth-century France and its colonies. Her forthcoming project follows families with members in the French port town La Rochelle and in the French Caribbean colony of Saint-Domingue, and argues that slavery and colonialism shaped gender and family roles in France.

**Kathryn L. Reyerson** (Ph.D. Yale) is Professor of History at the University of Minnesota and founding director of the Center for Medieval Studies. She is currently convener of the IAS Mediterranean Collaborative at Minnesota. Her monographs include *Business, Banking and Finance in Medieval Montpellier* (Toronto, 1985); *The Art of the Deal: Intermediaries of Trade in Medieval Montpellier* (Leiden, 2002); and *Jacques Coeur: Entrepreneur and King's Bursar* (New York, 2005). She has published numerous articles and has a Variorum volume, *Society, Law, and Trade in Medieval Montpellier* (Aldershot, 1995).

**Joëlle Rollo-Koster** is Professor of Medieval History and Chair of the History Department at the University of Rhode Island. She is foremost a historian of papal Avignon. She has published extensively on a variety of topics including immigration, merchants, confraternities, prostitution, women, the Great Western Schism, and historical anthropology. Her most recent publications pertaining to this collection are *The People of Curial Avignon* (Lewiston, 2009); and “The Boundaries of Affection: Women and Property in Late Medieval Avignon” in Shona Kelly Wray and Jutta Sperling (eds.), *Across the Religious Divide: Women, Property, and Law in the Wider Mediterranean (ca. 1300-1800)* (New York, 2009).



# Introduction

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*Joëlle Rollo-Koster and  
Kathryn L. Reyerson*

Last wills and testaments, along with donations *inter vivos*, survive in some number from southern France in the Middle Ages and from a wider French geography in the early modern period. Notarial registers and charter collections are the most common repositories. Though sometimes formulaic, wills offer the historian a gold mine of information on specific individuals, on families, on charitable and pious giving, on relationships the testator had with lay people and ecclesiastics and especially with family members. The chronology of this collection is broad, beginning in the late thirteenth century and extending into the eighteenth century. Three articles feature medieval Languedoc and Provence whereas the three early modern articles address Burgundy, Brittany, and La Rochelle. Confronting women's wills across chronology and geography produces insights into *ancien régime* testamentary practice and can reveal the participation, indeed the agency, of women in this legal process.

The focus in this collection of articles is on women; the authors have interests in gender issues, in family relations, affective ties, and in ritual and theatrical behavior. Of particular concern to all the articles is the topic of women's agency. To what degree did women dispose freely of their worldly goods at the end of their lives? Were they influenced by spouses and/or family in their testamentary decisions? Did the experience of wives, widows, and single women differ? These questions are not easily answered, but wills did permit women to construct an identity of their own, to a greater or lesser degree according to the circumstances.

Though the authors make an effort to set individual wills in the context of surviving evidence, this collection highlights case studies and thick description to reveal as much as possible the voices of individual women. Women making wills came from a wide spectrum of society, not just the elite. For this reason, wills provide unusual access to social strata that are infrequently represented in most *ancien régime* sources. Thus, Francine Michaud analyzes the will of the widow of a ploughman, Huguette Bellemone, who disinherited her ungrateful son. Joëlle Rollo-

Koster studies the will of an inhabitant of Avignon, Argentine Bedossi, who took great care in the disposition of her modest estate to family, with pious donations to churches and clergy and a gift to the famous “pont d’Avignon”. More fortunate women are also featured. Kathryn Reyerson compares the testamentary choices of Montpellier spouses, Johanna Mercaderii, the daughter of a merchant, and Guillelmus Saligani, a legal specialist, both of whose decisions in different ways reflected anxieties about bequests to family members. Kathleen Ashley reveals the impact sought by Abigail Mathieu, whose seventeenth-century benefactions, surrounded in theatricality, were without parallel in the history of Chalon. Jennifer Palmer treats the testamentary decisions of Aimé-Benjamin Fleuriau, a wealthy eighteenth-century sugar planter, and his mixed race daughter, Marie-Jeanne Fleuriau Mandron, a product of his liaison in Saint-Domingue, who accompanied him back to La Rochelle and would assert her family connection in her will written after her father’s death. Nancy Locklin turns to eighteenth-century Brittany to trace donations such as that of the noblewoman Suzanne Denise Halbin to her beloved servant for many years of service. The testamentary decisions of these women and many others are featured in the following essays.

A consistency in the types of wills written appears in these studies. The influence of Roman law had reached the south of France by the twelfth century and filtered north to affect the testamentary practices in use by the sixteenth century. The traditional Roman law will, the *testamentum nuncupativum* or *testamentum per nuncupationem*, required seven witnesses. There were variations on this will, particularly in the number of witnesses. Generally, a will was recorded by a notary, authorized in his function by a political authority, whether royal, urban, or ecclesiastical. The will could be composed in extremis or in anticipation of a death in the future. Medieval wills were written in Latin, while the vernacular appeared in early modern wills. In the later era, some testators wrote their own testaments (holographic wills) in French not Latin.

This collection was born from meetings of the Western Society for French History in November 2007 at Albuquerque, NM, and in November 2009 at Boulder, CO. They were selected from four sessions: “Women and Testamentary Practice in Medieval and Early Modern France I: Women’s Voices; II: Gendered Practice; and III: Philanthropy and Bequests”; and “Women and Testamentary Practice: A Cross-Chronological Approach”. Presenters and audience members appreciated the advantages of confronting data across chronology and geography, but with a focus on women. We hope our readers will also approve.

# 1 Item Lego... Item Volo... Is there really an “I” in Medieval *Provençales*’ Wills?

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*Joëlle Rollo-Koster*<sup>\*</sup>

Medieval women, like most humans, were more often than not unable to control their destinies. But this lack of control does not preclude agency. We find women in all forms of historical records accomplishing their tasks with the gestures of everyday life as daughters, mothers, wives, saints, merchants, artisans, or prostitutes.<sup>1</sup> In general, when historians address women’s agency – that is, rational decision-making – it often implies social standing and wealth. For example, Lise Collange analyzed the accomplishments of two business women of the fifteenth century: Alessandra Macinghi Strozzi, head of a trading company; and Countess Caterina Sforza, head of a war company.<sup>2</sup> Both women were allowed to thrive in a masculine world because they were aristocrats and separated from the men of their families; Alessandra’s husband and sons had been exiled, and Caterina was widowed. Social standing, wealth, and singlehood dictated their agency.

It is evident that the main stumbling block for our knowledge of lower class, peasant, and artisan women remains the availability of sources.<sup>3</sup> When direct sources are unavailable, research requires some

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<sup>\*</sup> I would like to thank the URI Center for the Humanities who partially funded my research for this article with the 2009-10 Eric Roiter Faculty Sabbatical Fellowship.

<sup>1</sup> Regarding the search for women in archival material, see Nupur Chaudhuri, Sherry J. Katz, and Mary Elizabeth Perry (eds.), *Contesting Archives: Finding Women in the Sources* (Urbana, 2010).

<sup>2</sup> Lise Collange, “Deux femmes d’affaires du Quattrocento: Alessandra Macinghi Strozzi et Caterina Sforza”, *Le Moyen Âge* 109 (2003), 295-312.

<sup>3</sup> For England, I can only refer to the work of Judith Bennett, one of the most prolific historians of female laborers. For French sources, see for example Philippe Bernardi, “Relations familiales et rapports professionnels chez les artisans du bâtiment en Provence à la fin du Moyen Âge”, *Médiévales* 30 (1996), 55-68;

creative digging.<sup>4</sup> In a 1996 essay focusing on the women of papal Avignon, I turned to a medieval census, the *Liber Divisionis* (a 1371 partial listing of the Avignonese population) to discuss women's legal statuses, locations, filiations, geographical origins, and sometimes occupations. The census listed a wide array of women's activities, from fruit-sellers, hostel- and inn-keepers, laborers, and haberdashers, to skilled laborers like stonecutters, cobblers, goldsmiths, saddlers, sword-makers, and booksellers.<sup>5</sup> One way of tackling female agency was to examine women's occupations and the variety alone found in the *Liber Divisionis* spoke for women's determination to advance into a male-dominated labor market. In a subsequent article centering on a house for *repenties*, I argued that some form of agency could be found in this Avignonese convent for repentant prostitutes.<sup>6</sup> I suggested that medieval prostitutes-turned-nuns appropriated a traditional model of religious discipline through cloisteration. They also implanted themselves physically within the city's walls and spiritually within the Avignonese mind through their various

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Antoni Furió, "Entre la complémentarité et la dépendance: rôle économique et travail des femmes et des enfants dans le monde rural valencien au bas Moyen Âge", *Médiévales* 30 (1996), 23-34; and Cécile Béghin, "Entre ombre et lumière: quelques aspects du travail des femmes à Montpellier (1293-1408)", *Médiévales* 30 (1996), 45-54.

<sup>4</sup> Agency as a tool for historical analysis may be somewhat out of fashion. Recently, Cornelia Hughes Dayton has questioned the use of the term itself in an AHR forum directed at "Negotiating Power": see Cornelia Hughes Dayton, "Re-thinking Agency, Recovering Voices", *American Historical Review* 109 (2004), 827-43. Discussing *provençaux* wills, Jacques Chiffolleau ("Les testaments provençaux et comtadins à la fin du Moyen Âge: richesse documentaire et problèmes d'exploitation" in Paolo Brezzi and Egmont Lee (eds.), *Gli atti privati nel tardo medioevo: fonti per la storia sociale* (Rome, 1984), p. 149) highlights the dialectic between individual and collectivity. Who really spoke in wills? Testators? Family members? The cleric surrounding the testators? Custom? Still, on p. 150, he concedes that the testament is the will of an individual.

<sup>5</sup> Joëlle Rollo-Koster, "The Women of Papal Avignon. A New Source: the *Liber Divisionis* of 1371", *Journal of Women's History* 8(1) (1996), 36-59. I refined the analysis of the data offered by the *Liber divisionis* in "Mercator Florentinensis and Others: Immigration in Papal Avignon" in Kathryn L. Reyerson and John Drendel (eds.), *Urban and Rural Communities in Medieval France* (Leiden, 1998), pp. 73-100.

<sup>6</sup> Joëlle Rollo-Koster, "From Prostitutes to Virgin Brides of Christ: the Avignonese Repenties in the Late Middle Ages", *Journal of Medieval and Early Modern Studies* 32 (2002), 109-44.

real estate acquisitions and the many bequests they received. In this case, their willful appropriation of a monastic rule evidenced agency.

In my effort to give some shape to the “people without history”, I also turned to (1) a laconic census to analyze women’s functions as heads-of-household, and (2) another “dry” register of real estate possessions and rents to hear the choir of a convent, if not the voice of each individual nun. Now, in the following pages, I will turn to a richer resource to elevate our knowledge of medieval women’s lives: testaments.<sup>7</sup> Through the composition of a “thick description” of a few late medieval women’s testaments, I will search for agency under the notary’s formulaic language. This micro-historical approach to the testaments of several *provençales* – amongst others, Gassende Raynaud, Barthélemie Tortose, Argentine Bedossi, and Douce Bernardi – will sometimes permit comparison with other works of the same scale.

Since the twelfth century, *provençales* wishing to draft a testament were affected by the reappearance of various Roman legal clauses: *nuncupatio* (legal oral declaration to a notary of a person *sui juris*, that is free of *patria potesta* – male guardianship), codicils, witnesses (seven), and the naming of heirs in the formulaic *ego instituto talem heredem meum universalem*.<sup>8</sup> During the fourteenth century, widows and older daughters often bypassed their *alieni juris* status (their incapacity to

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<sup>7</sup> For further research on southern French and Avignonesse testaments, see Anne-Marie Hayez, “Clauses pieuses de testaments avignonnais du XIVe siècle” in *Actes du 99ème congrès national des sociétés savantes. La piété populaire au Moyen Âge* (Paris, 1977), pp. 129-59; and “Liens familiaux à l’heure de la mort: les testaments avignonnais au siècle des papes” in Julien Théry et al. (eds.), *Famille et parenté dans la vie religieuse du Midi (XIIIe–XVe siècle)* (Toulouse, 2008), pp. 287-314; Jacques Chiffolleau, *La comptabilité de l’au-delà: les hommes, la mort et la religion dans la région d’Avignon à la fin du Moyen Âge* (Paris, 1980); and “Les testaments provençaux”, pp. 131-52. For a review of the legal tradition in the south see Paul Ourliac, *Droit romain et pratique méridionale au XVe siècle* (Paris, 1937); René Girard, “Marriage in Avignon in the Second Half of the Fifteenth Century”, *Speculum* 28 (1953), 485-98; Charles de Ribbe, *La société provençale à la fin du Moyen Âge d’après des documents inédits* (Marseille, 1975); and Andrée Courtemanche, *La richesse des femmes: patrimoines et gestion à Manosque au XIVe siècle* (Montreal, 1993).

<sup>8</sup> The following recaps my “The Boundaries of Affection: Women and Property in Late Medieval Avignon” in Shona Kelly Wray and Jutta Spertling (eds.), *Across the Religious Divide: Women, Property, and Law in the Wider Mediterranean (ca. 1300-1800)* (New York and London, 2009), pp. 38-51.

act legally without male guardianship) because of the lack of male ascendants and descendants. Married women were able to act legally with the authorization of a guardian or with the actual presence of a husband when the notary drafted the act.<sup>9</sup> For example, we read in a 1393 document that Jordana – wife of André Chapussi, laborer (*laborator*) inhabitant of Avignon – gives to the church of Saint-Pierre, in redemption of her and her heirs' sins, four *solidos turonensium* of annual rent (*census*),<sup>10</sup> due at the feast of the Virgin in mid-August, for the said place at Lenates abutting on one side with the field of Hugonis Raynaudi and on the other with the path that goes to Château Renard and the vineyard of *Pelliparii*, with the express consent of her husband, present at the drafting of the document.<sup>11</sup>

Women's legal incapacities were mitigated in practice.<sup>12</sup> The fifteenth-century jurist Etienne Bertrand (1434-1516) advised fathers to give a dowry to their daughters. In theory, dowered daughters were removed from succession, but the practice shows that they still needed to formally renounce their *legitima*: that is, their portion of the succession

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<sup>9</sup> See Chiffolleau, *La comptabilité de l'au-delà*, pp. 36-50.

<sup>10</sup> Payment of a *census* (dues/rent/lease) acknowledged the “lordship” of a property to a lessor, someone else than the one paying the dues, the emphyteutic lessee. This system of long-term leasing allowed a lessee to use, improve, and bequeath real estate without owning it, in our modern sense of ownership. It is one of those quintessential means of acquiring property in the Middle Ages without ever controlling its full ownership.

<sup>11</sup> “cum autoritate licencia et expresso consensu dicti Andree mariti sui ibidem presenti”: ADV, Archives d'Avignon, 9G35.

<sup>12</sup> According to Chiffolleau in *La comptabilité de l'au-delà*, urbanization, migrations, and epidemics had broken lineage solidarities, and for him most Avignonese were “orphans” unable to return, even in death, to the land of their ancestors. This demographic trend favored women's legal independence with the literal absence of male tutors; see Chiffolleau, *La comptabilité de l'au-delà*, p. 201; and “Les testaments provençaux”, p. 134. For example, the *Liber Divisionis* shows women's freedom from tutelage: on f. 470r we can read “Lady Moneta widow of Ciuto Guidi, furrier from Florence, for herself and as guardian (*tutrix et tutor*) of the said Guido and Carlo, minors under her wardship (*pupillorum*), brothers and sons of the deceased Ciuto Guidi” or [f. 472r] “Lady Simeranda, widow of master Poncius, guardian (*tutrix et tutor*) of Guiderius”: ASV, *Registra Avenionensa* 204, ff. 428r-507v.

(usually one-third) that was subtracted from the will of the *de cuius*.<sup>13</sup> Such renunciation shows that a dowered daughter was not systematically disinherited.<sup>14</sup> Etienne Bertrand also defended a daughter's *sui juris* when he allowed her to marry *without* her father's consent if the father's actions justified it. (It would be interesting to know what was "unacceptable" behavior by a father!) The daughter could then sue her father for the dowry.

A dowry "sustained" the marital union and was directly tied to its duration; the marriage's end entailed separation of goods and the return of the dowry to the woman or her heirs. The Roman inalienability of dotal goods was questioned in Provence. The wife possessed the dowry, but usufruct remained with the husband – and, in such capacity, he could alienate it.<sup>15</sup> In short, the wife's ownership of her dowry was most apparent in death, when she asserted her control of it via testament. Roman law dictated that a dowry returned to the wife's father when she died, but in customary practice, the dowry went to the children of the union.<sup>16</sup> According to law, women controlled the "extra dotal" goods that they brought into the marriage (*bona paraphernalia*) and the goods that were neither dotal nor *paraphernal*.<sup>17</sup> Bertrand advised that inventories should record a clear separation of goods, insisting upon the physical marking of ownership.<sup>18</sup>

Delphine Menduelle offers a fitting example of the circulation of dowries. In her will, Delphine bequeathed the remainder of her dowry's payment (it was quite common to pay a dowry in installments) to her brother Jacques. Delphine noted that her dowry came in part from her mother's dowry. She further explained that her son Elzéar had also inherited part of his grandmother's dowry, and since Elzéar died before

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<sup>13</sup> On this exclusion see Hayez, "Liens familiaux", pp. 290-92, 298. Husbands managed the dowry, but it reverted to the wife after his death. The wife disposed of it in her testament. A father could always put his daughter in a will: see Laurent Mayali, *Droit savant et coutumes: l'exclusion des filles dotées, XIIème-XVème siècles* (Frankfurt, 1987).

<sup>14</sup> Ourliac, *Droit romain et pratique méridionale*, pp. 140-50.

<sup>15</sup> See Courtemanche, *La richesse des femmes*, for a discussion of women's management of their patrimonies.

<sup>16</sup> *Ibid.*, pp. 127-31.

<sup>17</sup> On dowry and marriage see Ourliac, *Droit romain et pratique méridionale*, pp. 43, 53, 111-64.

<sup>18</sup> "Marcharentur seu signarentur marcha seu signo": *ibid.*, p. 125.

Delphine, he had passed on to her his portion of that inheritance. Now, Delphine mandated that if Jacques died heirless, the said dowry would pass on to the monasteries of Fonte and Sainte Claire in Nîmes, and to the four mendicant orders of Avignon: Dominicans, Augustinians, Franciscans, and Carmelites. In this case, the dotal cycle ended in anniversary masses and the inscription of Delphine's name in the *matriculae* of the said convents.<sup>19</sup>

If testaments offer a mine of information and have been used as such, they still need to be framed within a discussion of agency.<sup>20</sup> Wills, like all notarial documents, are formulaic, but it is highly possible that they represent the minds of their notaries and testators.<sup>21</sup> Historians need to weigh the possibility that notaries did not write down everything they heard; conversely, they could have written down items that they did not hear. Practice shows that notaries recorded information in the presence of witnesses as a means of safeguarding the integrity of the process. However, archival material shows that when a notary drafted a last will, he first took rough notes on a *brouillon* (also called *protocole*, *mémoire*, or *minute* for draft), which was usually a paper notebook that he later copied onto a parchment that – we have to assume – he left with the testator who paid for it.

Nothing, with the exception of witnesses and the authoritative public nature of his profession, prevented a notary from altering what he heard. Further, we do not know for sure if the actual notary who took the draft recopied it, or if he let a young scribe in training complete the task.

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<sup>19</sup> Her will is dated 6 December 1399, and found in ADV, 8G9.

<sup>20</sup> For research on medieval women's testaments see: Nathaniel L. Taylor, "The Will and Society in Medieval Catalonia and Languedoc, 800-1200" (Ph.D. diss., Harvard Univ., 1995); "Testaments, leur validation, et ordre public en Catalogne et Languedoc au Moyen Âge (IXe-XIIe siècles)", *Annales du Midi* 118 (2006), 447-51; "Women and Wills in Catalonia: Sterility and Testacy in the Eleventh and Twelfth Centuries", *Medieval Encounters* 12 (2006), 87-96; Martha C. Howell, "Fixing Movables: Gifts by Testament in Late Medieval Douai", *Past and Present* 150 (1996), 3-45; Judith M. Bennett and Christopher Whittick, "Philippa Russell and the Wills of London's Late Medieval Singlewomen", *The London Journal* 32 (2007), 251-69; and Brigitte Buettner, "Le système des objets dans le testament de Blanche de Navarre", *Clio* 19 (2004) at URL: <http://clio.revues.org/index644.html>.

<sup>21</sup> See Kathryn L. Reyerson and Debra Salata, *Medieval Notaries and their Acts: the 1327-1328 Register of Jean Holanie* (Kalamazoo, 2004), and Laurie Nussdorfer, *Brokers of Public Trust: Notaries in Early Modern Rome* (Baltimore, 2009), for a review of medieval and early modern notarial practice.

In one exemplary case, a notary stopped recording the “deposition” of a certain Marguerite, wife of the Avignonese squire Antoine Suffredi, and listed “*item lego*” nine times on each of 12 traced lines.<sup>22</sup> Did he unintentionally draw too many lines and subsequently need to fill them with this rather crude artifice? Did he forget part of the deposition? Was he paid to make mistakes and bungle the document to diminish its value? Was it a form of embezzlement (charging his client for more work than he actually completed)? It suffices to say that wills, when used as sources of information, are not as straightforward as expected.

All Provençal testaments began with the same formulae: “*In nomine domini Amen*” followed by the date and a preamble on the certainty of death and the necessity to draft a will; the revocation of past wills; the dedication of one’s soul to God, the Virgin, and the celestial Court; the location of the sepulture, followed by the pious clauses: pious donations taken from a set sum that was determined by the testator (“*accipio per anima mea de bonis meis...*”); bequests; and the enunciation of heirs. In closing, the notary usually documented the location of the deposition, the executors, the witnesses, and his name and seal.<sup>23</sup>

When dissecting these large categories, are we to pay any attention to the placement of bequests? Are bequests to people and institutions mentioned early on in a parchment more important than the ones mentioned later? Did the testator order this hierarchy, or did it originate from the notary? Are historians faced with an emotional taxonomy, or did notaries follow set norms? These questions represent a series of issues for which explanations are wanting. To elucidate testamentary behavior, in the following sample, I purposely chose women who represent various social layers and chronologies. Still, my selection was also based on the level of interesting material in each case and how well the wills represent women’s agency.

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<sup>22</sup> See the testament of Marguerite Gasparde: ADV, 10G15, 27 June 1374.

<sup>23</sup> For the evolution of testaments see, Pierre-Clément Timbal, “Les legs pieux au Moyen Âge” in *Actes des congrès de la Société des historiens médiévistes de l’enseignement supérieur public: la mort au Moyen Âge* (Strasbourg, 1975), pp. 23-26. According to Timbal, from the thirteenth century on, testaments contained the following clauses: choice of burial, funerary dispositions, payments for misdeeds and debts, pious bequests, usually *pro remedio animae* (for the salvation of the soul), accompanied by anniversary masses and foundations, and lastly secular bequests.

## *Gassende Raynaud*

The 1354 testament of Gassende Raynaud from Aix-en-Provence offers a generic example of a woman's agency within the confine of legal formulae.<sup>24</sup> Regardless of notarial language, we can suppose that she was the one who identified her heir, stipulated conditions attached to his nomination, named her witnesses, and of course designated the beneficiaries of her bequests. A "thick description" of her testament will unravel her agency when dealing with her friends and kin network. The nomination of universal heirs usually appeared close to the end of testaments, but I will treat this item first in our discussion.

Obviously childless, Gassende instituted Honoré Raynaud, son of her nephew Guillaume Raynaud, as her universal heir. We can note that she had to reach quite far in her agnatic line of descent to identify a legatee. This indicates a paucity of kin and a certain isolation (for which she compensated with friends, as we will see below). The notary added that she named her legatee verbally, on the condition that, shortly after her death, the said legatee would distribute all of her bequests and accomplish all of her wishes and directives.<sup>25</sup> From these few words, we can – to a certain extent – infer Gassende's rationale.

Kinship directed Gassende's choice. She had a surviving family, even if not a large one, and a younger kinsman who would fully benefit from her patrimony. As tradition mandated, she did not abandon him. But, either she did not know him well, or she knew him well enough to mistrust him, because she felt the need to stipulate that she would disinherit him in favor of the generic "poor of Christ" if he did not follow her mandate.<sup>26</sup>

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<sup>24</sup> J. Broc and Arnaud Ramière de Fortanier, *Testaments provençaux du Moyen Âge: documents paléographiques des Archives de la ville de Marseille* (Marseille, 1979), pp. 21-25.

<sup>25</sup> "Nomine nuncupentur instituit sibi heredem universalem Honoratum Raynaudi filium Guillelmi Raynaudi nepotem suum *quem ore proprio nominavit sub hac conditione* quod incontinenti post obitum dicte testatricis *ipse heres debeat et teneatur adimplere omnia que per ipsam testatricem sunt superius expressa legata et ordinata* [my Italics]": Broc and Ramière de Fortanier, *Testaments provençaux*, p. 25.

<sup>26</sup> "Alias, si dictus heres non solueret et adimpleret predicta omnia voluit et ordinavit dicta testatrix quod presens hereditas deuoluatur et detur, amore Dei, pauperibus Christi iuxta arbitrium gadiatorum suorum infrascriptum", the choice

After the designation of her legatee, she named her executors – two notaries from Aix-en-Provence – to whom she assigned full power of attorney and three gold florins for their labor. Again, the notary’s language insists on her autonomous decision: “*voluit dicta testatrix et disposuit gadiatores suos et commissarios seu executores*”. Her witnesses were named next, and the notary interjected to assure that solely Gassende named these men to bear testimony to her actions: “*vocatorum et rogatorum specialiter per ipsam testatricem ad ferendum testimonium de premissis*”.<sup>27</sup>

If the designation of a legatee and the naming of executors and witnesses can serve as burden of proof that Gassende had free agency, her many gifts allow us to sketch her personal means of reciprocity and memorialization: she gave personal effects to people who when using them, would remember her fondly for her generosity and, in turn, would also remember her in their prayers. As Martha Howell has so eloquently stated in her study of Douai’s testaments, the act of gift-giving became an avenue of female agency:

Women thus bestowed their personal possessions with an apparent delight, with a taste for serendipity, and with rare abandon. When giving away beds and jewelry and books and furs and silks and luxury woolens, or cooking-pots and wash-basins and measuring-cups, or beds and linens and pillows and benches and chests, women played God. They chose their gifts and their recipients according to rules of their own devising. They gave property unequally to sons and daughters, nieces and neighbours; they settled personal debts, they acknowledged prior service, they rewarded loyalty, they showed love. The man who behaved in this way was always the exception; the woman was always the rule.<sup>28</sup>

Incidentally, this meticulous list of legatees and bequests was not a northern legal anomaly of Douai since it also belonged to the Roman legal world of Aix-en-Provence. This wide range of distribution may have been a gendered reflex, a moment of empowerment before women faced

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of legatees thence fell to the executors: Broc and Ramière de Fortanier, *Testaments provençaux*, p. 25.

<sup>27</sup> Broc and Ramière de Fortanier, *Testaments provençaux*, p. 25.

<sup>28</sup> Howell, “Fixing Movables”, 38.

death and eternity. Here was the chance for women to gain power and authority and control how they would be perceived and remembered. Gassende followed tradition in bequeathing her unnamed patrimony to men, but her movables went with her heart – to the seventeen or so women who seem to have comprised her world.

Before enumerating her legatees and their gifts, Gassende made her pious dispositions. According to Pierre-Clément Timbal, pious legacies *pro remedio animae* (for the good of the soul) were bequests left to priests, monks, and the “poor of Christ” in order to gratify God and the saints; they became a mandatory duty in the Middle Ages.<sup>29</sup> Since these legacies were under the vast canopy of Christian imperative, donations were not gender-specific.<sup>30</sup> Thus when Gassende asked to be buried at the Friars Minor’s convent with her sister Almuseta, she paid two gold florins for her burial; she left funds to the city’s hospitals and for the construction of the Franciscans’ new dormitory; and she funded one thousand intercessory masses, noting that they should be offered within the year of her death.<sup>31</sup> The masses were divided between one hundred each at the Dominicans’, Augustinians’, and Carmelites’ churches; two hundred at the church of Saint-Sauveur; and five hundred at the Minors’ church. This institutional and spatial division was assuredly “safe” since it engaged most religious orders of her city, framing her memorialization within the specific sacred boundaries of each establishment and, as such, encompassing the city. Again the notary notes the testatrix’s command, using verbs like *order* and *want*: “*De quibus missis ordinavit et voluit ipsa testatrix*”.<sup>32</sup>

Gassende then left another bequest to a family member: fifty florins to her brother Pierre Raynaud, obliging him (*debeat et teneatur*) to pay six *deniers* to each celebrant of masses held for her soul.<sup>33</sup> At this

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<sup>29</sup> Timbal, “Les legs pieux au Moyen Âge”, pp. 23-26.

<sup>30</sup> See Hayez, “Clauses pieuses de testaments avignonnais du XIV<sup>e</sup> siècle”, pp. 129-59.

<sup>31</sup> This urgency was to facilitate the “good passage” of the soul and its separation from the body. The increased numbers of masses facilitated the soul’s trial and its success in reaching heaven. See Chiffolleau, *La comptabilité de l’au-delà*, pp. 326-27.

<sup>32</sup> Broc and Ramière de Fortanier, *Testaments provençaux*, p. 21.

<sup>33</sup> “Item legavit Petro Raynaudi fratri suo quinquaginta florenos auri, ita tamen quod ipse Petrus, de ipsis quinquaginta florenis auri debeat et teneatur facere celebrari pro anima testatrix eiusdem quinquaginta missas infra annum obitus

point of the testament, we encounter the same reticence that Gassende showed to her universal heir, Honoré. It is pretty safe to assume that Pierre Raynaud was the father of Guillaume Raynaud and was thus the grandfather of Honoré. Gassende used Pierre as a conduit of agency, insisting that he handle the ordering of the masses (“*quod ipse Petrus*”), which raises an interesting question: what was the difference between mandating a relative versus an institutional intermediary? The end result was the same; whoever was mandated would pay for masses to celebrate her soul. But here she expected some effort and some initiative to originate from her brother. He personally needed to choose and contact the celebrants and deal with what we could label the “logistics” of the affair: which churches and when, within the assigned time frame. Gassende, by forcing her brother’s hand, in fact took the initiative and positioned herself above him as the primary agent. Perhaps here the true dynamic of their relationship appears – maybe for once, he had to see, recognize, respect and obey her. He was her subordinate now that she was dead and had endowed *his* grandson!

This “calling on” brothers also appears in a few Avignonese testaments where women bequeathed to their brothers dowries they never received! Here they were catching their siblings in the act of “cheating” them. Marguerite de Palude gave her brother Petrus de Palude the dowry she never received from him, and her portion of their paternal and maternal inheritance. Still, she left funds to her nieces: to Maria, daughter of the said Petrus de Palude, four florins; to the children of the said Maria, another four florins; and to Blanqueta, daughter of the said Petrus de Palude, four florins.<sup>34</sup> Through such acts, Marguerite made sure that her nieces would not suffer the same humiliation that she maybe felt when her promised dowry never arrived.

Gassende may be representative of medieval women’s subjection and liberation. Death gave women a freedom that life refused them; it also allowed them scope for retaliation. They were freed from the culturally-conditioned roles by which they were bound whilst alive. Upon death, they seized the moment and bent the rules of life. If Gassende exposed her

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testatricis ipsius, dando cuilibet celebranti amore Dei sex denarios supradicte monete”: Broc and Ramière de Fortanier, *Testaments provençaux*, p. 21.

<sup>34</sup> ADV, G534, ff. 143v-44r; and G590 (13 May 1363). In another case, Agnes Vidal left to her brothers the dowry that was owed to her: ADV, Archives hospitalières d’Avignon, épicerie et ferraterie, B18, ff. 17r-19r (27 February 1333).

affection for her sister by asking to remain with her for eternity, she revealed her disdain for her brother with his subordination to her wishes.

Then came what Martha Howell labels “a tedious ritual of circulating personal effects”.<sup>35</sup> Gassende was surrounded by a network of some seventeen women that she remembered in her last wishes surely because they were her friends or – in the case of domestic servants – they knew her intimately. With the exception of a house that she left to Aysseline, wife of Guiraud Boniori, Gassende disposed of scores of movables.<sup>36</sup> Her friend Douce Raynaud (note that she carried her patronymic and could have been her sister) received the most: six dishes, six pitchers, two platters, a pewter jug, a caldron, her best cooking pot, a cloak of fur with muslin, a big blanket, two large sheets, her best bodice, a little coffer, and all the mending thread and hemp that she possessed.<sup>37</sup> Upon another friend, Alasacia Boete of the Ile de Saint-Geniès, Gassende bestowed a coffer, a copper warmer, the best tripod of the house, and four new sheets. Jacobeta, daughter of the said Alasacia, received a rosary of amber; Georgiana, Alasacia’s daughter-in-law, was given a bodice; and Marita, Alasacia’s grand-daughter, a tunic. Note that Gassende must have known Alasacia’s women kin since she named and rewarded them.

Further bequests followed. She left to Alasacia Guillaume, another friend, the unusual gift of a portable oratory (*oratorium suum*) to be used for the rest of her life, then passed on post-mortem to the *castrum* of Pennes; she also gave her an embroidered blanket. To Dulcie Marine, she bequeathed another unusual gift: a *Ministerium beate Marie* – that is, an antiphony – and the best of her cloaks or furs. She gave a saffron-colored coat with muslin to Sancier Mouton, along with a bed cover and

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<sup>35</sup> Howell, “Fixing Movables”, 5. Hayez noted the same “crumbling” (*émiettement*) of bequests in Avignonese women’s testaments. Women distributed many small gifts of low value. See “Liens familiaux”, p. 294.

<sup>36</sup> Gassende does not state her relationship to this woman, but she may have been a dear friend, since the house she left her, in the street of the Minors, facing the same church and cemetery where she would be buried, may have been Gassende’s own family home.

<sup>37</sup> The special bond that unites sisters and nieces appears in other testaments: Audete de Blandiaco in her 1381 testament calls her sister Aygeline de Blandiaco, abbess of the monastery of St Catherine, my friend (*amice mee*): ADV, H Sainte Catherine 36, #4. Agnes Vidal mentions Douce, her dear niece (*charissima nepti mea*): ADV, Archives hospitalières d’Avignon, épicerie et ferraterie, B18, ff. 17r-19r.

her best wine barrel of four metretes (*metretarum*, an old liquid measure equaling approximately thirty-nine liters). She gave another wine barrel to Raymonde Giraud and Beatrice Helione, both of Aix; in addition, both women received a monetary gift of one florin. Gassende took pains to make sure that these women would receive their dues since she added that, in case of shortage, the funds would be converted to a gift in kind of almonds – from her stock. She also granted Alasacia de Saint-Jacques the sum of two florins. These bequests in currency may indicate that the legatees did not occupy the same emotional space in Gassende’s heart as those who received her personal effects.

A similar cash payment of two florins was reserved for Alamania, her maid, along with a tunic. Still, Gassende cared enough to warn her heir, Honoré, not to procrastinate on paying out these sums quickly after her death (“*voluit incontinenti post obitum suum per suum heredem infrascriptum*”).<sup>38</sup> This injunction may indicate that heirs usually delayed paying bequests to low-status legatees like maids and servants, or it may reiterate that she kept an eye on Honoré even after death. She also left him unable to renege on the bequests. If short of cash, Alamania was to be paid in almonds.<sup>39</sup>

Gassende gave a cassock and another of her tunics (“*epitogium et tunicam de Cadis*”) to Helione Velerie of Aix; a brown coat and a white tunic to Gassiete Ricard of Aix; a coat of *mesclat* (a cloth of dyed wool usually with stripes), chosen from the smallest she owned, to her maid Hugone, along with one florin; and to Ganiose de Buco of Aix-en-Provence a coat (*cotarditam*) that Gassende wore continually (*quam ipsa testatrix habetet portat continue*).<sup>40</sup> In general, Gassende gave effects that were often annexed to specific emotional ties. She cared enough to be precise when describing each article: color, quality, size, how often she wore or used it, and the specifics of each legatee. She meticulously matched gifts to each individual. Why else stipulate that the coat given to Hugone must be small? Either Hugone was a small person, or she did not deserve a large coat that was valuable in its amount of cloth. Gassende’s last bequest went to an unnamed Franciscan brother (who received one gold florin and a new blanket), listed only as the son of Jacoba Lhanparde.

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<sup>38</sup> Broc and Ramière de Fortanier, *Testaments provençaux*, p. 23.

<sup>39</sup> The recurrence of almonds as a form of payment reminds us of how valuable this fruit was for medieval *provençaux*.

<sup>40</sup> Broc and Ramière de Fortanier, *Testaments provençaux*, p. 23.

Here Gassende took a bold step by defining a man's filiations solely by his mother's name!

What emerges from this document is the picture of a woman who obviously relied upon female solidarity and mistrusted the male members of her family. She may have been educated (reading the antiphony) and wealthy. Gassende seems as far removed as possible from the cliché of traditional medieval female subjugation: she forced her will upon her brother and nephew, and she had no problem about leaving a Franciscan anonymous.

### *Barthélemie Tortose*

We will now leave Aix-en-Provence for Avignon and examine the will that Barthélemie Tortose, a bourgeoisie of the very early years of the "new" capital of Christianity, made on 16 September 1317. She declared herself as widow of Bertrand Tortose and daughter of the late Pierre Robert and his wife Saure (her last name is not given).<sup>41</sup> The enunciation of her father's name shows pride in the Robert, a well-known merchant family.<sup>42</sup> Her marriage to a Tortose probably cemented commercial ties between two growing bourgeois families of Avignon. The Tortose lasted several generations since we also find them in the *terrier* of Bishop Anglic Grimoard in 1366-68.<sup>43</sup>

Barthélemie requested to be buried at the Preachers' convent in the chapel of Mary Magdalene after it was built, but unfortunately never mentioned where her body would rest in the meantime.<sup>44</sup> As was

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<sup>41</sup> ADV, H St Praxede 52, # 39.

<sup>42</sup> See Anne-Marie Hayez, *Le terrier avignonnais de l'évêque Anglic Grimoard, 1366-1368* (Paris, 1993), pp. 246-47, for the Robert family.

<sup>43</sup> At that date Antoine Clement, son of Bertrand Clement and Gaufrida Tortose, carpenter, recognized his *census* to the diocese for a house in Saint Agricole, at the old fish market. He also owned two more houses. See Hayez, *Le terrier avignonnais de l'évêque Anglic Grimoard*, p. 62.

<sup>44</sup> According to Chiffolleau (*La comptabilité de l'au-delà*) pp. 262-63, burial in one of the mendicant churches of Avignon (Franciscan or Dominican) was preferred by some 35% of testatrices, five percent more than men. These locations were also favored by the wealthy merchants and artisans. The poor relied on their parochial church. Chiffolleau explains this tendency with exogamy. Isolated women who were separated from their kin found refuge with the mendicants. Conversely Francine Michaud's research on Marseille emphasizes the ties that bound

customary, her testament began with pious clauses. First, she showed her care for her parish of Saint-Symphorien,<sup>45</sup> and then her special ties with the Dominicans by naming five brothers to whom she left respectively 50 *sous* to the first, 40 to the second, 40 to the third, and 10 to the last two. These were men that she must have known through one of her own brothers, Raymond Robert, who belonged to the order. Still, the 100 *sous* that she left to the provincial prior of the order demonstrates her reverence for his position and authority rather than a direct friendship. It also suggests some “planning and strategizing”. Pleasing her brother’s supervisor was a gesture bound to keep him in his superior’s favor. Similarly, she extended her generosity to the entire order by bequeathing two or three silver *sous reforciats* to all the brothers and residents of the convent at the time of her death, on the condition that they pray for her. She then moved to Avignon’s religious and charitable institutions: she left funds for almshouses, confraternities, and *luminaires* (lights for the illumination of special chapels), furnished money for repairs on two bridges, and funded the purchase of food and clothing for all female convents. Already in the pious clauses, she showed a special fondness for the women she knew by bequeathing two *sous* to the hospital for the poor, which were to be distributed by her sister Constance and Aygline Convantuelie, its administrator. These alms empowered the distributors vis-à-vis the receiving institution and multiplied spiritual benefits for the testator and the “distributing” legatee. The givers would benefit spiritually from their gesture.

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mendicants to the late medieval bourgeois of the city. See Francine Michaud, “Liaisons particulières: Franciscains et testatrices à Marseille (1248-1320)”, *Annales du Midi* 104 (1992), 7-18; and “Le pauvre transformé: les hommes, les femmes et la charité à Marseille, du XIIIe siècle jusqu’à la peste noire”, *Revue historique* 311 (2009), 243-90. Kathryn Reyerson’s contribution in the present volume also reinforces this view.

<sup>45</sup> She left 10 *sous* to the prior of her parochial church, two *sous* to each chaplain, 12 *deniers* to the priests, six *deniers* to the deacons, and three *deniers* to the clerics. She ordered the celebration of 20 masses at 10 *sous* each, and she left 10 *sous* for candles and 20 *sous* for repairing the church. The Avignonese usually chose their parish as burial ground. As such, they often left bequests to their parochial institutions. See Hayez, “Testaments avignonnais”, p. 135. The parish has traditionally been assigned as the main locus of medieval people’s social lives. Katherine L. French, *The Good Women of the Parish: Gender and Religion after the Black Death* (Philadelphia, 2007), has recently argued for women’s agency in their contributions to parochial life.

Her special rapport with specific women appears further along in the text. Her bequests supported several nuns that she knew personally through some of her kin who resided within these same convents. Barthélemie made a conscious choice to help them. She funded several Benedictines at Notre-Dame des Fours, including her niece Saure Robert whom she supported for all of her living years with a rent income (*census*) that would revert to the wardrobe of Notre-Dame des Fours upon her death.<sup>46</sup> Barthélemie also required that, after her death, her clothes be cut into habits for nuns and liturgical garments be given to Saure. She also supported the abbess and specific nuns at Saint-Véran, funding them with another *census* that she received from a vineyard.<sup>47</sup> Similarly, when leaving bequests to her favorite nunneries in exchange for their prayers, Barthélemie systematically endowed the convents' wardrobes and kitchens. That is, she supported the sisters' basic needs for food and clothing.<sup>48</sup>

With the exception of 10 *sous* left to her maid Guillelme, her bequests to other specific individuals focused on her family, often favoring her female kin or, perhaps, good friends like the aforementioned Ayglie Conventuelie (the administrator of the hospital for the poor, who received 50 *sous*). Lacking children herself, she distributed the brunt of her bequests to nieces and nephews: to her niece Catherine, wife of Hugonis Alfari, she left 10 *livres*; to Catherine's daughter Constantie, 10 *livres*; to her nephew Ysnard, son of Ysnard Grassim, 100 *sous*; to her niece Barthélemie, daughter of her late brother Guillaume Robert, 10 *livres*; to the brother of the latter Barthélemie, a vineyard free of all right; and to the already mentioned Saure Robert and other children of her brother, 40 *sous*. She left more bequests to nephews and nieces of the Joubert and Robert families, including a *cens* on a vineyard. One of her nephews was the scion of one of the most famous families in Avignon, the

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<sup>46</sup> On Notre-Dame des Fours see Anne-Marie Hayez, "L'installation des religieuses des Fours à Avignon", *Annuaire de la société des amis du palais des papes* 48 (1971), 29-42.

<sup>47</sup> On Saint-Véran see Anne-Marie Hayez, "Les religieuses avignonnaises au temps de la papauté", *Annuaire de la société des amis du palais des papes* 69 (1992/93), 29-56. Founded as a satellite of the Benedictines of Saint-Laurent, Saint-Véran constantly strove to detach itself from its mother-house.

<sup>48</sup> The remaining nunneries of Sainte-Catherine (including its abbess and several nuns) and Saint-Laurent received funds along with the masculine Franciscans, Augustinians, and Carmelites, for their prayers and masses.

Rascas. Finally, maybe with a certain sense of irony, she endowed Garnier, her nephew and the son of her brother Pierre Robert, with funds for *his* marriage! Barthélemie acted as a caring matriarch, certainly empowered by her ability to disperse her fortune in testamentary bequests.

After taking care of the younger generation, she moved to her siblings. Her sister Constance received 60 *livres* and two *census* of wheat that Barthélemie collected annually from her possessions; and her brother Raymond Robert, Dominican, 10 *sous* of *census* and several *émines* of wheat and oats. She left to Constance and Raymond additional *censi* – due in goods – that, in order to burn a light in the chapel of Mary Magdalene, would revert to the Saint-Véran and Dominican convents after they died.

She paid special attention to a new chapel dedicated to Mary Magdalene at the Dominican convent, asking her heirs to fund the purchase of wine, a chalice and missal, and other liturgical ornaments for the altar.<sup>49</sup> Her decision to subsidize these liturgical instruments symbolically associated her with the masses that, in a sense, she would help celebrate in this new chapel. This strategic funding was one of the highest modes of control she could have wielded. Officiants read, touched, blessed, and drank from objects that she had commissioned. When she ordered the distribution of these assets, she may have conceived that the Eucharistic miracle operated from objects that existed through her will.

Barthélemie's choice of universal heirs is the ultimate evidence of resolve that shined through the words on the parchment. She created an intricate web that linked the three convents that she favored: the Dominicans, Saint-Véran, and Notre-Dame des Fours. Her strategy was extremely complex, and if she designed it of her own volition, it indicates an extremely calculating (and sound) mind. She left her brother Raymond (a Dominican) 10 *sous* of a *census* taken from a vineyard, with substitution to her sister, and finally to the abbess of Saint-Véran after her sister's death. After the death of her brother and sister, the *census* would

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<sup>49</sup> On the association between Mary Magdalene and the Dominicans, see Katherine Ludwig Jansen, *The Making of the Magdalen: Preaching and Popular Devotion in the Later Middle Ages* (Princeton, 2001); Bernard Montagnes, “La légende dominicaine de Marie Madeleine à Saint-Maximin”, *Mémoires de l'académie de Vaucluse*, 7e série, 6 (1985), 73-87; and “Saint-Maximin foyer de production hagiographique: le ‘liber miraculorum beate Marie Magdalene’ (1315)” in Ève Duperray (ed.), *Marie Madeleine dans la mystique, les arts et les lettres* (Paris, 1989), pp. 49-69. For a more recent overview of the cult of Mary Magdalene, see Rollo-Koster, “From Prostitutes to Virgin Brides”.

be divided between the Dominicans, Saint-Véran, and the abbess of Saint-Véran who was charged with the duty of maintaining the luminaria of the Chapel of Mary Magdalene at the Dominicans, with substitution to Saint-Véran. Her universal heir was the Dominican convent, but it was bound in exchange to buy a *census* of 13 *livres* that would be handed over to Saint-Véran with the request that, every month, the abbess pay 20 *sous* from that *census* for anniversary masses on their premises. As for the “lordship” that she controlled on her property, the funds were shared between Saint-Véran’s kitchen and Notre-Dame’s wardrobe. In sum, her intricate planning forced Dominicans and Benedictines to work together. She made sure that brothers and sisters shared the duties and rewards. But the fact that she forced the issue may allow us to infer that these religious orders were usually competing.

Finally, her executors were the priors of the Dominicans; two brothers, Raymond Faraudi and Pierre Gauteri; her sister Constance; the knight Bermond Montoni; and her nephew Guillaume Robert. Her testament was done in her house in Avignon with a list of witnesses from various dioceses, two Dominican brothers, and members of the household of two cardinals. What surfaces in her testament is her desire to protect her family to a certain extent, and her obvious preference for two fellow women (her sister Constance and her niece Saure). We can note that she favored the Dominicans and the monasteries of Saint-Véran and Notre-Dame des Fours because she knew specific individuals there. Hence, she bequeathed with her heart as she carefully planned her memorialization, maybe simultaneously attempting to smooth rapports between the various institutions.

So far, I have addressed two women of means. However, Roman law penetrated all levels of society, and humble people also drafted testaments. They are often shorter and less detailed; owning much less, they could not enumerate a long list of bequests. They allow us to gauge to what degree agency directly corresponded to economic power.

### *Argentine Bedossi*

Argentine Bedossi of Avignon drafted her will on 23 October 1318 and left only a few clauses. Her testament is short, but this is typical of non-

bourgeois/nobles who could still be people of means.<sup>50</sup> After setting her burial place as the church of Saint-Symphorien in Avignon, she listed her pious legacies “*pro remedio animae*”, taken from 10 *livres* that she designated for that specific purpose. Thus, Argentine first disbursed funds to her parochial church and its chaplains, deacons, and clerics whom she may have known personally. Then she distributed the expected legacies, starting with Notre-Dame de Castrella and the luminaria of Notre-Dame des Doms of Avignon, and continuing with donations to prisoners, infirm individuals, and various hospitals for the poor.<sup>51</sup> She also left funds to help restore the Bridge of Saint Benedict (or its nickname Benezet, Avignon’s famous *pont*). Following her generic “good works”, a glimpse of the “real” Argentine appears when she discusses her legatees and heir. Her universal heir was her – maybe oldest – son, Guillelmus Bedossi; as he was also made executor, he did not receive any bequests. Her first gift went to her daughter Bertrande, to whom she left four *sous* and several articles of bedding: sheets, pillows, and blankets. Next, she left smaller sums to her son Johannes (20 *sous*), her son Hugonis (20 *sous*), and her granddaughter Bertrande (10 *sous*), daughter of the said Hugonis. She may have rewarded her children in their birth order. Argentine then rewarded equally her goddaughters Aigerini, wife of Ferrarius Raymondi, and Argentine Johanne, with five *sous* each. We can note that, in traditional fashion, one of Argentine’s goddaughters was named after her.<sup>52</sup>

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<sup>50</sup> 23 October 1318: ADV, 1G702.

<sup>51</sup> The liturgical use of fire and light has a long and varied history. The word *luminaria* embraces the liturgical illumination of a church, chapel, altar, etc., with candles, torches, tapers, and oil lamps. People left bequests for “lighting” or illuminating specific spaces. But the word also encompasses the support for such lights, like candleholders and chandeliers and all liturgical instruments that carried lights and were mobile, fixed, or hanging. Eventually the word also named the pious associations that were charged with liturgical illumination. Thus, *luminaria* at the end of the Middle Ages could signify a few individuals belonging to a same profession who burned tapers to the image of a particular saint, or a full-fledged confraternity. See Catherine Vincent, *Fiat Lux: lumière et luminaires dans la vie religieuse du XIIIe siècle au début du XVIe siècle* (Paris, 2004); and Pierre Pansier, “Les confréries d’Avignon au XIVe siècle”, *Annales d’Avignon et du Comtat Venaissin* 20 (1934), 5-48.

<sup>52</sup> Godparenting played on several levels in the Middle Ages. It created spiritual and social kinship, support networks, and enlarged connections between equal or unequal members of society. See Bernhard Jussen, *Spiritual Kinship as Social Practice: Godparenthood and Adoption in the Early Middle Ages*, trans. Pamela

Maurende Angeri, daughter of the late Petrus Angeri, received 10 *sous* (equal to the amount left to Bertrande, Argentine's granddaughter). This sum suggests that Maurende ranked high in Argentine's heart, but we do not know if she was friend or kin. Finally, she asked her executors – her heir Guillelmus Bedossi; her godfather Johannes Bedossi; and Alazassia Milonestra, we have to assume her friend – to dispose of the rest of the 10 *livres*.<sup>53</sup> Note that Provence and the Midi did not prevent women from assuming the duties of testamentary executors.<sup>54</sup>

### *Doulce Bernard*

Moving chronologically, Doulce Bernard, widow of Raymond, laborer of Avignon, is an example of the testament of an ordinary woman. Doulce made her will on 20 October 1340.<sup>55</sup> She asked to be buried in the cemetery of Notre-Dame des Doms, where her late mother rested. Widowed, she chose to rest with her mother over her husband; childless, she made the almonry of the Fusterie (for carpenters) her universal heir, bypassing her brother and sister. She also required that her executors sell her movables and immovables. In general, she made monetary bequests to her siblings and godchildren, reserving 10 *livres* for her pious causes: the various Avignonese churches and the Lazarus house. Looking at her bequests, we can note that she left the highest amount to her sister Bertrande, to whom she also left a coat – on the condition that she would remember her through prayer.<sup>56</sup>

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Selwyn (Newark, 2000); and Louis Haas, “*Il mio buono compare: Choosing Godparents and the Uses of Baptismal Kinship in Renaissance Florence*”, *Journal of Social History* 29 (1995), 341-56.

<sup>53</sup> Since her godfather carried her husband's last name, we can assume that Argentine married her godfather's brother.

<sup>54</sup> See Leah Otis-Cour, “Occitania” in Margaret Schaus (ed.), *Women and Gender in Medieval Europe: an Encyclopedia* (New York, 2006), p. 621.

<sup>55</sup> ADV, Fusterie B3.

<sup>56</sup> She gave, in order: to Bertrande Adhemari, her sister, 20 *sous*; to Raymond Adhemari, her brother, 15 *sous*; to Mabilia [...] of Peyre Adhemari, 15 *sous*; to Hugonus de Castro Novo, 15 *sous*; to Jacmete, daughter of Peyre Johannis, 10 *sous*; to the same Jacmete, her goddaughter, a coat; to Johannes Egidi, son of Raymond Egidi, 10 *sous*; to Guillelmus Cappelli, 10 *sous*; to Raymondo, her godson, five *sous*; to Bertrande Adhemari, her sister, a coat and the request that said sister must recite seven psalms on the anniversary of her death.

All in all, the four testaments selected for close analysis have shown that, even if within the confined parameters of the formulaic language of a notary, real women with agency appeared through the words. These women ranged in social class and time period, but they all found a way to guide their executors toward the realization of their wishes. Once agency is asserted we can wonder how far it extended. An answer to this question is “pretty far!” as evidenced by the Avignonese “novelty” that saw women asking to be buried in monk’s garbs. Out of a sample of 80 women’s testaments (that covered the span of the fourteenth-century), 10 women showed a willingness to break traditional boundaries, symbolically transgressing their bodies after death. It is not my place here to discuss this practice – it belongs to a separate paper – but it suffices to say for now that this practice shows strong agency.

On 19 August 1341, Peyronne Ademare asked to be buried at the Dominican house, stipulating that she wanted her body to be adorned with the Preachers’ garb (*cum habitum regulari suam*).<sup>57</sup> Similarly, on 10 April 1348, Catherine Baucaire, widow of Jacques de Baucaire, a rope-maker of Avignon, also asked to be buried in Dominican garb; as did Jeanne Giraud in 1361; Philippa Vanni in 1371; Raymunda Thomacie in 1374; and M[...], widow of noble Bertrand Berengarii of Avignon, circa 1387.<sup>58</sup> These six women chose the Dominicans’ habit. Another two chose the habit of the Franciscans: Jacoba Heymerice, wife of Jacobus de Remellierio, laborer of the diocese of Geneva, and inhabitant of Avignon, who in 1386 emphasized *cum habitum beati Francisci sicut unus frater minorum*.<sup>59</sup> In 1395, noble Astorgia Galabrune de Ralhana of the diocese of Aix, citizen of Avignon, and widow of the late Franciscus de Valobrica, bourgeois of Avignon, made the same request.<sup>60</sup>

Still, more religious orders were represented. In March 1376, Margarita de Muris – merchant, citizen, and inhabitant of Avignon,

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<sup>57</sup> ADV, H Dominicains 5.

<sup>58</sup> Catherine Baucaire: ADV, Fusterie B4; Jeanne Giraud: 13 April 1361, ADV, H Dominicains 7, ff. 99r-100r; Philippa Vanni: 30 June 1371, ADV, H Dominicains 5; Raymunda Thomacie: 28 January 1374, ADV, Petite fusterie, B29; and M[...], widow of noble Bertrand Berengarii: ADV, H Dominicains 7, ff. 78r-79r. The same volume contains in the preceding folios the year 1387, so I am assuming that this testament is of the same date.

<sup>59</sup> 3 December 1386: ADV, H Cordeliers 14, #15.

<sup>60</sup> 17 February 1395: ADV, 9G24, #501.

daughter of the late Johannes de Muris de Montiliis in the diocese of Carpentras, and wife of Pons Ruffi alias Grossi of Castle Montferrand in the diocese of Gap – requested to be buried in the church of the Hermit Brothers of Saint Augustine’s convent, in the tomb (*tumulo sive tomba*) where rested her first husband Raymond Rebolli’s cadaver (*cadavere*). She added that her body was to be carried and buried wearing the garb of the said brothers (“*portari corpus meum in habitum dictorum fratrum et cum dicto habitu sepeleri in eadem*”).<sup>61</sup>

With even more detail, in 1387, Guimona – widow of Bernard Rubastenqui, late fishmonger of Avignon – stated that she wished to be buried in the garb of the Carmelite brothers; more specifically, she asked brother Johannes Aymerici to give her one of his old habits, for which she would offer him six florins (“*Jubeo sepeleri in habitum fratrum carmelitorum et rogo fratrem Johanne Aymerici ut habeat michi unum habitum antiqui pro quo habitu lego Johannem 6 Fl*”).<sup>62</sup> We can note that, again, clothing’s articles were at the core of agency and memory. And remembrance and agency combined in their tactile quality. Women chose to whom their garments would go and “who” they would wear.

In conclusion, testaments are a far from perfect historical source; still, a close reading of some can show that, in addition to their psychology, the testators’ emotions and their will transpire through the language of the notary. If, on a day to day basis, medieval women’s lives were constrained by their surrounding androcentric culture, their testaments allowed them to intelligently, carefully, and artfully exercise their agency with remarkable resolve. When a *provençale* stated “and I also bequeathe...and I want” the “I” was in her voice.

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<sup>61</sup> 10 March 1376: ADV, I Pons 1245 f. 10r.

<sup>62</sup> 2 May 1387: ADV, I Pons 1176, ff. 101r-2r.

## 2 Family Emotional Outlets? Women's Wills, Women's Voices in Medieval Marseille (1248-1350)

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*Francine Michaud*

In his book, *Origins of English Individualism*, published more than thirty years ago, Alan Macfarlane emphatically argued that late medieval testamentary practices heralded the birth of English individualism leading to the Protestant Reformation.<sup>1</sup> What was the opinion of French medievalists on their own territory with respect to this view? At least for the region that I have been researching for the last 25 years, that is Provence, legal historian Roger Aubenas – whose authority was still felt in the field of private law when I was a student – proclaimed that the Renaissance, the Reformation, and the Religious Wars had combined to beget modern individualism.<sup>2</sup>

Of course, French historians of a more recent school had come to diverge quite substantially from this conventional chronological frame, such as Jacques Chiffolleau, with his seminal study on will-making in the Avignonnais region, from the twelfth to the fifteenth centuries.<sup>3</sup> Chiffolleau's book, which was published just a year after Macfarlane's, opined that from the twelfth century onwards testaments served as an

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<sup>1</sup> For Macfarlane, this was in great part due to, on the one hand, “the individualistic pattern of ownership (which) had already occurred in England by the thirteenth century at least”, and, on the other, “the rising power to bequeath freehold land by will”: Alan Macfarlane, *The Origins of English Individualism: the Family, Property and Social Transition* (Cambridge, 1979), at pp. 5, 104.

<sup>2</sup> Roger Aubenas, “La famille dans l'ancienne Provence”, *Annales d'histoire économique et sociale* 8 (1936), 538-39.

<sup>3</sup> Jacques Chiffolleau, *La comptabilité de l'au-delà: les hommes, la mort et la religion dans la région d'Avignon à la fin du Moyen Âge (vers 1320-vers 1480)* (Rome, 1980).

instrument of individual freedom from the family.<sup>4</sup> Indeed, the correlation between will-making and individualism was not new. Already in the nineteenth century, Henry Summer Maine had advanced a similar albeit legal view to explain the birth of the testament under the Roman Republic, in response to the emergence of individualistic attitudes toward the kindred.<sup>5</sup> The end of the eleventh century, which coincided with the revival of Roman Law in the Mediterranean regions, also witnessed widespread expressions of individualism at a time of unprecedented mercantile expansion. Partly in reaction to this latter development, the lay penitential movement heightened its quest for the spiritual absolute, revealing an unmistakable affirmation of the self as illustrated in the rise of the new eremitism and apostolic experiences in their more or less orthodox forms: Humiliati, Waldensians, Beguines, and Cathars.<sup>6</sup>

The sociology of will-making, symptomatically, reflected this evolution. It was no longer the preserve of the feudal elite and spread swiftly to the urban upper and middle classes, first in the Italian city-states, then Provence, Languedoc, and Catalonia. In late thirteenth and early fourteenth-century Marseille, citizens from all walks of life – urban elite, tradesmen, and ploughmen – appear proportionately in the extant archival sources, including their daughters, wives, and widows who represent more than half of all known testators.

Much has been said and debated about the “authorial” voice of the testator, allegedly compromised by the formulaic method and style employed by notaries.<sup>7</sup> Already in his 1988 work on Genovese testaments, Steven Epstein made convincing arguments in favor of the will-maker’s autonomy vis-à-vis the notary appointed to commit in writing his or her

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<sup>4</sup> The will had thus become “[l]’instrument d’une conquête et d’une libération: celle de l’individu par rapport au groupe familial”: *ibid.*, p. 430.

<sup>5</sup> “[T]he visible Roman horror at intestacy was thus rooted in an early conflict between law and changing sentiment about the family”, quoted by Thomas Kuehn in *Heirs, Kin, and Creditors in Renaissance Florence* (Cambridge, 2008), p. 1.

<sup>6</sup> Clifford Hugh Lawrence, *Medieval Monasticism* (3<sup>rd</sup> edn.: Harlow, 2001), espec. pp. 217-78. On the spiritual reaction to commercial wealth, see Lester K. Little, *Religious Poverty and the Profit Economy in Medieval Europe* (Ithaca, NY, 1978).

<sup>7</sup> Clive Burgess, “Late Medieval Wills and Pious Conventions: Testamentary Evidence Reconsidered” in Michael Hicks (ed.), *Profit, Piety and the Professions in Later Medieval England* (Gloucester, 1990), p. 15 and n. 6. By contrast, Chiffolleau argues that customary habits imposed the greatest strictures on the individual will: *La comptabilité de l’au-delà*, pp. 84-85. For further discussion on this issue, see Joëlle Rollo-Koster’s contribution to this volume.

last wishes: the common use of the first person rather than the third, the striking similarities in form and content between wills of notaries and other testators, the ability to change one's wishes as demonstrated in second wills, the differential practices between husbands and wives, etc., are all markers of personal intentions.<sup>8</sup>

To be sure, the probative value of the oral testamentary act, known as *testamentum nuncupativum*, preceded historically its written form. Performed by necessity before a large enough audience, the *testamentum nuncupativum* created in turn a context that may have favored the interference of bystanders who witnessed the act.<sup>9</sup> However, in this chapter I intend to examine the extent to which will-making freed individuals – especially women – from family pressure, that is from the pull between the “ancestral lineage” and the nuclear family unit, the latter arguably being the dominant domestic group in Marseille in the later Middle Ages. Particular attention will be given to two sets of considerations: firstly, the emotional intensity and signs of tension between the testators and their families, as observed at specific life-cycle junctures; secondly, whether and how patrimonial distribution was used not only to assert one's will on the living but also to curb the loved-ones' behavior. In final analysis, it will be determined if, in the hands of women's unrestricted access to will-making in pre-plague Marseille, the testament proved an effective legal tool to circumvent the weight of social and cultural pressure.

The corpus of wills collected between 1248 and 1350 corresponds to the beginning of all extant notarial registers in the city-port until shortly after the advent of the Black Death.<sup>10</sup> As Table 1 illustrates, 90% of the corpus rests on complete testaments (506/565), while 10% of the documentary base comprises excerpts from ecclesiastical cartularies and codicils from the notarial series.

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<sup>8</sup> Steven Epstein, *Wills and Wealth in Medieval Genoa, 1150-1250* (Harvard, 1984), p. 34.

<sup>9</sup> This point is discussed below.

<sup>10</sup> The earliest sources are found in Giraud Amalric's 1248 register: AM Marseille, I II 1. The register was partially edited by Louis Blancard: *Documents inédits sur le commerce de Marseille au moyen âge, édités intégralement ou analysés* (Marseille, 1884); and John H. Pryor: *Business Contracts of Medieval Provence: Selected "Notulae" from the "Cartulary" of Giraud Amalric of Marseille, 1248* (Toronto, 1981).

Table 1: Testators and testamentary acts in Marseille (1248-1350)

	Complete			Partial				TOTAL	%
Testators	W*	W/C**	#	Excerpts	Codicils	Unfinished	#	#	
280 women (52%)	258	5	263	16	10	-	26	289	51%
254 men (48%)	235	8	243	22	9	2	33	276	49%
534 testators (100%)	493	13	506	38	19	2	59	565	100%

\* Wills. NB: 10 men and two women had two testaments written, while another man had three done and one woman four.

\*\* Wills with codicil.

These last wills and testaments were produced in a context of significant demographic pressure, soon to end rather abruptly with the epidemic mortality of 1347-48,<sup>11</sup> which precipitated the sudden dislocation of family structures. Furthermore, the vast majority of testators, especially women, originated from Marseille where their own families had put down roots in a more or less distant past.<sup>12</sup> What is surely the most striking feature of Massilian testamentary evidence during the hundred-year period under study is the remarkable representation of women in the light of other regions, as they compose 52% of all known testators (280/534: Table 1). Elsewhere, female testaments form roughly 30-40% of the documentary evidence.<sup>13</sup> In post-plague Barcelona, they

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<sup>11</sup> On the chronology of the Black Death in Marseille, see Francine Michaud, “La peste, la peur et l’espoir: le pèlerinage jubilaire de *romeux* marseillais en 1350”, *Le Moyen Âge* 104 (1998), 399-434.

<sup>12</sup> Francine Michaud, “Liaisons particulières? Franciscains et testatrices à Marseille (1248-1320)”, *Annales du Midi* 104 (1992), 10. Chiffolleau had presented an opposite interpretation without any corroborating evidence, in “Pratiques funéraires et images de mort à Marseille, en Avignon et dans le Comtat Venaissin (vers 1280-vers 1350)”, *Cahiers de Fanjeaux* 11 (1976), 282-83.

<sup>13</sup> Chiffolleau, *La comptabilité de l’au-delà*, pp. 49-50; Marie-Thérèse Lorcin, *Vivre et mourir en Lyonnais à la fin du Moyen Âge* (Paris, 1981), p. 59; Marie-Claude Mirandet, *Le souci de l’au-delà: la pratique testamentaire dans la région toulousaine* (1300-1450) (Perpignan, 1998), p. 85.

account for 40% of all documents.<sup>14</sup> In fifteenth-century Lausanne women’s proportion among will-makers reaches no more than 42%.<sup>15</sup> Only in Italy does the participation of women in testamentary practice parallel the Massilian experience.<sup>16</sup>

Table 2: Socio-professional origins of testators in Marseille by gender (1248-1350)

Origins	Women	Men	Total
Ruling classes	88 (45%)	94 (50%)	182 (47%)
Others	109 (55%)	94 (50%)	203 (53%)
Total	197 (100%)	188 (100%)	385 (100%)

Furthermore, female will-makers belonged to a fairly large segment of the population as Table 2 suggests.<sup>17</sup> In fact, a significant number of them came from the middling groups of society,<sup>18</sup> including the agricultural and seafaring trades (Table 3).

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<sup>14</sup> Núria Jomet, “Les femmes catalanes à travers leurs testaments (938-1131)” in *La femme dans l’histoire et la société méridionales (IXe-XIXe s.)*. Actes du 66e congrès de la Fédération historique du Languedoc méditerranéen et du Roussillon (Montpellier, 1995), p. 92; and Equip Broida, “Actitudes religiosas de las mujeres medievales ante la muerte (los testamentos de Barcelonesas de los siglos XIV y XV)” in Angela Muñoz Fernández (ed.), *Las mujeres en el cristianismo medieval* (Madrid, 1989), pp. 463-64.

<sup>15</sup> Lisane Lavanchy, *Écrire sa mort, décrire sa vie: testaments de laïcs lausannois (1400-1450)* (Lausanne, 2003), p. 48.

<sup>16</sup> Women in Genoa account for 49% of all known testators between 1155 and 1253: Epstein, *Wills and Wealth*, p. 38. Stanley Chojnacki noted that in Renaissance Venice, patrician women may have been twice as likely to make a will than men, but the author admits that his “sample is not scientific”, simply the result of empirical observation: “‘The Most Serious Duty’: Motherhood, Gender, and Patrician Culture in Renaissance Venice” in Paula Findlen (ed.), *The Italian Renaissance* (Malden, MA, 2002), pp. 183-84, n. 36

<sup>17</sup> Of all known testators (534), 72% revealed their occupation or social status. “Others” refer to occupational trades befitting the city’s middling classes: mechanical arts, sea and agricultural trades and services.

<sup>18</sup> The occupational identity of testators rests, for women, on their husbands’ or, if unknown, on their fathers’ occupations.

Table 3: Occupational representation in Massilian wills by gender  
(1248-1350)

Trades	Women	Men	Total
Ploughmen	22	30	52
Merchants	13	23	36
Butchers	10	11	21
Tanners	11	8	19
Notaries	12	6	18
Fishermen	4	7	11
Mariners	7	3	10
Shoemakers	3	5	8
Drapers	3	3	6
Pastry makers	3	3	6
Changers	2	3	5
Carpenters	3	2	5
Woodcutters	3	2	5
Apothecaries	4	-	4
Others*	10	14	24
Total	110	120	230

\* The term encapsulates 17 other trades, each representing less than three testators.

There are three main factors, legal, historical, and cultural, that might explain the greater representation of women in Massilian testamentary practice. First, in accordance with the spirit of Roman Law (6<sup>th</sup> c. Justinianic Law) that pervaded the legal culture of the *pays de droit écrit* in the Mediterranean regions, women were recognized as having full capacity to make a testament.<sup>19</sup> The only requirement was that they, like their male counterparts, were in *sui juris*, that is, they were no longer under paternal authority (either because their father had passed away or they had been legally emancipated).<sup>20</sup> Even then, fathers did not hesitate to

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<sup>19</sup> “A qua aetate testamentum vel masculi vel feminae facere possunt”: Digest, XXVIII-5, in Theodor Mommsen (ed.), *Corpus Juris Civilis* (Dublin, 1966), vol. 1, p. 409.

<sup>20</sup> “Quibus non est permissum testamenta facere”, Institutions, II-12, in Paul Krueger (ed.), *Corpus Juris Civilis* (Dublin, 1966), vol. 1, pp. 18-19.

grant their children permission to make a will in the form of a *donatio causa mortis* – a donation by reason of death – in lieu of the standard *testamentum*. In Marseille, seven women obtained their fathers' permission to dispose of their wealth, all of them married or widowed. Surely considerations toward – and pressure from – the son-in-law's family must have played a part in this paternal liberality, but the daughter's marital status must have equally helped her assert some degree of autonomy vis-à-vis her *pater familias*.

More importantly, however, testamentary rights extended to married women who did not have to submit to marital consent, a personal limitation that prevailed elsewhere in Europe, north of the Alps, away from the Mediterranean shores. This latter observation coincides with the reduced representation of women in testamentary documents, especially in the northern Customary-Law provinces, and in Common Law England.<sup>21</sup> In Marseille, not only did women, regardless of marital status, dispose freely of their goods and income upon death, but the municipal statutes, following the spirit of traditional German and Roman laws, allowed them to inherit patrimonial successions equally with their brothers as long as they had not previously been granted their dowries.<sup>22</sup> Even then, a dowry was considered a daughter's pre-mortem inheritance of her father's or mother's estate, and had to equal in value each share remaining to the legitimate children.<sup>23</sup> All the same, an important consideration should be raised in the light of the historical evolution of women's legal capacity. As the Middle Ages came to a close, women found themselves increasingly in a position of *alieni juris*,<sup>24</sup> reducing their ability to enjoy full testamentary

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<sup>21</sup> For instance, Michael M. Sheehan's study on thirteenth-century wills in England indicates that only 13% of them were ordered by women: "A List of Thirteenth-Century English Wills" in James K. Farge and Joel T. Rosenthal (eds.), *Marriage, Family and Law in Medieval Europe: Collected Studies* (Toronto, 1996), pp. 8-15.

<sup>22</sup> "De mulieribus maritatis a parentibus, qualiter eis succedant" in Régine Pernoud (ed.), *Les statuts municipaux de Marseille* (Paris/Monaco, 1949), Book II, art. 53, pp. 122-23.

<sup>23</sup> *Idem*. On the devolution of family estates, including dowries, as observed in both notarial acts and court documents, see Francine Michaud, *Un signe des temps: accroissement des crises familiales autour du patrimoine à la fin du XIIIe siècle* (Toronto, 1994).

<sup>24</sup> "Les femmes, qui se trouvent beaucoup plus souvent que les hommes dans la situation de l'*alieni juris*, testent naturellement moins souvent qu'eux": Chiffolleau, *La comptabilité de l'au-delà*, p. 49.

autonomy, even in Provence.<sup>25</sup> Since my study ends c. 1350, it is likely that the pre-plague wills reflect a different historical era, more propitious to women’s legal freedom.

Another compelling factor that may contribute to explaining the success of female will-making in medieval Marseille is of a cultural nature. The decades nearing the turn of the thirteenth and fourteenth centuries witnessed in the city an intense spiritual revival under the leadership of the Mendicant Orders that seemingly galvanized women’s sensibility, as the testamentary evidence amply supports.<sup>26</sup> The presence of three contemporary Franciscan saints in the city – Hughes and Douceline of Digne, and Louis of Anjou, brother of Saint Louis, king of France – epitomized the movement.<sup>27</sup> It is then that the Church’s historical effort to encourage the faithful to make wills in preparation for the after-life came to full fruition. Women of standing endeavoured to maintain their traditional role as lay patrons of ecclesiastical institutions; the greater representation of noble women in the corpus arguably suggests this possibility (Table 4).

Table 4: Representation of nobles as testators in Marseille  
(1248-1350)

Titles	Women	Men	Total
<i>Miles</i> (knight)	14	2	16
<i>Domicellus</i> (son of knight)	8	9	17
<i>Nobilis</i> (noble)	4	1	5
Total	26	12	38

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<sup>25</sup> Paul Ourliac, *Droit romain et pratique méridionale au XVe siècle* (Paris, 1937), pp. 29-30. Chiffolleau, whose analytical sample covers the period between 1320 and 1480, observes a constant decline in the number of female wills from the beginning of the thirteenth century to the turn of the fifteenth-sixteenth centuries; *La comptabilité de l’au-delà*, p. 51.

<sup>26</sup> Edouard Baratier, “Le mouvement mendiant à Marseille”, *Cahiers de Fanjeaux* 8 (1973), 179-91. Also, Michaud, “Liaisons particulières?”, 7-18; and “Le pauvre transformé: les hommes, les femmes et la charité à Marseille, du XIIIe siècle jusqu’à la Peste noire”, *Revue historique* 311 (2009), 243-90.

<sup>27</sup> André Vauchez, *Les laïcs au Moyen Âge. Pratiques et expériences religieuses* (Paris, 1987), p. 103.

Patrimonial and social considerations notwithstanding, this is perhaps a core element in understanding the dominant participation of women in testamentary practice, allowing for personal statements to be made on a very solemn and public occasion.

Not only was making a testament a public act by law, but also a very social one utterly deprived of privacy.<sup>28</sup> If Massilian women were not hampered by the legal constraints of conjugal authority to make wills, they nevertheless submitted to social strictures. Foremost, since the *testamentum nuncupativum* was the dominant form of will-making, to be legally valid a will – even before it was translated from the vernacular and written down in Latin by a notary public – was to be performed orally before at least five capable instrumental witnesses in Marseille, that is, non-related male, Christian citizens.<sup>29</sup> But the legal circle gathered around the testator was only the visible tip of the iceberg; what is impossible to gauge from the documentary evidence is the size and composition of the anonymous social environment against which, as in the cases presented below, the testatrix uttered her last wishes. There is little doubt that family, friends and servants witnessed this momentous occasion, for this was also when the vast majority of testators (73%), struck by illness, were preparing to die.<sup>30</sup> If, however, they did pass away without a written proof, a notarial investigation was ordered to validate the oral will; although traces of these occurrences are rare, they afford a glimpse into the larger

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<sup>28</sup> “Testamenti factio non privati, sed publici iuris est”: Digest, XXVIII-3, in Mommsen (ed.), *Corpus Juris Civilis*, vol. 1, p. 409.

<sup>29</sup> “Et tunc quinque testes sufficiant”: “De testamentis et ultimis voluntatis”, *Les statuts municipaux*, Book II, art. 47, p. 118. Roger Aubenas, *Le testament en Provence dans l’ancien droit* (Aix-en-Provence, 1927), p. 39. While the Roman law required seven witnesses (“Quod ius civile quodammodo exigebat, septem testibus adhibitis et subscriptione testium (...)”): “De testamentis ordinantis”, *Institutiones*, II-10, in Krueger (ed.), *Corpus Juris Civilis*, vol. 1, pp. 17-18), canon law allowed for only two to three witnesses to validate a will: *De testamentis et ultimis voluntatibus*, Decretals, Tit. XXVI-10, in E. Friedberg (ed.), *Corpus Iuris Canonici* (Graz, 1959), p. 542.

<sup>30</sup> Physical indisposition was the chief motivation that prompted individuals to have their wills written when they did (75% of all wills). The notary then routinely indicated that the testator was sick “in her body” (*egra corpore*); occasionally he would venture to mention that she was struck by a non-described disease (*aliqua infirmitate corporea*), seldom by an illness of “serious proportion” (*egretudina gravita*).

circle of social witnesses. This was the case of Garcende Cordinier who fell suddenly sick in the winter of 1310; as there was no time to call upon a notary, she quickly disposed of her estate before the people who then stood at her bedside: her confessor, her mother, her husband, and four women of unknown relation.<sup>31</sup>

Given its very nature, the *testamentum nuncupativum* took unmistakably the guise of a performance, like death itself, in a culture that after all fostered *la mort spectacle*. The will-maker's entourage was less than passive or even voiceless upon this solemn occasion; the number of testamentary codicils or outright revocations speaks to the palpable pressure exerted by family who felt entitled to benefit from the dying. Marie Boissier was compelled to promise her husband, whom she had made her universal heir, to abstain from revoking her testament, ever again.<sup>32</sup> But beyond the gathering of instrumental and social witnesses, words of the testatrix's testamentary disposition spread quickly. Within three hours of making her will, Béatrice Besse did not hesitate to disinherit her cousin Batrone who had, in the mean time, voiced her dissatisfaction about the wedding gift dedicated to her. Beatrice also told Batrone why: "because of your harsh words". Tellingly, she addressed the ungrateful cousin in the second person, proof of the bitter dialogue that the notary, caught between the two women, captured perhaps distractedly under his quill.<sup>33</sup> As we shall see, it was nonetheless among close family members that testators experienced greater resistance to assert their will.

The *pater familias* who allowed his grown-up daughter to dispose of her goods by way of a *donatio propter mortem* (and not a testament),

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<sup>31</sup> "Cum dicta Garcenda ex infirmitate detenta fuerit ex inde mortua post vero mortem dicte Garcendis propria mortua existentis in lecto, Adalacia Gardineria mater dicte Garcendis et dictus Johannes Ruffi maritus interrogaverunt in presencia mei notarii et testium infrascriptorum, Guillelme Augerie, Bartholomee Manegote et Belliutz, uxoris Johannis Carbona, et Dulcie de Podio, qualiter ipse Garcenda suam faceret ordinationem de bonis suis, qui testes omnes juraverunt ad Sancta Dei Euvangelia quod dicta Garcenda in dicta infirmitate in presencia domini Bertrandi de Ecclesia Sancti Martini capellani et confessoris dicte Garcendis (...)" : 1 March 1310: ADBDR 381 E 25, ff. 37r-v.

<sup>32</sup> "De quibus quidem omnibus et singulis supradictis dicta Maria testatrix petit sibi publicum instrumentum et idem petit dictus Franciscus heres institutus ut supra quod concessit dicta Maria et ipsa vivente dari in publice jussit eidem eum non intendat aliud concedere testamentum prout supra promiserit [jurari?]" : 16 May 1337: ADBDR 381 E 38, f. 64r.

<sup>33</sup> 29 July 1348: ADBDR 381 E 77, f. 76v.

naturally did so with a watchful eye, for the donation revolved around the dowry, the delicate institutional and material link binding two families in marriage. The case of Cartenette Guillaume's *donatio causa mortis* reveals how bequeathing could be less than a willful act. As Cartenette Guillaume – who retained her family cognomen – was lying ill in her bed, she received her father's permission to dispose of her comfortable estate, as the law, she conceded, did not allow her to make a testament. But she did so very succinctly; she left substantial gifts to her second husband, as well as to her three young children born to her first marriage, and to her brother whom she also named residual heir, should her sons die without legitimate issue. Finally, she designated the cathedral of the city for her burial with her own mother, Lady Pelgrine, before leaving the entire disposition of her spiritual bequests to her father's discretion.<sup>34</sup>

Cartenette's passivity toward her own religious bequests is even more surprising since spiritual considerations strongly characterized female will-making in Marseille in the late thirteenth and early fourteenth centuries. So much was this the case that some husbands, such as Hugues Massardi, went even as far as expressly forbidding their widows to bestow anything whatsoever on the Church under threat of disinheritance.<sup>35</sup> But an increasing number of testators responded in kind. Women, in particular, turned to the secrecy of confession to by-pass their entourage's scrutiny and infringement of their freedom to will.<sup>36</sup> In 1332, the wife of a caulker, Huguette Semini, vowed that a sum of 100 shillings be distributed by her

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<sup>34</sup> “[S]ciens me esse a Deo sub patria potestate persiste quod de jure michi non concedit facultas condendi testamentum, ideo de voluntate et concensu dicti patris mei donationes facio causa mortis (...) in illo tumulo in quo jacet domina Pellegrina mater mea et volo quod exequie mee funerarie fiant arbitrio et voluntate dicti domini Jacobi Guillelmi patris mei. Item lego pro missis dicendis et dictis exequis faciendis et accipio de bonis meis XXV libras regalium que expendantur arbitrio et voluntate dicti patris mei”: 4 November 1319: ADBDR 381 E 30, ff. 47r-48r.

<sup>35</sup> In his codicil dated 25 November 1335, Hugues Massardi made his wife his residual heir if his son and main heir violated his testamentary disposition made in her favor, with the express condition that she remain a widow and refrain from giving anything whatsoever to the Church or any of its representatives: “sub tali conditione quod nullo tempore vice sue convolet ad secundas nuptias [nuptias?], et sub tali conditione quod nichil de bonis meis legat vel donet aliqua de causa alicui ecclesie vel clericis vel alicui persone ecclesiastice”: ADBDR 381 E 37, f. 130v.

<sup>36</sup> On women's greater propensity to use the assistance of a confessor, see Michaud, “Le pauvre transformé”, 258-68.

spiritual advisor, the Franciscan Pierre Riveria, privy to the specifications she disclosed under the seal of confession.<sup>37</sup> Bertrande Huguonette, widow of a notary from the village of Aubagne, now a member of the beguinage of Roubaud, entrusted 25 *livres* of her wealth to her confessor, Michel Monachi. She urged the Franciscan friar to distribute the money on the basis of her private instructions to him, and to do so immediately upon her death, before the execution of all other bequests, lest anyone raise an objection against her wishes.<sup>38</sup>

As we know, testamentary practices have pitted kindred and ecclesiastical interests against each other for a very long time. From the ninth century onwards, family members' increased scrutiny over the individual's freedom to give and bequeath appeared in conjunction with the expansion of testamentary endowments to monastic institutions.<sup>39</sup> What is less clear is the impact of family structures on the will of the dying over the course of time. In the context of late thirteenth and early fourteenth-century Marseille, the answer to this question is unequivocally determined by both birth and gender. Aubenas asserted that in Provence commercial necessity forced urban families to fraction themselves into smaller, single, and almost independent households.<sup>40</sup> But in the period under consideration, the documentary evidence to support this claim remains scant. To be sure, the study of wills corroborates, at least on the surface, the argument that the nuclear unit was the dominant family structure in late medieval Marseille. Nevertheless, wills are at best only snapshots in time; moreover, they reflect the static dimension of traditional and customary legal practices, while hiding a far more complex reality of family life. In other words, because of its fluidity and changing nature, the late medieval household in Marseille stands to be better

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<sup>37</sup> "(...) juxta declarationem per me sibi factam in mea confessione": 19 August 1332: ADBDR 391 E 6, f. 88r.

<sup>38</sup> "Item lego seu relinquo XXV libras regalium dandas et tradendas ibi fratri Michaeli Monachi ordinis Fratrum Minorum executor infrascripto dixi et revelari. Et volo et mando quod statim et immediate post obitum meum antequam aliquod legatum per me factum alicui solvatur dicte XXV librae regalium solvantur et accipiantur de omnibus bonis meis absque contradictione et impedimento cujusque persone per ipsum fratrem Michaelem cui de super hoc plenam potestatem": 1308 (the precise date remains unknown): AM Marseille, 1 II 45, f. 91v.

<sup>39</sup> Régine Le Jan, *La société au haut Moyen Âge, VI-IXe siècle* (Paris, 2003), p. 230.

<sup>40</sup> Aubenas, "La famille", 531.

understood, for, as time went on, individuals came to redefine their relations with both blood and allied families. And so did society.

From the middle of the thirteenth century to the Black Death, testators progressively shifted their focus from lineage to conjugal family. Of course, the pace at which this general evolution took place varied according to social milieu and gender. The city's political and commercial elite, especially men, remained attached to their ancestry arguably longer than did the tradesmen. To a lesser degree in effect (80% men versus 65% women), women from the ruling classes maintained a strong attachment to the ancestral family, especially the unmarried, not withstanding the case of Cartenette Guillaume discussed above.<sup>41</sup> For the sepulture of her body, beguine Cecilia de Volta, a member of the Provençal nobility,<sup>42</sup> opted for the tomb of her *genus* or kinsmen which was conveniently located in the Franciscan church of Marseille, dedicated to Saint Louis of Anjou. This was also where the beguines were traditionally laid to rest with their founder, Douceline of Digne.<sup>43</sup> Beguine Francesca Arnauda, who ran an apothecary shop, expressed the same wish, to be buried with her predeceased sister in the Saint-Louis church.<sup>44</sup>

Conversely, women of the artisan classes were the earliest to manifest a certain predilection towards the nuclear unit: they were also more likely to adopt their husbands' cognomen than the bourgeois who still maintained close ties with their *genus*.<sup>45</sup> The direct consequence of the latter's loyalty to the blood family in death was the segregation of husband's and wife's burial space. In turn, individuals had often to choose for their burial places between their father's or their mother's tomb since the concept of "virilocality", whereby women upon marriage were irrevocably uprooted from their original family's geographical location,

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<sup>41</sup> For an assessment of the differential gender attitude toward burial sites according to agnatic and cognatic lines in Marseille, see Francine Michaud, "Individu, patrimoine et tensions intergénérationnelles dans les testaments médiévaux : le cas de Marseille (1248-1348)" in Martin Aurell (ed.), *La Parenté déchirée: les luttes intrafamiliales au Moyen Âge* (Leiden, 2010), pp. 107-27.

<sup>42</sup> Noël Coulet, *Aix-en-Provence: espace et relations d'une capitale (milieu XIVe s.-milieu XVe s.)* (Aix-en-Provence, 1988), vol. 1, p. 85.

<sup>43</sup> "In ecclesia fratrum minorum de Massilie ante sepultum domine Dulceline beguine condam matris earum": 28 August 1341: ADBDR 391 E 15, ff. 49v-56r.

<sup>44</sup> 6 August 1343: ADBDR 381 E 43, f. 47r.

<sup>45</sup> Michaud, "À la recherche d'un équilibre", p. 117.

did not apply to the Massilian experience.<sup>46</sup> One of the most unmistakable signs of change, however, occurred when wives and widows wished in greater number to be buried with their spouses, and in so doing, encouraged the reunion of the conjugal family, prompting single and childless testators to direct their bodies to the graveyard where both parents had been laid. Women indeed were particularly insistent on this issue, making specific provisions in their wills to entice their surviving spouses to join them in death, using, if need be, positive or negative reinforcement, from the promise of an elegant burial place to outright disinheritance. The daughter of a butcher, Marie Boissier, not only reassured her husband and universal heir that she would refrain from making another will as mentioned earlier, but she also ordered the construction of a brand new tomb made of stone in the church of the Augustinian Friars, large enough to contain both his and her bodies.<sup>47</sup> Richarde, wife of notary Marc Jean, did not hesitate to disinherit her husband if he refused to lie at her side for eternity.<sup>48</sup>

But what clearly mattered more to these female will-makers than conjugal piety was the presence of children, even children born to another woman. In the aftermath of the plague epidemic in Marseille, the wife of a butcher, who was preparing to sail off to Rome for the jubilee pilgrimage, willed to be buried with the predeceased children of her husband and his first wife, should she return safely to her home town.<sup>49</sup> Without children, the nuclear family remained a fragile, temporary construct. The young wife of Jacques Guillaume, the well-born Bonnette de Cadro, provides a dramatic case in point. In the fall of 1327, Bonnette was lying pregnant and sick in her mother's bed, where she had obviously sought refuge; in her will, she ordered that she should be buried with her maternal grandfather. Then she destined numerous bequests to her blood family (aunts, cousins, sister) and entrusted the bulk of her estate to her mother. The only thought she had for her husband was to make sure that he would not touch a penny from her dowry or any of her goods whatever. She then proceeded to disinherit her unborn child, the innocent victim of a thoroughly unhappy marriage.<sup>50</sup>

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<sup>46</sup> See note 12 above.

<sup>47</sup> 16 May 1337: ADBDR 381 E 38, ff. 61v-62r.

<sup>48</sup> 22 August 1341: ADBDR 381 E 393, ff. 17r-18v.

<sup>49</sup> 20 April 1350: ADBDR 381 E 78, f. 40r.

<sup>50</sup> 19 October 1327: ADBDR 381 E 33, ff. 48r-51v.

As the birth ratio increased, so did women's feelings toward the conjugal family. For instance, widows who chose to be buried with their husbands had on average 2.6 children, as opposed to only 1.2 in the case of widows who preferred the ancestral tomb. What the number of children indeed reflects is the maturity of the conjugal bond, which correlates to the propensity of married women, and especially widows (50%), to seek the reconstitution of the nuclear family before the Last Judgment. But this also reflects the increasing authority women held over their family members, youngsters and elderly alike. The example of Mariette Lieuthaud, wife of a knight, may well illustrate this point. In 1320, Mariette made a donation by reason of death under her father's authority and influence on the eve of giving birth; she was to be buried in the crypt of the cathedral, where her father's *genus* rested, and her goods would return to her parents if she were to die childless.<sup>51</sup> Seventeen years later, as she was to give birth for a fourth time, Marie (the diminutive was long gone) required her father's permission to make yet another *donatio propter mortem* since he was still alive; but this time she requested burial in the cemetery of the Dominicans, away from her kinsmen, and although she offered her father a modest annuity, she pledged that in order to earn it he had to feed his grandchildren.<sup>52</sup> Clearly, as time went on, Marie had emancipated herself from both tradition and paternal authority.

Yet as their feelings and sense of responsibility matured toward their dependents, women experienced, by the same token, far greater emotional stress to which last wills and testament also bear witness. The exact family context under which women exercised their testamentary freedom is far from being easily decipherable, as I suggested earlier, but it would be fair to say that, when tensions are palpable, they often occurred at the breaking point of the single conjugal unit, when it morphed into intergenerational arrangements (stem-family). This was often when a personalized, emotional vocabulary emerged against the formulaic conventions of testaments, which both heralded and justified rewards or, conversely, punitive measures designed to inflict material and psychological pain on specifically-targeted family members. Hence, the conjunction of life-cycle changes and will-making provided a unique opportunity to verbalize concerns or grievances towards close ones. Even more so for women, the *testamentum nuncupativum* was the only and final

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<sup>51</sup> 21 March 1320: ADBDR 381 E 14, ff. 92r-93r.

<sup>52</sup> April 1337 (the precise date remains unknown): ADBDR 391 E 11, ff. 7r-8v.

instance in their lives when they could freely dispose of their income and, with it, seek retribution or compensation, whether their motives addressed patrimonial or personal considerations.

Material preservation of one's hard-earned goods was not taken lightly. Concerned that her wealth would soon be dissipated, the widow of a ship's captain put her son's inheritance in trust with two clerics, on the grounds of his prodigality.<sup>53</sup> Other mothers insisted that their children be sufficiently mature before claiming their inheritance. A plowman's widow left her entire estate to her daughter-in-law, above and beyond her three adult sons, judging that they were not capable of carrying on the family affairs.<sup>54</sup> Moral integrity, designed to maintain one's own symbolic patrimony, played an equally important role in female testamentary strategies; an inn-keeper set aside a 10 *livres* gift for her daughter, nothing else, on the condition that she embrace "an honest woman's way".<sup>55</sup> More than one testatrix energetically forbade her children, boys and girls, to enter into matrimony without the advice of a family council, a legal provision that already existed in the city statutes but was in all likelihood timidly enforced.<sup>56</sup>

Protection of vulnerable family members equally motivated women's testamentary action. By the time Bertrande Domicelli dictated her last wishes, she was already facing an adversarial situation with her son Guillaume, a monk at Saint-Victor of Marseille. She ordered him to stop at once his intimidation and molesting of his sister Raymunda, the estate's principal heir, and return all the sheep, lands, and meadows he had stolen from her; failing to do so would lead her to limit his inheritance.<sup>57</sup>

In July 1337, beguine Alice Boysona was preparing to die and despite being a widow with a living grown-up son, a Dominican friar, in death she wanted to await the eternal life in the company of the Ladies of Roubaud, her surrogate family, in the Franciscan church.<sup>58</sup> She ordered

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<sup>53</sup> October 1293 (the precise date remains unknown): ADBDR 1 H 179.

<sup>54</sup> The document does not disclose the sons' state of indebtedness, an eventuality that could well be part of the testatrix's patrimonial strategy. 28 February 1342: ADBDR 391 E 15, ff. 143r-44v.

<sup>55</sup> 28 November 1314: ADBDR 381 E 379, f. 107v.

<sup>56</sup> "Ne aliquis contrahat matrimonium cum aliqua filia familias absque voluntate parentum, vel e converse" in *Les statuts municipaux*, Book, II, art. 44, p. 115.

<sup>57</sup> 24 April 1290: ADBDR 23 H 1, #5.

<sup>58</sup> 6 August 1342: ADBDR 381 E 43, f. 42r. All of the eight beguines of the corpus who disclosed this information wished to be entered in the Franciscan church.

that her executrix and friend, beguine Lady Hugua Brouard, have free access to her liquid assets in order to distribute her bequests to – mostly – other religious women. In fact, Alice forewarned her niece and principal heir that if she attempted to obstruct Hugua’s duties, she would be immediately stripped of her inheritance in favor of the executrix.<sup>59</sup> Spiritual welfare was, of course, many a will-maker’s greatest source of worry, as evidenced also by Huguette Bérourard who threatened to strip her sons of their inheritance in favor of the Franciscans, should they dare to neglect her pious bequests.<sup>60</sup> Using similar exhortation and means, Garcende de Laureis compelled her grandson to oversee the execution of her spiritual testament.<sup>61</sup>

It is also true that testators more often voiced hard feelings regarding their own “rebellious” children’s past or anticipated behavior, especially older widows, a social phenomenon that characterized a greater number of women than men in medieval cities. Huguette Bellemone, the ailing widow of a ploughman, disinherited outright her “awfully” ungrateful son Charles (*valde ingratus*), for refusing to pay even a single penny to cover her medical expenses; instead, her daughter and son-in-law were made universal heirs precisely because they attended to her needs with love and compassion.<sup>62</sup> Jeannette Florence expressed similar grievances; she swore under oath that her son had not only been verbally abusive, but also mean (*maligniter*) toward her, as he stubbornly refused to feed her during her illness.<sup>63</sup>

Acutely aware of their own vulnerability at different junctures of the life-cycle, some women arguably used their testaments to help preserve the dignity of elder members who lived under their roof. Such was the case of Marcelle, the wife of notary Augier Aycard; at the time of Marcelle’s will, which was drawn up shortly after the Black Death had

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<sup>59</sup> “Ita quod non debeat (Beatriseta Fulquessa neptis mea) in aliquo [renuere ?] meam ordinationem, quod si faceret vel attemptaret, in illo casu adymo sibi hereditatem dictam et instituo michi heredem universalem insolidum predictam Hugam Beroardam et suos”: 15 July 1337: ADBDR 391 E 11, f. 59v.

<sup>60</sup> 20 October 1340: ADBDR 391 E 14, ff. 1r-6v.

<sup>61</sup> 17 October 1332: ADBDR 1 H 253, #1289.

<sup>62</sup> “Cum ipse Carolus in mea infirmitate michi noluerit in aliquo providere uno obolo, ita quod nichil amplius petere possit in aliis bonis meis”: 16 August 1332: ADBDR 381 E 69, f. 42r.

<sup>63</sup> “Exheredans ipsum occasione dicte ingritudinis”: 15 May 1343: ADBDR 381 E 394, f. 12v.

struck the city, she and her husband Augier were living with Augier's father, Pierre, also a notary. Father and son were both successful professionals, as the numerous registers preserved in the Massilian archives under their seal bear witness. At any rate, Marcelle made it clear in her testament that Augier and Pierre's relations were less than harmonious: more importantly, she feared that her husband might not maintain his filial duties for very long after her death. Therefore she provided for her father-in-law's lifetime alimony and wardrobe, because, she explained, he was a "good and deserving man"; but then, seized by doubt, she realized that these provisions might not be enough to secure the old man's welfare under her husband's roof and offered Pierre an alternative: an annuity of 10 *livres* which would enable him to take up residence elsewhere in the city, if he so decided. Clearly, notwithstanding family tradition and piety, his son had become, before Pierre's own passing, the real and indisputable head of the household.<sup>64</sup>

If nothing else, testamentary analysis demonstrates one unquestionable truth: the imponderable interplay of negotiations between individual wills and family interests. In this respect some might argue that the stakes were higher for women, given their historical place in society and despite their legal, unrestricted freedom to make testaments in late medieval Marseille. All the same, this is why these documents offer a privileged standpoint to gauge female voices in household formation over time. When analyzed at close range, one can detect in last wills and testaments an evolution toward greater emancipation from wider kin and in favor of the conjugal family. This trend first emerged among the middling groups of society, in so far as ancestral lineages were not as constrictive and as long as children born to maturing couples came to reinforce the emotional ties binding the nuclear unit. But, as early modern historian Erich Maschke once said, such a family was equally "accentuated with feelings".<sup>65</sup> Certainly, this vision also includes the

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<sup>64</sup> "Item lego domino Augerio Aycardi socero meo, tanquam bene merito et condigno quamdiu vixerit victum et vestitum et omnes [necessitates?] suas in et super omnibus bonis meis, in casu vero quo per se vellet stare alibi et non cum meo herede (Petro), lego sibi anno quolibet X libras regalium": 25 September 1352: ADBDR 351 E 2, f. 144r.

<sup>65</sup> Cited by Steven Ozment in *Ancestors. The Loving Family in Old Europe* (Cambridge, MA, 2001), p. 104, where Ozment concludes: "From Ancient Roman marriage practices, to seventeenth-century funeral sermons, to advice literature extending into the twentieth century, historians find abundant features of the

emotions generated by the intergenerational confrontation surrounding individual wills. As evidenced by testamentary practices, the outcome depended largely on the life-cycle movement that determined one's place in family formation. But more than vehicles for individual freedom, testaments, especially those dictated by women, became emotional outlets, increasingly so as the conjugal family grew in importance, both personally and historically.

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'modern sentimental family' existing from antiquity through the Renaissance. German historian Erich Maschke, writing in the 1980s, chose the phrase 'accentuated with feeling' to dismiss Edward Shorter's depiction of the premodern family's alleged emotional and moral vacuity."

### 3 Wills of Spouses in Montpellier before 1350: a Case Study of Gender in Testamentary Practice

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*Kathryn L. Reyerson*

In southern Europe people had recourse to the notary for many different reasons, commercial, financial and personal, one of which was to make a will. They sought to set their affairs in order in sickness or in old age, when death was imminent, or when they went on crusade. Last wills and testaments provide much information on family relationships, philanthropic orientation, and pious donations. Scholars have examined wills for insights regarding the testamentary behavior of different sectors of the medieval population.<sup>1</sup> Articles in this collection feature women and wills with a focus on women's initiative and agency.

Though wills made by women have been a valuable resource for scholars studying women in medieval southern French society, there has been little gender analysis applied to this type of evidence.<sup>2</sup> This article will examine the wills of spouses in Montpellier in the second quarter of the fourteenth century, as one means of addressing the issue of gender. Through the vehicle of a case study my intent is to compare the testamentary decisions and property dispositions of husband and wife. My

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<sup>1</sup> There has been much important scholarship using wills. Building on the work of Michel Vovelle on religious *mentalité*, see Jacques Chiffolleau, *La comptabilité de l'au-delà: les hommes, la mort et la religion dans la région d'Avignon à la fin du Moyen Âge (vers 1320-vers 1480)* (Rome, 1980). Steven A. Epstein took a somewhat different emphasis in *Wills and Wealth in Medieval Genoa, 1150-1250* (Cambridge, MA, 1984).

<sup>2</sup> Francine Michaud used wills to study women and patrimony in *Un signe des temps: accroissement des crises familiales autour du patrimoine à Marseille à la fin du XIIIe siècle* (Toronto, 1994). See also Rebecca Lynn Winer, *Women, Wealth, and Community in Perpignan, c. 1250-1300: Christians, Jews, and Enslaved Muslims in a Medieval Mediterranean Town* (Aldershot/Burlington, VT, 2006).

focus will be on gender distinctions as well as family strategies within the framework of real property and fortune. My contention is that wills provide significant information about the real property holding of women and reveal considerable agency for women, even if other studies are necessary to refine our understanding of economic initiative and the degree of women's agency in regard to real property in the Middle Ages.

Both men and women made wills to dispose of their worldly goods. Some real estate and personal effects were often invoked as bequests or as part of grants to heirs, but there is never any guarantee that all of a testator's property was noted in a will. Wills are not an inventory of property holding or of mobile wealth, though in most cases they provide some information regarding individual and familial fortune.<sup>3</sup> The naming, in particular, of a universal heir, made it unnecessary to list all property, since real and mobile wealth, not included in gifts to fund burial ceremony, masses, charity, pious giving, and bequests, passed to the universal heir. Essentially, the universal heir accepted the responsibilities of the estate.<sup>4</sup>

Many more wills were undoubtedly written than are extant; there are internal references in the existing wills to previous burials and to earlier wills. Moreover, in the case of Montpellier, only a fraction of the notarial archive survives.<sup>5</sup> As a general rule, for most of the people who had contracts drafted by the notary, we have neither wills nor marriage contracts. Thus, the extant wills are particularly valuable sources.

By way of background on the testamentary practices of men and women in Montpellier, it is useful to discuss the evidence. The surviving wills in Montpellier before 1350, preserved in four collections, number one hundred sixty.<sup>6</sup> There were ninety-four wills in the period 1200-1345

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<sup>3</sup> Some estate inventories, separate from testaments, survive in the Middle Ages.

<sup>4</sup> On wills in Montpellier, see Louis de Charrin, *Les testaments dans la région de Montpellier au Moyen Age* (Ambilly, 1961): on heirs, see Chapter 2. I have chosen in this paper, for the purpose of flow, to give the women mentioned last names, either from their father or husband, but it should be noted that they were probably not named in this fashion at the time. Guillelmus Saligani calls his wife Johanna, daughter of Johannes Mercaderii, not Johanna Mercaderii, as I have.

<sup>5</sup> For a discussion of the survival of notarial registers, see the introduction to my French thesis, "Montpellier de 1250 à 1350: centre commercial et financier" (Thèse d'État, Faculté de Droit et des Sciences Économiques de Montpellier, Université de Montpellier I, 1977).

<sup>6</sup> These wills are drawn from the notarial registers before 1350 in the Archives Municipales de Montpellier (AM Montpellier) BB 1-3; the Archives

and sixty-six in the years 1347-48, the latter reflecting the arrival of the Black Death. Women's wills number fifty-four or 33.75% of the extant wills before 1350. Of the women testators, 29 were widows, 20 were wives, four were single, and there was one ambiguous case where the information was not available. The majority of the testators, both men and women, were married or widowed, though there were also single people making wills. Before the crises of the mid-century, widowhood seems to have been relatively well balanced among men and women testators in Montpellier (in or about fifty percent). The years 1347 and 1348 were a time when many Montpelliérains chose to draw up last wills and testaments. Alone, the notarial register of Bernardus Egidii of those years contained forty-eight wills.<sup>7</sup> The plague reached Montpellier in the spring of 1348, probably by March, having been first detected in southern France at Marseille in January 1348.<sup>8</sup> However, changes in testamentary practice are evident earlier and, in particular, as of 1347.<sup>9</sup> The population making

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Départementales de l'Hérault (ADH), II E 95/368-377; the *fonds de la Commune Clôture* and the *Grand Chartrier* of the AM Montpellier. They represent a significant portion, though probably not all, of the wills surviving before the mid-fourteenth century. An additional source would be the Série H of the ADH that was in the process of being inventoried, and thus inaccessible, when I did my research. See also *Archives de la ville de Montpellier*, vol. 12: *Série EE. Fonds de la Commune Clôture et affaires militaires*, Marcel Gouron and Maurice de Dainville, (eds.), (Montpellier, 1974); *Archives de la ville de Montpellier antérieures à 1790. Inventaires et documents*, vol. 1: *Notice sur les anciens inventaires, inventaire du Grand Chartrier*, Joseph Berthélé (ed.), 3 fascicules (Montpellier, 1895-99); and *Archives de la ville de Montpellier*, vol. 13: *Inventaire analytique, Série BB (Notaires et greffiers du consulat 1293-1387)*, Maurice de Dainville, Marcel Gouron, and Liberto Valls (eds.), (Montpellier, 1984). The wills of the *Grand Chartrier* are cited with their ancient inventory number (Louvét). All English translations from the wills are mine.

<sup>7</sup> ADH, II E 95/377, B. Egidii.

<sup>8</sup> Philip Ziegler, *The Black Death* (New York, 1969), pp. 40 seq., for the chronology of the arrival of the plague in Europe.

<sup>9</sup> See my article, "Changes in Testamentary Practice at Montpellier on the Eve of the Black Death", *Church History* 47 (1978), 253-69. I was able to trace a number of changes in 1347 wills, including the request for thousands of masses and the increasing popularity of the Franciscans as targets of burial. Political and economic difficulties came into play from the mid-1340s. Grain purchases suggest local scarcity, and new credit tactics in the sale of agricultural products – futures – reinforce this assumption. King Jaime III of Majorca lost all his lands, with the

wills in this later period is younger, the widows more numerous, though the surviving data are not statistically significant.

There were legal regulations regarding the making of a will. Married women could dispose of their personal possessions in the dotal regime of Montpellier, even when their husbands were alive, but there were some restrictions on a woman's right to write a will. According to the 1204 Customs, married women without children needed the consent of their parents or relatives to make a will, and with children, consent was still necessary in the case of testamentary disposition in favor of the husband of more than one-fourth of the estate.<sup>10</sup> By the fourteenth century there was greater flexibility in testamentary decisions for married women.

With this brief discussion of surviving wills, testamentary behavior, and legal regulations as background, we can turn to the topic of spousal wills in Montpellier. There are three cases in Montpellier where the wills of both spouses survive.<sup>11</sup> Maria and her husband Jacobus

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exception of Montpellier and a few other holdings, in the years 1342-44. These developments could account for changes in the 1347 wills. See pp. 265-67.

<sup>10</sup> Article 54, 1204 Customs, in *Layettes du Trésor des Chartes*, A. Teulet et al. (eds.), (Paris, 1863-1909), vol. 1, p. 260: "Filia maritata non potest condere testamentum vel ultimam voluntatem sine consilio patris sui vel matris sue, vel, eis deficientibus, propinquorum suorum; et si donum fecerit marito, vel alicui occasione mariti, vel testamentum sine consilio patris sui vel matris sue vel propinquorum suorum, nullius esse debet momenti, sit ipsa major natu vel minor. Sed hec de filia intelliguntur que sine libero est; nam si liberum habuit, queat testati et donare pro libitu suo, sine consilio parentum vel propinquorum. Presentibus autem parentibus vel propinquis, vel absentibus, si per eos steterit quominus interesse velint, potest sine distinctione marito largiri et relinquere quicquid voluerit". Jean Hilaire (*Le régime des biens entre époux dans la région de Montpellier du début du XIIIe siècle à la fin du XVIe siècle* (Montpellier, 1957), p. 317, note 2) published a slightly different version of this custom with the added information: "Mater tamen sit vel non sit, quartam partem bonorum suorum potest marito relinquere sine consilio parentum vel propinquorum...." See also his discussion.

<sup>11</sup> There is a fourth set of spousal wills. In 1348 Petrus Matris alias Raynaudi moneyer, and his wife Salvayris, both inhabitants of Sommières, about 15 miles from Montpellier and the site of the French royal mint, both made wills with a Montpellier notary. I have chosen not to include them in my discussion since these spouses were not from Montpellier, nor were they immigrants to the town, nor did they choose burial at a local church. See ADH, II E 95/377, B. Egidii, ff. 307r and 309r.

Johannis, wood merchant, without children, made wills in 1348.<sup>12</sup> In another case, there survive the will of Adalasia de Vallatis, widow of Guillelmus of Maguelone, of 1299, her husband's will of 1287, and her son's of 1297.<sup>13</sup> The third set of wills involves Johanna Mercaderii and her husband Guillelmus Saligani.<sup>14</sup> Both spouses were immigrants to Montpellier and residents of that town. The notary specifically called them inhabitants of Montpellier. Johanna, daughter of the late merchant Johannes Mercaderii, was originally from Mauguio, located a few kilometers to the east of Montpellier, and the seat of the county of Melgueil, an old political unit of Lower Languedoc with an important local mint. Johanna mentioned her paternal house in Mauguio in her will. Her husband, Guillelmus Saligani, jurist (*jurisperitus*), was the son of the late lord Guillelmus Saligani of Saint-Gilles in eastern Languedoc. Given the property mentioned in the wills and the occupations and familial background invoked, both spouses were of privileged status. Johanna had considerable real property in the region of Montpellier and Melgueil/Mauguio; Guillelmus as a *jurisperitus* was a member of the prestigious legal elite. I will use as a case study for this paper the wills of the Mercaderii/Saligani couple because they were made close together in date when both spouses were alive, in a period – 1328 – without the pressures of the 1348 plague. By analyzing the wills of these spouses one can make gender comparisons.

Johanna's will of 10 January 1328 preceded Guillelmus' of 19 January 1328 by only nine days. The wills are of very different lengths: Johanna's running to over 5,000 words, Guillelmus' to under 1,500. The difference in length suggests that Johanna was more precise and detailed in her testamentary choices since she faced complex challenges of

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<sup>12</sup> ADH, II E 95/377, B. Egidii, f. 312r: 18 March 1348 (will of Jacobus Johannis); f. 315v (will of Maria, his wife).

<sup>13</sup> AM Montpellier, *Grand Chartrier*, Louvet 2315, Louvet 2313, and Louvet 2314.

<sup>14</sup> ADH, II E 95/368, J. Holanie, ff. 107r-9v (Johanna Mercaderii's will); ff. 110r-v (Guillelmus Saligani's will). I have included a translation of Johanna's will in my book, *Medieval Notaries and their Acts: the 1327-1328 Register of Jean Holanie*, co-authored with Debra Salata (Kalamazoo, 2004), pp. 65-77. The mention of the paternal house occurs on p. 70 of the published translation. On Montpellier notaries, see also my article, "Notaires et crédit à Montpellier au Moyen Age" in François Menant and Odile Redon (eds.), *Notaires et crédit dans l'occident méditerranéen médiéval* (Rome, 2004), pp. 241-61.

succession. Guillelmus as a legal professional was more succinct overall. Both spouses stated that they wrote their wills in sound mind and body, but the opening wording of the wills is quite different, though they were written by the same notary, Johannes Holanie. After the protocol of the will, with its date and the political authority under which it was made, Johanna began her preamble in a very matter of fact manner: “let it be know to all that I, Johanna, ... being of sound mind and body, wanting in my good and sane recollection to dispose of and set in order my goods to provide for the welfare of my soul and [that] of my parents lest later after my death some dispute, question, or controversy may arise”.<sup>15</sup> These last words will be telling as the will unfolds. With regard to her son, his relations with her husband, and with her paternal kin, Johanna would take measures to avoid potential problems. Completing her preamble, Johanna goes on to say, “First of all, I commend my soul to our Lord Jesus Christ and to his mother, the blessed Virgin, and to the Heavenly Court above”.<sup>16</sup> Though formulaic, as was characteristic of medieval wills, Johanna chose direct language, with little embellishment.

Her husband Guillelmus, in spite of his economy of words, was more inwardly oriented, though also formulaic, as he began his will; he was more technical, as well, clearly identifying the type of will he was dictating: “I, Guillelmus...healthy, through God’s grace, in mind and in body, I make and order my *testamentum nuncupatum* as follows below. In the beginning I commend my soul to our Lord Jesus Christ and to the blessed Mary his mother for and in the power of whom I have great hope that, with the son interceding for me with his creator, it [Guillelmus’ soul] is deemed worthy of the whole court of the highest...”<sup>17</sup> The agency of

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<sup>15</sup> ADH, II E 95/368, J. Holanie, f. 107r: “Noverint universi quod Ego Johanna, filia quondam domini Johannis Mercaderii, habitatrix Montispessulain, uxorque magistri Guillelmi Saligani, jurisperiti, habitatoris Montispessulani, sana per dei gratiam corpore ac mente, volens in mea bona et sana memoria de rebus meis disponere et ordinare ut salutem anime mee et parentum meorum providentur et ne in posterum post mortem meam de ipsis inter successores meos infrascriptos seu aliquos alios quoscumque aliqua discentio, questio seu controversia olim oriri possit.”

<sup>16</sup> *Ibid.*: “In primis commendo animam meam domino nostro Jhesu Christo et beate Marie virgini matri eius ac toti curie.”

<sup>17</sup> ADH, II E 95/368, J. Holanie, f. 110r: “Ego Guillelmus Saligani, filius quondam domini Guillelmi Saligani de Sancto Egidio, habitator Montispessulani, sano per dei gratiam mento et corpore, facio et ordino testamentum meum nuncupatum ut infra sequitur. In primis comendo animam meam domino nostro Jhesu Christo et

each individual spouse would appear to be at work in the wills. Johanna was anxious to avoid conflict among her heirs and was outwardly oriented, providing for her parents' afterlife as well as her own. Guillelmus was concerned for his soul and for the legal basis of his will. Admittedly, the notary is recording the testators' wishes and might make suggestions or potentially insert formulae in the wills, but the language is sufficiently different between wife and husband to argue for their individual desires and expressions coming through the notarial jargon.

Johanna used terms of endearment in her will for her nephew, the Dominican friar Johannes Mercaderii: "my beloved nephew", and for her husband Guillelmus: "my beloved husband", but for her son, she states "to Johannes, my son".<sup>18</sup> Guillelmus speaks of Mercaderii as "my dearest nephew", though the friar was a nephew by marriage.<sup>19</sup> He mentions a friend, Celestinus Seguerii, as "my dearest friend", but for his two dead sisters, his brother a *jurisperitus*, still living, and for a niece and nephew, he has no such terms of endearment. Indeed, in regard to family, both Johanna vis-à-vis her son and a series of male cousins, and Guillelmus in regard to his siblings and their offspring, felt considerable suspicion and mistrust.

Johanna wanted a sepulcher or funeral bed made for her and for her husband and for those members of her family who chose to be buried in the same place. She specifically selected the cloister of the church of the Friars Preachers in front of the chapter house for the construction of this tomb. Guillelmus requested burial in the tomb in which his wife was buried.<sup>20</sup> Both spouses left bequests to Johanna's nephew, Johannes Mercaderii. As he was a member of the Dominican order, he is the probable reason for their choice of the Dominican house as a burial site.

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beate Marie matri eius, circa et penes quam maximam habeo spem ut penes filium suum creatorem nostrum pro me intercedere dignetur ac toti curie superiorum." This was the traditional Roman law will (*testamentum per nuncupationem*) that originally required seven witnesses, but the Montpellier statutes of 1204 required only three. See Charrin, *Les testaments*, pp. 42-45. See also Adolf Berger, *Encyclopedic Dictionary of Roman Law* (Philadelphia, 1953), p. 734.

<sup>18</sup> For her nephew, "*dilecto nepoti meo*" (f. 108r); her husband, "*dilectum virum meum Magistrum Guillelmum Saligani*" (f. 109v); for her son, "*Johanni, filio meo*" (f. 108r).

<sup>19</sup> For his nephew by marriage, "*nepotem meum karissimum*" (f. 110v); for his friend, "*amici mei karissimi*" (f. 110v).

<sup>20</sup> ADH, II E 95/368, J. Holanie, ff. 107r-9v (Johanna's will), and f. 110r (Guillelmus' will).

These choices can be contrasted and compared with the other surviving wills of spouses. In the case of Jacobus Johannis, wood merchant of Montpellier (*fusterius*), in his will of 18 March 1348 he chose to be buried in the tomb of his father in the church of Saint-Denis of Montpellier. His wife Maria in her will of 20 March 1348 chose the tomb of her father in the cemetery of the Friars Preachers. Each spouse reached back to his/her family of origin. The Vallatis family chose burial at the cathedral of Maguelone, perhaps because of earlier family burials there, as Adalasia specified, and as a result of Guillelmus' origin. Guillelmus de Vallatis of Maguelone (1287) requested burial in the cemetery of the cathedral, his son Petrus (1297) also in the cemetery of the cathedral, and his wife Adalasia in the cemetery of the cathedral where she specified her sons were buried (1299).<sup>21</sup>

In the broader context of Montpellier wills the immigrant Johanna did not follow the trend for immigrant men and women requesting burial in their family tomb in the place of origin. In eighty percent of requests that came from immigrants to Montpellier, they wished to be interred in their hometown, in the tomb of their parents. Immigrants retained a connection with their place of origin that came into play at the end of life, perhaps because of family that stayed behind.

More generally, in the wills of Montpellier inhabitants, when there were requests for burial with another person, family members were most often mentioned.<sup>22</sup> In the period 1200-1348, there were 44 wills selecting the cemetery of the cathedral of Maguelone for burial, 15 in 1200-92, 24 in 1293-1345, three in 1347 and two in 1348. Twelve of these wills mentioned the desire for burial in a family tomb: two from mothers in 1279 and 1299 to be buried with their children, including Adalacia de Vallatis. Further examples include one for the tomb of an uncle, three for the tomb of a mother, two for that of a father, one for that of a father and brother, one for that of a mother and husband, one for that of a paternal grandfather and one for that of parents. Family tradition was strong in burial choice at another local church, Saint-Barthélemy. One finds

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<sup>21</sup> See AM Montpellier, *Grand Chartrier*, Louvet 2314: Petrus speaks of being gravely ill ("*corporali egritudine graviter*").

<sup>22</sup> Those individuals making wills in the Middle Ages and in Montpellier were people with some property. Family burials suggest a family tomb that would inevitably have been costly. Surviving wills do not capture the religious orientation or wishes of the poor, most of whom would have been buried in a communal grave.

examples of requests for burial with deceased children. On 13 June 1347, Maria, wife of Franciscus de Grabelis, wood merchant, wished to be buried with her children who had preceded her in death, at Saint-Barthélemy.<sup>23</sup> The close tie of parents and children is demonstrated here.

The preference overall, on the part of Montpellier natives and immigrant inhabitants, for burial with family, especially parents, suggests that, for both women and men, there remained considerable solidarity with the family of origin. At the time of death it was here that ties led, not to the home founded by the couple, in other words, not to the nuclear family, the conjugal union. Men and women were thus perhaps not entirely integrated into their conjugal families but chose to retain closer ties to their natal families. Was this because of the practice of arranged marriages or the absence of love in most marriages? We could speculate. For Johanna and Guillelmus, however, the couple was key.

To put the Mercaderii/Saligani couple's burial requests in context, it is useful to survey requests for burial with the friars in the surviving wills. There were recorded sixteen cases of burial requests at the Dominicans or Friars Preachers, nine in wills before 1347, one in 1347, and six in 1348. The Franciscans surpassed the Dominicans in popularity as the fourteenth century wore on.<sup>24</sup> Franciscans could claim 27 burial requests overall, seven before 1346, 13 in 1347, and seven in 1348. Thirteen of 16 testators choosing the Dominicans were men, making this a masculine and not a feminine choice, though two of the women studied here (Maria, wife of Jacobus Johannis, and Johanna Mercaderii) made this burial selection.<sup>25</sup> The Dominicans attracted testators of the financial, mercantile, and legal classes of the town, the categories including the Mercaderii/Saligani couple.<sup>26</sup> Family tradition for burial at the Dominicans was strong, with 12 instances of request for burial in the tomb of a relative, including that of Guillelmus Saligani who stated his wish to

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<sup>23</sup> ADH, II E 95/377, B. Egidii, f. 82r.

<sup>24</sup> See Reyerson, "Changes in Testamentary Practice at Montpellier", 258, Table 2, for a breakdown of the data referred to here.

<sup>25</sup> *Ibid.*, 264. In contrast, the Franciscans counted 17 requests from men and 10 from women. By way of comparison in the south of France, see Chiffolleau, *La comptabilité de l'au-delà*, pp. 262-63, for discussion of the popularity of the Mendicants as burial choices in Avignon for men and women.

<sup>26</sup> Reyerson, "Changes in Testamentary Practice at Montpellier", 264. Peasants and artisans were clients of the Franciscans, though nine requests came from persons of mercantile background.

be buried with his wife Johanna in the Dominican cloister.<sup>27</sup> Burials might further indicate special chapels such as those of Saint Peter the Martyr, Mary Magdalene, and Saint Peter and Saint Paul, in the cloister (Johanna Mercaderii), or in the cemetery of the Dominican house (Maria de Vallatis). Johanna Mercaderii chose the Preachers' cloister if she was to die in Montpellier. She made no arrangements in the case of death claiming her elsewhere. When a woman requested burial at the Dominicans, it may have been that she had some special tie, as in Johanna Mercaderii's case where her nephew was a Dominican, or in Maria Johannis' case where her father was buried there.

For her funeral and for her soul and those of her parents, Johanna Mercaderii set aside 100 *livres tournois*, a large sum. Of these funds, the largest bequest was to the convent of the Friars Preachers – nine *livres* – in order that they celebrate masses for her soul and those of her parents. Her husband was to pay 30 *sous* from these funds for each obituary mass. Johanna detailed further gifts to be made from these funds. In addition to the Dominicans, she remembered the other Mendicant orders, the Franciscans, Augustinians, and Carmelites, in her philanthropy as well as other religious institutions.<sup>28</sup> Johanna left 40 *sous* to the Franciscan convent for the celebration of masses, as well as 20 *sous* to the Carmelites and the Augustinians. She remembered the Franciscan nuns of Prouilhan and the convent of Sisters Minor of Montpellier with a gift of 10 *sous* each. Johanna detailed many pious bequests to religious establishments in Montpellier and Melgueil, for funeral masses, for illumination, for the charity of the confraternity of Saint Katherine of Melgueil. She mentioned the ladies of purgatory in Montpellier and the ladies who collected food for the hospital poor and shirts for the orphans, important female

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<sup>27</sup> Nine testators choosing the Franciscans for their burial choice indicated family tradition, with five cases specifying chapels such as that of Mary Magdalene or Saint Katherine or the cloister of the Franciscan house. For example, on 31 March 1348 Raymunda, wife of Johannes de Ferreriis, mercer, requested burial with her husband at the Franciscans. See ADH, II E 95/377, B. Egidii, f. 318r.

<sup>28</sup> For the broader pattern of philanthropy on the basis of the Montpellier wills, see Reyerson, "Changes in Testamentary Practice", 260, Table 5. The Franciscans were increasingly popular beneficiaries of pious donations in Montpellier in the middle decades of the fourteenth century.

philanthropic institutions in Montpellier.<sup>29</sup> She further singled out the redemption of captives.<sup>30</sup> To Friar Petrus Nicholai, a Friar Preacher, designated as partner (*socius*) of her nephew, the Dominican Johannes Mercaderii, she made a special bequest of 10 *sous*. She made the same bequest to two Augustinians and to a Franciscan, the money to come from a debt of the latter's brother to Johanna. She left linen to be used for shirts for the begging poor of Melgueil.

Interesting in light of his protocol formula, Guillelmus Saligani set aside only 30 *livres tournois* for the salvation of his soul and those of his parents, much less than his wife had designated in her will. Guillelmus left his nephew by marriage, Johannes Mercaderii, the Dominican Preacher, 40 *sous*. He also left 10 *sous* each to the Franciscans, Carmelites, and Augustinians. As did Johanna, Guillelmus left monies to the ladies who collected alms in Montpellier for the souls in Purgatory (10 *sous* each), and for the feeding of the poor lying in Montpellier hospitals. He designated 12 *sous* for the making of shirts for orphans of the orphans' hospital in Montpellier and asked that his heir have the said shirts made. Overall, Guillelmus' list of religious/philanthropic beneficiaries was considerably shorter than that of his wife Johanna.

Similarities as well as differences appear in a comparison of other elements of Johanna's will with that of her husband, Guillelmus Saligani. He instituted his wife Johanna as universal heir, as she had instituted him. Guillelmus stated: "I institute as my universal heir Johanna, daughter of the late Johannes Mercaderii, my wife, whom I name orally".<sup>31</sup> Johanna also had a substitution of heir in favor of her son Johannes for certain properties after the death of her husband. The witnesses to both spouses' wills were the same: the nephew of Johanna, Friar Johannes Mercaderii, another Friar Preacher Petrus Nicholai, royal notaries Egidius Johannis, Phillipus Ganterii, Jacobus Perayroni, and Matheus Pargamenerii, Ferrandus Escalardi, furrier of Montpellier, and the royal public notary, Johannes Holanie, who wrote both wills. Johanna named her husband and

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<sup>29</sup> Alexandre Germain, "La charité publique et hospitalière à Montpellier au Moyen Age", *Mémoires de la société archéologique de Montpellier* 4 (1856), 483-547.

<sup>30</sup> On the redemption of captives, see James William Brodman, "Community, Identity and the Redemption of Captives: Comparative Perspectives across the Mediterranean", *Anuario de Estudios Medievales* 36 (2006), 241-52.

<sup>31</sup> "Instituo mihi heredem meum universalem Johannam fiam Johannis Mercaderii quodam uxorem meam quam ore proprio nomino" (f. 110v).

nephew as executors.<sup>32</sup> Guillelmus designated his friend Celestinus Seguerii and his nephew by marriage, the Friar Johannes Mercaderii, to be in charge of some charitable distributions with the remainder distributed at the wish of Seguerii and Guillelmus's wife Johanna. Guillelmus did not invoke executors per se, though as a *jurisperitus* he would have been familiar with the institution. Both spouses chose to rely on each other and on the one nephew rather than on siblings, other family, or even Johanna's son, though Guillelmus, by naming Johanna his universal heir, set up the possibility of the son's succeeding his mother.

In the other spouses' wills, dispositions tended to be made along the lines of gender. In 1299 Adalacia de Vallatis instituted her daughters Johanna and Jacoba as universal heirs in equal parts, though one of her sons Guillelmus still survived, and she made the daughters executors (*gadiatores et exesequutores*) as well. She clearly favored her female descendants. Her husband Guillelmus de Vallatis had named his son Pontius as universal heir in 1287 and Pontius and a nephew as executors (*gadiatores*). Guillelmus left bequests to his other sons Petrus and Guillelmus and willed to his wife Adalacia the goods of his late brother to do with as she pleased. Their son Petrus de Vallatis named his mother heir in his will of 1297. In the Johannis' wills of 1348 Jacobus named his wife Maria as universal heir. He gave his wife usufruct for her lifetime of various goods willed in bequests without inventory or need for guarantee. In a gendered choice Maria's universal heir was her niece Johanna, daughter of her sister, with the substitution in the event of the heir's demise of other children of the same couple in equal parts. Maria gave Jacobus her husband 50 *livres tournois* and a vineyard to be used for revenues for a chantry. Both spouses chose men as executors. Jacobus named colleagues, a mercer and a merchant, as executors, Maria a shoemaker and a *marquerius* (a stamper). The Johannis were of middling artisan status as he was a wood merchant. Maria's choices of executors, perhaps neighbors or relatives, were more modest on the social scale than those of her husband who may have had a broader circle of acquaintances, due to his occupation. As in the case of the Mercaderii/Saligani couple, testamentary strategies differed between spouses.

In the Mercaderii and Saligani wills extended family members were included in benefactions. In addition to her son, Johanna mentioned her nephew and cousins in her will. Guillelmus Saligani remembered

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<sup>32</sup> Reyerson and Salata, *Medieval Notaries and their Acts*, p. 75.

several relatives in his bequests. To his niece, Guillelmeta, he bequeathed all rights he had in the goods of his sister Bremunda and her husband, Guillelmeta's late parents. To his nephew Perrotus he left 50 *livres* from 100 *livres* owed by a man at Saint-Gilles. The remaining 50 *livres* he bequeathed to his brother, Johannes Saligani, also a *jurisperitus*, with certain conditions. To the said Perrotus, the son of his late sister Mathea, he left his law books, an *Old Digest*, *New Digest*, *Code*, and *Decretales* among them, all with *apparatus ordinarius*. He wanted his brother and nephew to pay any outstanding debts. If his nephew wanted to sell the books, Guillelmus asked that his dear friend, the *jurisperitus* Celestinus Seguerii, sell the books. Then Celestinus was to place his nephew, along with the price obtained from the sale of the books, with Guillelmus de Piniaco, apothecary, who would train Perrotus in his occupation for a certain time, according to Celestinus' orders. If Perrotus did not want to train for that particular trade, then Celestinus was to place him with the money in another trade. Perrotus was not to receive the money unless he had completed his 28th year. If Celestinus determined that Perrotus was a ne'er-do-well, Perrotus could only have half the money from the books and the other half was to be given in masses to be celebrated for the indigent poor and for the feeding of the sick poor in hospitals, according to the directions of Celestinus Seguerii and Friar Johannes Mercaderii. Mercaderii was to seek good guarantors (*fideiussores*) for the spending of these funds at their intrinsic value. Guillelmus bound Celestinus under the strength of the seal of the king (the French court of the *Petit Scel*).<sup>33</sup> For the remainder of the 30 *livres* of pious donations, it was Celestinus and Saligani's wife Johanna who were in charge.

Both spouses had made earlier wills that they made nul and void in the present wills. Johanna had had her earlier will drawn up by a notary of Melgueil. In Guillelmus' case, he gave no details. In both cases the notary specified that the testaments were to be validated by the law of wills, and if not that, by the law of codicils. Both spouses had family concerns, Guillelmus with his nephew's future and overall reliability and Johanna with the possible actions of her son and those of her cousins. It is telling that Johanna named her husband and not her son as her heir. Johannes was likely her son by an earlier marriage, given the

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<sup>33</sup> On the Petit Scel, see André Gouron and Jean Hilaire, "Les 'sceaux' rigoureux du Midi de la France", *Recueil de mémoires et travaux publié par la société d'histoire du droit et des institutions des anciens pays de droit écrit*, fasc. 4 (1958), 41-77.

predispositions above and the failure of Guillelmus Saligani to mention this son. Johanna's desire to institute her husband as universal heir may have been the pretext for her will, as her son may have been a cause of disharmony in her family.

In her will Johanna left five real properties, urban and rural, including vineyards, to her son. Three were to come to him at her death, one after the death of her heir, that is her husband, and one, the first mentioned, was to be given to her husband and heir for his lifetime as a dotal holding – her terminology. She bound her son not to dispute the assignment of her husband as her heir: in regard to the real property she makes clear “which land I want the said Johannes, my son, to have after my death, if and when he accomplishes with effect each and every condition written below, and when he does and completes all the things below to be ordered by me, and otherwise not.”<sup>34</sup> She went on later to state: “Likewise, I wish and order that if my said son makes some issue or controversy in justice or outside by word or by deed against my heir below by reason of the aforesaid inheritance or by whatever other means by these events, in that case all the aforesaid goods above, left by me to him by law of institution [of heirs], I take away and remove and I wish him to be held for no legacies. And in this event I wish him to be content with 30 *livres* of current money which I leave him according to the present law of institution.”<sup>35</sup> Were the worst case scenario to materialize, she ordered her lands, after the death of her heir, to be sold at auction, with the proceeds going to pious gifts. She held her son to certain conditions, requiring that he take no legal action or contest her will. Given the provisions Johanna made, she was clearly disappointed in her son and mistrustful of what he would do, perhaps in regard to her husband, perhaps in regard to her very

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<sup>34</sup> ADH, II E 95/368, J. Holanie, f. 108r: “quam terram dictum Johannem filium meum habere volo post mortem meam si et cum parverit cum effectum omnibus et signulis conditionibus infrascriptis et cum fecerit et complenerit omnia infrascripta perme ordinanda et aliud non.” See also Reyerson and Salata, *Medieval Notaries and their Acts*, p. 70.

<sup>35</sup> ADH, II E 95/368, J. Holanie, f. 108v: “Item volo et jubeo quod si dictus filius meus aliquam questionem facerit seu moverit vel contraversiam in judicio vel extra, verbo vel facto contra heredem meum infrascriptum ratione hereditatis predictae vel aliud quoquomodo hiis casibus seu eo casu omnia predicta bona supra per me eidem jure institutionis relicta dicto filio meo adhymo et substraho et pro non legatis haberi volo. Et in eo casu cume triginta libras monete currentis quas dei presenti jure institutionis sibi lego ipsum fore contentum volo.” See also Reyerson and Salata, *Medieval Notaries and their Acts*, p. 72.

generous pious donations. At the very least, Johanna wanted to avoid future trouble between her husband and her son. She made this desire clear from the outset in the protocol of her will.

Johanna was also wary of her male kin; she mentions as male cousins a priest, Bernardus Bone, Guillelmus and Jacobus Bone, Francisco Giffre, and Pontius Nigri, and Gaudiosa as a female cousin. To these family members she leaves legacies of between 50 and 100 *sous*, not inconsequential gifts, but she is explicit that they are to claim nothing of her paternal inheritance: “And I do not wish that, from this time forth, they be able to lay claim to anything in my goods or in the inheritance from my late lord father.”<sup>36</sup> Johanna was the beneficiary of a paternal inheritance, clearly. One can note generational suspicion – what the younger generation will do – in both Guillelmus’ and Johanna’s provisions, and in Johanna’s case a broader unease with what claims her son and her male kin might make. Guillelmus was concerned about his nephew Perrotus’ future, but he did not perceive the same level of threat from his relatives. Guillelmus as a man of the legal elite faced no impediments to his last wishes.

Johanna had considerable real estate, much of it in the town of Mauguio (Melgueil) and its surroundings, undoubtedly the paternal inheritance. She listed these properties in her will as the town continued to represent the center of her interests. Guillelmus mentioned no specific real property and no assets outside his law books and liquid money used in bequests. He mentioned only Montpellier beneficiaries of his philanthropy. Since Guillelmus’ will gave few details, the significance of his fortune is unknown, but, as noted at the outset, wills do not inventory all property when there is a universal heir. Moreover, Guillelmus may have felt it unnecessary to enumerate real property because there were no challenges to its disposition. In contrast, Johanna’s networks and allegiances remained very much with her hometown of Mauguio. It would seem that her paternal inheritance required more attention than Guillelmus’ property.

Johanna was herself a remarkable exponent of lay charity. She remembered churches and clergy of Mauguio in her pious bequests as well as friars and churches in Montpellier. She favored many individuals, lay

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<sup>36</sup> ADH, II E 95/368, J. Holanie, f. 107r: “Et nolo quod ab inde in antea in bonis meis nec in hereditate dicti domini patris mei quodam aliquid petere possint ymo.” See also Reyerson and Salata, *Medieval Notaries and their Acts*, pp. 68-69.

and ecclesiastic, with bequests.<sup>37</sup> She arranged for measures to assure her spiritual wellbeing and, having disposed of her property with much forethought, may have faced death with assurance. Johanna's care in her bequests and dispositions reflect the importance that people in the medieval era attached to their salvation. The testatrix Johanna was a woman of property who exercised considerable agency in her last wishes.

There has been recent work on women and property to which this study contributes. In a new book Kate Staples focused on daughters and real property, drawing on the Hustings wills of London for a statistical study that has demonstrated the common occurrence of women as heirs to real property.<sup>38</sup> Heirs are important, but so are testators. Rebecca Winer in her study of women in Perpignan provides a cautionary tale about women as testators. Their frequency, she argued, "has more to do with their residual rights as daughters and importance as *transmitters* of wealth as mothers when wives or widows, in a society whose legal foundation was shifting, than it does their enjoyment of economic privileges in and of themselves."<sup>39</sup>

On one level, we are all vessels of transmission – we all want to leave our children or younger relatives or friends something, and medieval women, and men, for that matter, were no different. If Winer's assessment is correct, there would have to be some constraints on what a woman could do with her property in a last will and testament. Such constraints are few in the wills I have examined where women, in fact, seem empowered. They used the law and testamentary practice to their advantage to secure the transmission of their property as they wished. By the same token, they do not appear to be victims of undue influence in their wills, nor under duress. Husbands and wives appear to operate with considerable agency, but there were some constraints for all individuals, male and female, and these varied according to social station and wealth.

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<sup>37</sup> Such a wide distribution of bequests is characteristic of medieval wills in Montpellier, but also elsewhere. See, for example, Martha C. Howell, "Fixing Movables: Gifts by Testament in Late Medieval Douai", *Past and Present* 150 (1996), 3-45. In contrast to Douai and to Avignon, as studied by Joëlle Rollo-Koster in this volume, in Montpellier objects of personal property are rarely mentioned in wills before 1350. The Saligani law books would represent an exception.

<sup>38</sup> Kate Kelsey Staples, *Daughters of London. Inheriting Opportunity in the Late Middle Ages* (Leiden, 2011).

<sup>39</sup> Winer, *Women, Wealth, and Community*, p. 21.

Gender can be explored in many ways with collective analysis and through case studies. Comparing spouses' testamentary decisions is one approach. The testamentary decisions of the Mercaderii/Saligani couple in their nearly simultaneous wills reinforce the strength of their marital bond and their mutual trust in one another. Johanna and Guillelmus show more loyalty to each other than to members of their families of origin, and in Johanna's case, even to her son. Guillelmus Saligani as a *jurisperitus* adopted a tone of authority in his will and, though cautious in regard to his nephew whose character seemed to give Guillelmus some doubts about the nephew's future, did not express fears of menace from his family members. Johanna Mercaderii, on the other hand, was distinctly authoritative yet clearly threatened. She enumerated lists of precautions and consequences if the terms of her will were challenged. Was this because she was a woman and thus felt less secure facing her son and her male cousins in issues of property? While it is not possible to generalize from such a small set of spousal wills, and it is necessary to recognize the uniqueness of each spousal situation, the differences and the convergences in testamentary practice in this case study should encourage further research on medieval wills for additional insights on the issue of gender.

## 4      **Scripts for Funeral Theater: Burgundian Testaments and the Performance of Social Identities**

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*Kathleen Ashley*

For affluent elites of late medieval and early modern Burgundy, the testament was a lengthy, precisely-detailed document that could go far beyond legal requirements for the distribution of inheritance and can therefore give historians valuable insight into social history, religion, demographics and the law.<sup>1</sup> From the perspective of cultural theory as well, wills must be regarded as richly symbolic texts. Elisabeth Salter places testamentary texts into a “broader set of written discourses, which intricately express perceptions of memory and commemoration.”<sup>2</sup> For Salter, “testaments are a site in which individuals consider and record their wishes for spiritual and material commemoration as they contemplate their death.” She therefore sees their production as part of the “culturally creative process of death-fashioning.”<sup>3</sup>

Drawing on the language of performance that has permeated theorizing about social rituals of the later Middle Ages and the early

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<sup>1</sup> Michael Sheehan, “English Wills and the Records of the Ecclesiastical and Civil Jurisdictions”, *Journal of Medieval History* 14 (1988), 3. See also Michael L. Zell, “Fifteenth- and Sixteenth-Century Wills as Historical Sources”, *Archives XIV* (1979), 67-74. Sheehan, “English Wills”, 4, however, goes on to caution historians that care must be taken in drawing conclusions from a will, since it is “always necessary to distinguish between the intention of a testator and what is actually done with his estate.” In many cases, the scholar can discover how the will was executed, since Burgundian documents have a marginal space for recording the outcome of each specific provision, and other extant documents – for example legal challenges or subsequent family contacts – may allow one to track the history of a given will.

<sup>2</sup> Elisabeth Salter, *Cultural Creativity in the Early English Renaissance: Popular Culture in Town and Country* (Basingstoke/New York, 2006), p. 111.

<sup>3</sup> *Ibid.*

modern periods, I will use the term “funeral theater” to describe the detailed plans for end-of-life commemoration in elite wills of the sixteenth and early seventeenth centuries. Such funeral performances have been associated primarily with the political agendas of aristocrats. Elizabeth Goldring gives the example of Sir Philip Sidney, whose 1587 funeral procession was organized to support his international Protestant political image. For the author, “Both the funeral and the official account of it seem to have been designed not only to cement Sidney’s legacy as a quasi-royal, Protestant martyr, but also to bolster the religio-polemical agenda of the militant Protestant wing at Elizabeth’s court. Performance was political at Sidney’s funeral, and the politics were performative.”<sup>4</sup>

The political theater of male aristocrats like Sidney was aimed at both a national and an international audience. Sidney’s procession featured thirty-two poor men, representing his age at death, followed by “officers of his foote in the Low Countrey’s”; “gentlemen and yeomen servants”; “esquiers of his kindred and friends”; “knights of his kindred and frends”; “ffive Harrolds” together with “Gentlemen Usher to the Corps”; the younger brother to the deceased and chief mourner; “Earles and Barons of his kindred and frends”; representatives of the States of Holland, etc.<sup>5</sup> The procession symbolically iterated Sidney’s military and political importance to the Low Countries and thus to England – a very different social role than the purely local one typically available to non-nobles in an urban setting. Writing about *The Dead and the Living in Paris and London, 1500-1670*, Vanessa Harding has also described the place of performative funeral ceremonies in constructing civic identities, both individual and collective.<sup>6</sup>

Although women’s identities are rarely seen as creating that “collective urban consciousness”, I will argue that there are affluent women of the sixteenth and early seventeenth centuries whose wills express a strong social identity apart from their expected family roles of wife or mother. These women are clearly exceptional, both in their financial resources and in their self-definition; however their wills expand

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<sup>4</sup> Elizabeth Goldring, “The Funeral of Sir Philip Sidney and the Politics of Elizabethan Festival” in J. R. Mulryne and Elizabeth Goldring (eds.), *Court Festivals of the European Renaissance: Art, Politics and Performance* (Aldershot/Burlington, VT, 2002), p. 200.

<sup>5</sup> Goldring, “Funeral of Sir Philip Sidney”, p. 202.

<sup>6</sup> Vanessa Harding, *The Dead and the Living in Paris and London, 1500-1670* (Cambridge, 2002), espec. p. 234.

our understanding of the possibilities for female agency in urban settings. This agency is especially visible in end-of-life directions spelled out in wills. Almost all Burgundian testators specify where they want to be buried, but beyond that the wills vary greatly in their instructions for bequests and rituals marking death. I suggest that where the female testator leaves detailed instructions for those rituals in her larger community she is creating a public persona. In the most striking cases, the funeral rituals are theatrical events that are carefully scripted by testaments as future productions. “Funeral theater” is the most distinctive marker for and means by which a number of exceptional women dramatized their social identities on the urban stage, even after death.

### *The Will as Formulaic and Personal Document*

As an important document for members of the elite classes, the will followed strict formulae to ensure its legality. Burgundy used a customary law, unlike regions in the south of France that were more influenced by their Roman legal heritage.<sup>7</sup> In sixteenth-century Burgundy, one might write one’s own will and sign it; such “holograph” wills are relatively rare, usually written by the most highly educated people. A second, more common type of will was the “solemn” or “authentic” testament, which was publicly dictated to a notary or a close friend and witnessed by two or three other people. A third type, the *nuncupatif*, required dictation to a notary and seven witnesses; it had filtered into Burgundy from the south.<sup>8</sup> All three kinds of wills are represented in the dozens I have collected in the Burgundian archives for my study of the urban bourgeoisie. Although

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<sup>7</sup> On customary law in general, see Emmanuel Le Roy Ladurie, “A System of Customary Law: Family Structures and Inheritance Customs in Sixteenth-Century France” in Robert Forster and Orest Ranum (eds.), *Family and Society: Selections from the Annales, Economies, Sociétés, Civilisations* (Baltimore, 1976), pp. 75-103.

<sup>8</sup> For a basic introduction to the various types of wills in different regions, see Jean Bart, *Histoire du droit privé de la chute de l’Empire Romain au XIXe siècle* (Paris, 1998), pp. 368-69. On the Burgundian types, especially the importation of the “nuncupatif”, see Georges Chevrier, “L’évolution des formes du testament bourguignon du XIIIe à la fin du XVIe siècle”, *Mémoires de la société pour l’histoire du droit* 17 (1955), 118-38. See other articles in this collection for treatment of the *nuncupatif*, otherwise called *testamentum nuncupatum*.

by no means a scientific sample, these wills suggest that testators with considerable wealth or higher status preferred the *nuncupatif* form with the notary and seven witnesses.

A will employed an opening formula specifying the circumstances of its production, from which we learn that most are drawn up during a period of illness; the formula is that the testator is *malade* in body but of sound mind, able to make decisions with a free will. The very long list of other information – both mandatory and optional – contained in the majority of wills includes the name, titles, and residence of the testator; the time, date, and place of writing; the desired place of burial, and details about funeral arrangements and subsequent memorial rituals; pious bequests to churches, convents, hospitals, confraternities; personal bequests to friends and family; instructions for the care of minor children; and designation of legal inheritors.

In the process of recording this factual, quantitative material, testators often give qualitative information about their personal affective relationships or their beliefs, so I would argue that wills may be read as autobiographical statements of the testator's values, commitments, and implicit ideology.<sup>9</sup> Given the historical restraints on women's public roles and therefore the difficulty of accessing the lives of women, female testators' wills are especially important as deliberate representations of identity.<sup>10</sup> Despite the fundamentally formulaic nature of this legal document, a will also represents the individual testator's values and priorities.

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<sup>9</sup> I make this argument in an unpublished paper, "How Wills Write Lives: Burgundian Testators as Autobiographers (1450-1650)", given at Ohio State University as part of a lecture series on "Medieval Lives". The field of Autobiography Studies, now over 30 years old, has broadened the definition of "autobiography" from classic literary texts to a diversity of types of "life writing", including wills.

<sup>10</sup> Gail Gibson, *The Theater of Devotion* (Chicago, 1989), pp. 71-72, emphasizes this point, stating that a woman's wills recorded "sometimes for the very first time, her own self-identity, her sense of priorities, her convictions, and affirmations of her significant personal, family, and institutional relationships."

## *The Private Testament*

Before discussing the exceptional women we should reiterate that the vast majority of female testators from this period defined themselves – or were defined – chiefly by their role as family member, a role that dictates the basic contents of their wills. A married woman whose husband was alive was expected to make her will in the presence of her husband and with his authorization, which has led some scholars to suggest that what we are hearing even in a female-authored document is the husband’s controlling voice.<sup>11</sup> My own view is that while gender *is* a constraint on the construction of self-identity it does not inhibit individual differences from being expressed in the testament. Even wills of married women varied widely in their inclusions beyond the expected assignment of goods (*biens*) to the husband and division of the inheritance to children, and in those emphases we can see them as distinct individuals. Typically, however, where the testator had both a husband and children we can expect the primary focus to fall on her family roles.

The 1605 document left by Marie Brenot, for example, was clearly produced *in extremis*, as she was gravely ill and wanted unequivocally to assign her goods as well as the authority to raise their six minor children to her husband Charles Villedieu.<sup>12</sup> The two pages are unusually specific in identifying him as recipient of her “*biens meubles, utansilz, argent monnoie ou non monnoie, debtz, obligations, arreraiges, constitutions de rente, bled, vin, bestail*” as well as naming the parental duties her husband would now assume alone: financial support and instruction in the fear of God and in whatever vocation was appropriate for Jehan, Pierrette, François, Philibert, Judic, and Claude. He would control funds for paying her debts, her funeral costs, her pious *legs*, and make sure each child had a marriage portion of three hundred *livres tournois* when they came of age. The will was witnessed by five people in the Villedieu

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<sup>11</sup> This view has been summarized as the argument that married women’s wills are totally “framed and ordered by authoritative masculine speech acts of consent, permission and bequest” in Ronald Bedford et al., *Early Modern English Lives: Autobiography and Self-Representation 1500-1660* (Aldershot/Burlington, VT, 2007), p. 205. However, Bedford and his co-authors as well as numerous other scholars reject that position and grant the will-making female some agency in negotiating the restrictive legal codes.

<sup>12</sup> Marie Brenot’s will may be found in ADSL, 3E 34712. The notary was Fiacre Agron.

house on the rue des Fèvres near Saint-Vincent cathedral in Chalon, but the testatrix herself was too ill to sign. Given Marie's deathbed situation, the will focused totally on those family responsibilities; there was no time for any consideration of wider social roles.

Claudine Joly also dictated her 1595 will from her sickbed in Buxy, but she appeared to have more time and strength to spell out her final wishes – which, rather unusually, focus less on her husband and more on her natal family.<sup>13</sup> As with Marie Brenot, Claudine's husband Pierre Chofflet was present, and he was given the authority to plan the funeral. She wanted to be buried in the Buxy church “*en la sepulture et place de ses predecesseurs*” but she left “*a la charge de son bien ayme mary de faire et accomplir honnorablement ses faictz funeraulx selon sa qualite et faculte de sesdicts biens*”. When the female testator had a husband, it is he who commonly managed funeral arrangements for his wife. In Claudine's will, however, all was not left to her husband. She designated her *bien ayme* son David Chofflet as her heir, with other relatives as the fall-back heirs in case of his death. Her father, Alfonse Joly, was asked to execute the will. She also left bequests of clothing to close relatives and servants, noting in several cases that they had cared for her during her illness. Finally, unlike Marie Brenot whose will contained only the most pressing legal information, Claudine Joly included a prayer to God for pity on her soul and forgiveness of her *fautes et pechez* so that she could be received into the realm of the blessed after death. The final page of the testament contains the signatures of all the witnesses, but was then filled by an account of the reading and execution of the will after her death in the presence of all her blood relatives. No doubt there is a story behind the relative unimportance of her husband in this scenario, but the main point to be made is that Claudine's will represents her identity primarily as a family member rather than a person with an independent role to play in the wider society.

Another will whose focus is almost totally inward on family obligations is that of Loyse de la Perriere, written in 1581.<sup>14</sup> As with other married women, her husband Claude Quarré was *present* and *auctorisant* and she made detailed reference to all of her children and her grandchildren, who would be equal inheritors. She asked to be buried in

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<sup>13</sup> Claudine Joly's will is also found in ADSL, 3E 35066 (originally numbered E 995). The notary was Paul Demucie.

<sup>14</sup> The testament of Loyse de la Perriere is found in ADSL, 3E 35034. The notary was Henry Delan.

the Saint-Vincent church next to the body of one son. Her executor would be her spiritual father, a priest of Saint-Vincent. The chief preoccupation of Loyse de la Perriere, however, was debts she owed to two nephews, which occupy the first two pages of her five-page testament after the preliminary legalities and a brief prayer to God her creator and Jesus Christ the intercessor. She explained that because of “*grande et urgent affaires*” she was “*contrainte d’emprunter de grandes et notables sommes de deniers*” from two different nephews, sums she had been repaying gradually but now wanted to repay completely before other heirs received their portions. Her concern with those fiscal obligations led her to an explicit and emphatic final statement of the need to have the notary follow the best and most legal forms in writing the *testament* to ensure that her wishes were followed. As we would expect given her request for the most official document, the form chosen is the *nuncupatif*, dictated to a royal notary with seven witnesses.

Wills that concentrate solely on family concerns are most common when the testator’s husband is alive, but even when the testator is a widow and wealthy, her will may not create a public persona. Such is the case with Reine Desbois, the widow of Jean Chrysostome de Pontoux, who dictated her document when ill in 1620.<sup>15</sup> She requested burial in the family sepulture of the church of the *pères cordeliers* in Chalon, but had no other funeral directions recorded. After bequests to servants and acquaintances, her will was preoccupied with the issue of which of her three daughters would be the universal inheritor. She nominated her eldest daughter Claude de Pontoux, who was dame de Virey, but if she would not accept the charge then the other two daughters were listed in order of priority to carry out their mother’s final wishes for distributing her considerable fortune. It is not clear what difficulties she anticipated in making these back-up plans, but it is clear that her focus was totally on the family handling of the inheritance. As the side notes on her five-page testament reveal, Reine was prescient: the legal processes around her will went on for nearly 20 years – the date of 1639 is found at the bottom of those appendices.

Despite the different personalities and situations expressed by the wills, all of the documents discussed above reveal the private person rather

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<sup>15</sup> The testament of Reine Desbois is in ADSL, 3E 34729 (formerly E658). The notary was Pierre Agron.

than one who sought an identity independent of family connections.<sup>16</sup> My chief focus for the rest of this essay will be on how a woman's public role may be revealed by her legal document, which requires us to identify those testamentary actions that would construct a public persona rather than those focused on private obligations.

### *Creating a Public Persona through Religion*

The most common type of extra-familial identity featured in a female will is religious affiliation. Even the most privately-focused wills usually contain a few conventional sentences of religious assertion, but other wills go well beyond obligatory formulae to itemize precise amounts of money to be paid for the prayers and masses said in their favored religious institutions as well as for other funeral and post-funeral arrangements. Charlotte d'Amboise's will, written in 1521 as she lay ill, reveals a wealthy woman with strong attachments to her family, her faith, and her parish church of Saint-Julien in Sennecey, as well as a broader pious presence in the region.<sup>17</sup> Her opening statement articulated the usual trope about death being certain although its circumstances are uncertain ("*certain de mort et incertain de l'heure dicelle*"). However, her expressions of hope for paradise were more theologically elaborate than usual and her investment in rituals to commemorate her own death was considerable. Her first act in the testament was to make the "*venerable signe de la croix*" (marked by a drawn cross) "*audevant notre face*" as she recommended her soul to God, the Virgin Mary and all the saints, in hopes of being taken to paradise. In eight separate items she then funded commemorative masses (including Gregorian masses) as well as prayers for her soul at Saint-Julien church in Sennecey, at Notre-Dame church in Brancion, at Notre-Dame des Carmes in Chalon and at several communities of the Cordeliers in the region.

With most female testators, the choice of a burial site reflects family connections and Charlotte d'Amboise is no exception. She wanted

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<sup>16</sup> Other female wills that are similarly privately-focused include those of Charlotte Lescart (1540) in ADSL, E 1411.2; Benigne Julian (1549) in ADSL, E 1289; Anne de Pontoux (1574 and 1583) in Archives Départementales de la Côte d'Or, 32F 1039.

<sup>17</sup> Charlotte d'Amboise's will is found in ADSL, 3E 35309. The notary was François Janthial.

to be buried in her parish church of Saint-Julien in the chapel her husband planned to build, but if he was buried elsewhere she wanted to be moved to that tomb with him. Apart from the display of family ties and religious piety, of course, burial arrangements displayed social status. The ordinary person could expect to be buried in the cemetery, but elites demanded burial in the church itself. Although many churchmen disagreed with the practice, “by the thirteenth century burial in church was a mark of social and spiritual elevation.”<sup>18</sup> Charlotte d’Amboise’s husband was Pierre de Bauffremont, baron de Sennecey, and as the wife of such a wealthy and prominent man Charlotte clearly had practice in playing an elevated public role, one she was determined to continue through her burial choices.<sup>19</sup>

Charlotte d’Amboise, like many pious testators, directed that her clothing would hereafter dress the church and its officials, literally transforming worldly into religious garb and personal into public display. Her outfit of *aramoise* velvet was to be made into two tunics and copes for clergy at her church in Sennecey, and she asked that if there was not enough material in her outfit that her husband supply the rest. Likewise, her black velvet dress should be given to the church at Soye to make a mantle. She also ordered black cloth enough to make thirteen robes for thirteen poor women – who would, presumably, walk in her funeral procession.

In Charlotte d’Amboise’s will there are bequests of money and clothes to her children (the “*bien ayme*” son Claude and “*bien aymes demoiselles*” Coustance and Françoise), to stepchildren and to servants, but proportionally the document emphasizes her requests for religious rituals and her bequests to religious organizations.<sup>20</sup> The overall portrait this will gives is of a pious woman whose God-given wealth was now directed to the people and religious institutions to which she had been attached throughout her life. In its formulae and types of bequests,

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<sup>18</sup> R. C. Finucane, “Sacred Corpse, Profane Carrion: Social Ideals and Death Rituals in the Later Middle Ages” in Joachim Whaley (ed.), *Mirrors of Mortality: Studies in the Social History of Death* (New York, 1981), p. 43.

<sup>19</sup> In her 1595 will, Guillemette de Montgommery asked to be buried in the church at Bragny in keeping with her social position (*selon ma quallité*): ADSL, F561.

<sup>20</sup> Bequests of clothing are common in the wills of the sixteenth and seventeenth century, especially those of wealthy women. See my “Material and Symbolic Gift-Giving: Clothes in English and French Wills” in E. Jane Burns (ed.), *Medieval Fabrications: Dress, Textiles, Cloth Work and Other Cultural Imaginings* (New York, 2004), pp. 137-46.

Charlotte d'Amboise's *testament* is entirely typical of most wills written by sixteenth-century women of her class and wealth whose public role was played out primarily through the church.

Women's wills that provide detailed directions for end-of-life rituals are most common with widows or with childless testators like Jeanne Nicquevard, whose husband Claude Tapin was an authorizing presence as she dictated the document in 1628.<sup>21</sup> Jeanne's religious profession at the beginning of her will also included her making the sign of the cross and articulating the basic formula of theological belief and hope in her soul's future in paradise. She then directed her burial to take place in "*le chœur de l'église des reverends peres minims dudict Chalon*" and left the "*obsequies et funerailles a la volonte et discretion dudict sire Tapin, son chiere et bien aime mary*". So far the will was conventional in following pious formulae.

After the conventional opening, however, Jeanne Nicquevard laid out in considerable detail her bequests to a wide variety of religious and charitable institutions in Chalon with which she had established a relationship, as well as to individuals. The Minim fathers were at the top of the list "*en consideration des bonnes exhortations et instructions qu'elle a toujours receve d'iceulx*". They were to receive a one-time bequest of 1,600 *livres tournois* – 100 *livres* to celebrate a low mass each day of her obit and the other 1,500 for their food and support, and also a low mass each Saturday in perpetuity in the Notre-Dame chapel of their church and a solemn office each year on the anniversary of her obit. The Capuchin fathers of Chalon were to get 200 *livres* to use for their vestments and library. The Carmelite fathers and the Cordeliers would each receive 50 *livres*. The Chalon hospital was to get 150 *livres* to feed the poor, and the town's prisoners would receive 100 *livres* dedicated to straw and charcoal to keep them warm. These institutional bequests were followed by gifts to many individual women in Chalon, some older close friends and servants, but also young girls in need of dowries to marry that she called her *filleulles* (goddaughters).

The specifications that concern her husband made it clear that it was Jeanne Nicquevard who brought the wealth to her marriage. She gives the *usufruit* of all her *biens* to Claude Tapin, listing "*maisons, heritaiges, censes, rentes*" – providing he carried out all her wishes for other bequests

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<sup>21</sup> The testament of Jeanne Nicquevard is found in ADSL, E 24739. The notary was Nicholas Agron.

and the costs of her funeral. He was, in particular, charged with the support of Francoyse de Gorge, the daughter of the *canoniere* of the citadelle in Chalon, until she reached the age of 18 and when she married she was to have 300 *livres* for her dowry. The large remnant of Jeanne's family heritage would go to her Nicquevard relatives – one brother and the children of her other, dead brother.

Given the rather large fortune Jeanne Nicquevard had to dispose of, it is not surprising that she chose as her will's executor one of the leading men of Chalon in the early seventeenth century, Nicholas Mathieu, "*conseiller du roy et lieutenant particulier en bailliage et chancellerie dudict Chalon*". She called on him for this duty not just out of regard for his status as *prud'homme* but also from her *bonne affection*.

Her carefully considered testament ended with a revocation of all previous testaments, codicils, and contracts, including one, interestingly, that she had dictated the morning of that same day to the notary Gabriel Byney. We are told in the will that she was sick in bed in the lower room of the Grande Rue, Chalon home of Philiberte Caillard, the widow of Claude Tapin senior (her husband's father). Between noon, on 20 October 1628, and the evening Jeanne Nicquevard had decided to add to her will the hymn "*Ave maris stella*", in accurate Latin. A new notary, Nicolas Agron, and three new witnesses were summoned for this final, definitive testament, which was signed at 10 p.m. The emphasis she put at the ending of her document on the priority of this and only this will is striking, and the inclusion of the "*Ave maris stella*" is unprecedented in any of the Burgundian wills I have read. Those anomalies suggest the religious importance of the act of transcribing the hymn of Marian devotion in her *testament* and underline the many bequests to religious institutions that she had made. They also delineate Jeanne Nicquevard's public role in the religious communities of Chalon.

### *The Staging of Funeral Theater*

In sixteenth and seventeenth-century France, the clash of Protestant and Catholic had not just ideological or theological but also ritual implications – since funeral and burial practices specified in a testament may be considered assertions of religious identity. Claire Dolan, who studied Catholic wills from Aix, posits an increase in the number and specificity of funeral rituals called for as the sixteenth century wore on. For example, the percentage of Catholic testators who specified the number of poor that

should be in attendance increased from 27.6% in 1550 to 52% in 1594.<sup>22</sup> Funeral rituals of those who wished to emphasize their Catholic affiliation were thus significantly more elaborate than those of a Protestant persuasion.<sup>23</sup>

The Burgundian women's wills I have studied are all those of Catholics, but even within this category we can distinguish those with detailed end-of-life instructions from those who left the arrangements to their husbands or executors; the dividing line is not religious identity but a deliberate assumption of responsibility for the public persona. Those women who specified their wishes tended to be not just exceptionally wealthy but usually widowed and without children. The three wealthy bourgeois women I will now discuss – Antoinette Perrin, Anne Grozelier, and Abigail Mathieu – used their wills to create a place for themselves in the public consciousness through their charitable donations and especially their funeral rituals. Although their lives bridged a century (Antoinette Perrin's will is dated 1532, Anne Grozelier's 1579 and Abigail Mathieu's 1638), they were kindred spirits in seizing the power of their testaments to perpetuate their memory as prominent Catholics.

#### *Antoinette Perrin*

Antoinette Perrin was the widow of Jehan de Loisy, a lawyer and *conseiller* at the Burgundian parliament in Dijon. Her very long, meticulously detailed testament scripts her performance as a member of the elite class of Chalon; through the religious rituals and charitable donations to a wide range of institutions and individuals, Antoinette's

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<sup>22</sup> Claire Dolan, *Entre tours et clochers: les gens d'église à Aix-en-Provence au XVI<sup>e</sup> siècle* (Sherbrooke/Aix-en-Provence, 1981), p. 111.

<sup>23</sup> Claire Gittings, *Death, Burial and the Individual in Early Modern England* (London, 1984) claims that doctrinal changes at the Reformation swept away testators' interest and control over funeral arrangements (p. 86). Executors retained the power to stage a funeral commensurate with the social status of the deceased (p. 94). Protestants contested such practices as black mourning garb and bell-ringing during the procession, although the traditional giving of the dole (money or bread) to the poor remained current throughout the early modern period (pp. 161-64).

death and her memory were woven into in the fabric of her city and the surrounding region.<sup>24</sup>

For her funeral procession Antoinette specified two dozen torches, twelve wax candles, and twelve poor people who carried twelve torches and prayed for her poor soul – for which they were to receive a robe worth up to two francs each. There would be a procession of her corpse to burial along a route that goes from Saint-Vincent cathedral to Saint-Georges church and then into the suburbs, accompanied by the clergy of those churches. Somewhat unusually, she asked to be buried *not* with her husband (and indeed, he is barely mentioned in her will) but with her parents at Saint-Vincent or, if that is not possible, in front of the main altar of the church of Notre-Dame des Carmes.

What is notable about Antoinette Perrin's will is the lack of identification with just one church, but instead a spreading of her generosity and patronage across numerous churches in and around Chalon. The longest portion of her testament itemized the masses to be celebrated for her at Saint-Vincent's, the Cordeliers, the Carmes, the hospital in the suburb of Saint-Laurent, as well as at the surrounding villages of Cortambles, Aluze, Givry, etc. There were to be masses at all the appropriate times – immediately after her death, forty days later, as well as a year later – all accompanied by extensive almsgiving in the form of *pintats de vin*, *chandelles*, and *petit blanc* to the poor who would pray for her soul and those of her predecessors.

Also notable is the explicit articulation of her religious motives for these rituals and her charity: those who received her bequests must pray for her soul and for her family. She acknowledged the need to make a testament in order to dispose of "*biens que mon souverain dieu et createur m'apreste*". Such sentiments may be conventional and implied in many wills, but they are rarely stated as consistently and emphatically in other documents. For her long list of personal bequests, she specified each time that the amount was being given so that he or she will "*prie dieu pour moy*". Antoinette added monetarily (a sum of 400 *livres*) to the foundation at the hospital begun by her parents to clothe the poor annually in "*robbes et souliers*". She named an annual sum to be spent *perpetuellement* on

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<sup>24</sup> For her testament, see ADSL, 3E 35374. The fourteen-page will recorded on 15 September 1532 was followed by a thirteen-page codicil added two days later on 17 September. The notary for both was Guillaume Margnien. In the will, her name is usually written as *Anthoyne*, but the final "e" occasionally has an upward swoop that is usually interpreted as the female ending "ette."

twelve nurses of the Carmes for outfits including “*une robe ung bonnet un paire de chaulsier et souliers le tout jusques a quatre frans que sont quarante huit frans de rente chascun an*”. In return, the nurses must sing the hymn “*O crux ave, spes unica*” each Friday of the year “*a hault voix*” before the great altar of the Carmes and each Saturday, in the same place and voice, the Marian hymn “*Ave maris stella*”.

Antoinette’s intimacy with the clergy at the various Chalon churches was implied by the number of times she named specific *chappellains* to say the masses she was funding, but the arrangements for these “perpetual” services were ultimately under the authority of town officials – suggesting her high public profile. She founded quotidian masses for various family members, noting that when the named chaplain died, it should be for the *eschevins* and *procureur* of Chalon to choose a new chaplain for her foundation. From a document like Antoinette Perrin’s one can vividly reconstruct the wider community with which she interacted – of devoted household servants, farm laborers and artisans, of families and young unmarried women, of professionals who tended to her estate, of political acquaintances, and above all of *clercs* and *chappellains* in the Chalon region. Rather unusually, she referred to many of these people as her *comperes*, a term of personal affection and equality. The will paints a picture of a careful philanthropist who used the document and her considerable resources to maintain and even strengthen her ties to her local community in and around Chalon. It was a society where the male clergy and town counselors dominated institutional government, but in which a determined woman could also wield some power if she was both well-connected and wealthy.

### *Anne Grozelier*

Anne was the daughter of a leading bourgeois family of Beaune. Her father and grandfather were mayors of that city, and she was the widow of the lawyer and doctor of laws Jehan Symon, who practiced in Avallon. The testament she left reflected the religious situation in the mid-sixteenth century when the religious wars between Catholics and Huguenots tore the communal unity of Beaune and in particular the Grozelier family. Anne’s will therefore is far more insistent than Charlotte d’Amboise’s or Antoinette Perrin’s about her allegiance to specifically “Catholic” beliefs,

in which she had been instructed by the grace of God through his “*sainte eglise catholique*”.<sup>25</sup> Her will begins with a lengthy, not entirely formulaic profession of belief, confession of her sins, and prayer for forgiveness, and her Catholicism is foregrounded throughout the document in both her gifts to family members and her funeral arrangements.

We know from other documents of the 1560s-80s that her brother Claude was a Protestant, the only one in the Grozelier family, and that he was persecuted during the religious conflicts along with others in the Beaune Protestant community.<sup>26</sup> Anne’s will reveals that she had raised Claude’s daughter Sarra for five years (“*nourrie entretenue et endoctrinee en ma maison pendant le temps de cinq ans*”) – in order to inoculate her against her father’s Protestant beliefs – and the will gives Sarra a dowry to aid her in marrying.

Anne Grozelier’s role as upholder of Catholic beliefs underwrites her detailed funeral instructions as well. She was to be buried in Saint-Julien’s, her parish church in Avallon, in the sepulcher with her defunct husband, and her body was to be accompanied to the church by members of her confraternity (dedicated to the “*precieux corps de dieu*”) from both the Saint-Julien and Saint-Pierre churches in Avallon. She left funds for all the religious officials at her funeral, as well as for three *grandes messes* and other masses. There was money for thirteen torches to be carried in procession by thirteen women dressed in white and set around her tomb during the services. At the end of the year, more commemorative masses were to be said, attended by the thirteen women who would receive alms. She also left funds to give monetary alms to as many poor people as came to her funeral service and later commemorations. Other money was to provide dowries for thirteen girls who were to march behind the thirteen women and pray for her soul. The funeral of Anne Grozelier outlined in her *testament* provides visible public witness to her Catholic faith.

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<sup>25</sup> Anne Grozelier’s testament is in the Archives municipales of Beaune, Ms. 9Z. The notary was Jehan Bouchard.

<sup>26</sup> See my unpublished essay, “‘A Heretic in our Midst’: a Sixteenth-Century Protestant Bourgeois in Burgundy”, an early version of which was given at the Sixteenth-Century Conference in Atlanta, GA in 2005.

*Abigail Mathieu*

Abigail Mathieu is perhaps the best-known benefactor in all of Chalon history – a charitable icon still remembered four centuries later. Her final testament, written in 1638, the year she died, is 72 pages long and is followed by a codicil of 183 pages. It reveals a woman who was in many ways a visionary, offering a bold blueprint for spiritual renewal of the city after decades of devastating religious wars.<sup>27</sup> The bequests made with her considerable fortune envision a city reconstituted around religious and charitable institutions, with her own body as a sacred relic at its center. Unlike many women testators whose significant social role appears in their will, Abigail wrote while still a wife, not a widow; she was married five times but seems to have written her wills independently of the husbands who were alive at the time.

The two institutions of which she was the prime benefactor were the city hospital and the convent of the Ursulines. Her intimate connection with both foundations was signaled at the beginning of her 1638 will where she gave directions for her burial. She wanted her *body* to be buried before the altar in the main chapel of the Chalon hospital where her beloved second husband Monsieur Vadot was buried, and her *heart* with the body of her beloved third husband, the baron de La Rochette. However, her *entrails* were to be carried to the convent of the Ursulines that she had founded and buried before the main altar of their church. (She gave permission to embalm her body parts in case all these arrangements took too long!)

The entrails were to be put into a *chapelle ardente* – a wooden structure on which candles burn – which was to be surrounded by black velvet. A cloth of black velvet was also to adorn the altar. The cloth over her tomb was to have a cross in white satin embroidered with her arms in the center, which would adorn the convent chapel for a year and then be returned to the hospital for safe-keeping. Subsequently, it was to be put on her tomb on 1st May, Saint-Barnabe's feast, since she founded two high

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<sup>27</sup> Abigail's 1638 will is GG60 in the Archives Municipales of Chalon. The notary was Bennoit Monnet. An early will, written in 1619 may be found in the same file. Another, written in 1624, is GG49. For a broader introduction to this unusual woman, see my article, "Abigail Mathieu's Civic Charity: Social Reform and the Search for Personal Immortality" in Diane Wolfthal and Juliann Vitullo (eds.), *Trading Values: Money, Morality and Culture in Late Medieval and Early Modern Europe* (Aldershot/Burlington, VT, 2010), pp. 197-215.

masses to be said on that day “in perpetuity”. The other ornaments were to remain in the possession of “her daughters the religious” of the Ursuline convent; Abigail was childless, so hers was to be a spiritual lineage.

The funeral arrangements were of an elaboration and detail found only in aristocratic funerals. In addition to the adornment of the black *draps* and masses of candles around the tomb, her scenario included processions: 50 poor people in white clothing marching two by two before her body and 25 poor people in black marching after her body, all carrying candles. She would also pay a *sol* for each poor person who wanted to carry a candle or torch in her funeral procession, up to 600. This spectacle of her final rites was conceived in theatrical terms clearly designed to ensure that Chalon would not forget Abigail Mathieu or her charity. Composition of the funeral procession was an indicator of the role the defunct wanted to inscribe in public memory: Abigail, like most wealthy women, wanted to be remembered for her charitable acts, symbolized by those who marched in the procession, and elaborate processions like hers projected an image of Catholic civic charity.

One key question the scholar of funeral rites might ask is: what were the models for the funerals of wealthy bourgeois and bourgeois and did those differ from the models used by the nobility for their funeral rites? In a recent study of late medieval French princely funerals, Murielle Gaude-Ferragu showed that the testaments of royalty rarely include detailed specifications for funeral services and such accouterments as the “*poele*, the number of the poor, or the candles. Such details were left to the executor.”<sup>28</sup> Judging by its careful funeral staging, Abigail Mathieu’s 1638 will clearly differed from aristocratic wills that do not give such details; however, the settings and rituals she lays out in such minute detail do reflect aristocratic practices of hers and earlier centuries.<sup>29</sup> Like royalty,

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<sup>28</sup> Murielle Gaude-Ferragu, *D’or et de cendres: la mort et les funérailles des princes dans le royaume de France au bas Moyen Âge* (Lille, 2005), p. 25. Claire Gittings, *Death, Burial and the Individual*, shows that the English aristocracy had little control over their own funerals, which were organized as state political rituals by the College of Arms (pp. 166-86). For “heraldic” and royal funerals, see also Jennifer Woodward, *The Theatre of Death: the Ritual Management of Royal Funerals in Renaissance England, 1570-1625* (Woodbridge, 1997), pp. 15-36; and Ralph E. Giesey, *The Royal Funeral Ceremony in Renaissance France* (Geneva, 1960).

<sup>29</sup> See Gaude-Ferragu, *D’or et de cendres*, on funeral rituals of princes, pp. 108-225. Also, Colette Beaune, “Mourir noblement à la fin du Moyen Âge” in Bernard

she would have her heart, body, and entrails buried separately. Like them, her body might need embalming as the elaborate ceremonies are arranged. She was to have a spectacular procession and almsgiving to as many of the poor as possible. Her body would be displayed in a resplendent *chapelle ardente* with black drapery in surrounding areas – an aristocratic practice.

That hers was not conceived as just a one-time performance is clear from her plan that the decorative black velvet *draps* of her funeral should be re-used for subsequent funerals, including those of the Ursuline sisters, of her brother and his wife and successors, or for the executors at the hospital, their wives, and their children – all of whom could use the *draps* until the forty-day mourning period ends. In addition, the funeral cloths would be available to honorable persons of the city of Chalon for their funerals, at the discretion of her brother, Nicolas Mathieu, who was her executor and heir.<sup>30</sup> In other words, Abigail intended that her presence should continue to be visible and appreciated “in perpetuity” by the various communities of which she was such a public part.

The phrase “in perpetuity” was repeated at least four dozen times in her will, as she provided the resources for innumerable foundations and charities in the city. At the Saint-Vincent Cathedral, for example, she founded a daily mass to be sung between 6 and 7 p.m. “in perpetuity”. There were also masses in her name founded at every other church in Chalon and on the various estates her husbands owned. She reserved 10 *livres* to be disbursed to 200 poor people every year “in perpetuity”. For Abigail this massive outpouring of charity was to be a form of social, perhaps even more than religious, immortality.

Her two major charities in life had been the Ursuline convent and the hospital; her will reaffirmed earlier donations that provided enormous support to each institution. The Ursuline convent received 10,000 *livres* since she was its founder, having persuaded the reluctant town magistrates to allow yet another religious institution to be set up in Chalon. In addition to a large endowment for the hospital and money toward the building of a new infirmary, she disbursed funds for outfits consisting of wool bonnets, nightshirts of cotton, slippers, and dresses for all the sick.

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Guillemain et al., *La mort au Moyen Âge: colloque de l'association des historiens médiévistes français réunis à Strasbourg en juin 1975* (Strasbourg, 1977), pp. 125-43.

<sup>30</sup> This is the same Nicolas Mathieu named as executor of Jeanne Nicquevard's will. As a leading citizen of Chalon, Nicolas appears often in town documents.

What emerges from her will is Abigail's conviction that she could practically single-handedly restore Chalon to physical and spiritual health, but *also* that in doing so she would be guaranteeing that her memory as a social agent would remain alive, "in perpetuity". The testament was her last chance to make this happen, and she – like other socially prominent women determined to control their posthumous destiny – took it.

For exceptional women like Abigail Mathieu, Anne Grozelier and Antoinette Perrin, therefore, the will and its detailed funeral rituals could be the culminating vehicles for dramatizing a public identity and claiming a memorable place in early societies that we often see as unresponsive to female energy and creativity. A careful reading of these fascinating documents, the final testaments, vividly demonstrates the considerable agency of influential women in their chosen communities and their continuing reputation even after death.

## 5 Women and Gift-Giving in Eighteenth-Century Brittany: Wills and Donations

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*Nancy Locklin*

Testamentary practices reveal much about personal priorities and relationships in the past. Women's wills, in particular, seem to offer historians a rare glimpse of women's lives in an age when very few written sources do so. As numerous scholars have demonstrated, women often used their wills to settle debts and request prayers, to be sure, but also to acknowledge emotional debts and personal relationships.<sup>1</sup> Donations were another vehicle permitting a woman to express her values and reveal intimate details about her life. Even a woman of fairly modest means could make a testament or a donation, and in many cases these documents would be the only archival evidence that she had lived.

This study will take Brittany as a case in which to examine wills and donations made by women in the early modern period. The sources for this study include a wide range of documents from among notarial minutes and royal registries of donations and wills found in the departmental archives across Brittany. For the period between 1720 and 1770, I found more than 700 mutual donations between spouses, 86 mutual donations between unmarried sisters, 19 mutual donations between unmarried brothers and sisters, one mutual donation between a father and daughter, and 33 mutual donations between unmarried, unrelated women.<sup>2</sup> I also located in these sources 54 simple donations and 123 wills left by women. Of these, married women contracted only two of the simple donations and 21 of the wills. The rest of the contracts by women were

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<sup>1</sup> See, for example, Martha C. Howell, "Fixing Movables: Gifts by Testament in Late Medieval Douai", *Past and Present* 150 (1996), 3-45; and Giovanna Benadusi, "Investing the Riches of the Poor: Servant Women and their Last Wills", *American Historical Review* 109 (2004), 805-26.

<sup>2</sup> Nancy Locklin, "'Til death parts us': Women's Domestic Partnerships in Eighteenth-Century Brittany", *Journal of Women's History* 23(4) (2011), 42. For some reason, Breton law did not permit unrelated, unmarried men to contract societies via mutual donations.

created for unmarried adult women or widows. In what follows, I will examine women's agency in testamentary and donation practices.

### *Legal Background*

In the early modern period French royal law may have guided law courts across the kingdom, but it was custom that truly shaped women's opportunities to give gifts or, indeed, to take any legal action. The province of Brittany is an ideal example of this principle. The Breton customary code simultaneously restricted a woman's ability to make gifts while protecting her right to control her own property above and beyond what was possible in many other parts of Europe. The basics of the Breton law code were laid out in the *coutume* of 1330, written more than two centuries before the duchy of Brittany was absorbed into France. The social and familial hierarchies described there, however, are hardly different from other codes in practice throughout Europe at this time. The privileges of nobility, the advantages of town dwellers, and the primacy of the male head-of-household are plainly established with regard to the ownership of property and the ability to make contracts. But the later codes, those of the sixteenth, seventeenth and eighteenth centuries, spelled out in greater and greater detail a woman's rights over material goods and the limits of her spouse's access to them.<sup>3</sup>

Property law in early modern France nearly always privileged close kinship ties above all other considerations, making it almost impossible to favor special relationships if other heirs might be neglected. Since men left far more wills and other contracts than women did, women as individuals had fewer opportunities to express their wishes. Furthermore, customary codes across France denied women the right to make a full testament while her husband was alive. In the far-west province of Brittany, a wife with a living husband could make a pious request only with his authorization. This practice accounts for the fact that most of the women's wills available to scholars are those of widows and unmarried women, and even those women had to cater to the needs of their extended families.

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<sup>3</sup> A detailed discussion of women under Breton law may be found in chapter three of Nancy Locklin, *Women's Work and Identity in Eighteenth-Century Brittany* (Aldershot/Burlington, VT, 2007), p. 83.

Donations were another form of gift, and contracts of donation were often less restrictive than testaments in legal practice. An individual was able to make a donation and see it take effect while still living. That simple fact gave the donor much more control over the gift. Donations could also include a wider range of goods and were available to a broader range of individuals. Thus, considering donations alongside wills may ultimately offer scholars a better perspective on women's lives and values in the past. Especially in areas where customary codes placed greater burdens on people who wanted to give gifts, the combination of donations and wills as sources can provide rich insights.

Between 1656 and 1778, several versions of the Breton law code were published. The 1656 edition is a more or less verbatim printing of the 1580 *coutume*, in which certain changes from Breton custom to Roman-French practice were firmly established. The most striking example of this is the requirement that a wife get her husband's authorization in order to make any contract. In the *ancienne coutume* of 1330, such authorization was preferred but not essential.<sup>4</sup> Prior to 1580, a wife's right to make a will without her husband's consent was sacrosanct; after 1580, she needed his authorization except when leaving alms to the church, paying debts, or compensating for services rendered.<sup>5</sup> A woman always had the right to defend herself from lawsuits and accusations, but after 1580 she was not able to file suits or accept inheritance without the consent of her husband.<sup>6</sup>

In later versions of the law code, wives were unable to function legally without authorization. However, the *coutume* still offered a way for women to get around a husband's objections. In her husband's absence, or upon his refusal, a woman could appeal to a judge and be given authority "by justice" or find a curator to act in his stead. An obvious choice for curator was the woman's father, if he still lived. Jeanne Milte, a merchant in Saint-Malo, got her father to authorize the lease on her new shop because her husband was at sea.<sup>7</sup> Authorization by a curator or by justice was confirmed in an act of the Breton Parlement in 1724, which stated it was necessary to declare that the husband had refused his authority but not necessary that the wife enter an extraneous process in order to claim some

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<sup>4</sup> George Jamont, "Étude sur le droit des gens mariés d'après les coutumes de Bretagne", (Ph.D. diss., Université de Paris, Faculté de Droit, 1901), p. 21.

<sup>5</sup> Article 619, *Coutumes générales du pays et duchy de Bretagne* (Nantes, 1656).

<sup>6</sup> Article 449, *Coutumes générales du pays et duchy de Bretagne*.

<sup>7</sup> Rental agreement of 3 December 1762: ADIV, 4 BX 1156.

other authority.<sup>8</sup> In matters concerning her own inheritance, the court almost automatically granted authorization to a married woman. Unmarried women were not required to seek authorization from a parent or guardian as long as they were over the age of 25, while widows were free to act as they saw fit.

The ideal testament was a written document signed in the presence of a notary, vicar, or other “public person”, and an additional two or three witnesses of good reputation. The testator had to be a person with the legal capacity to give, that is to say, a free adult of sound mind capable of communication. This standard excluded anyone under religious vows or in the power of another; those who had been condemned, exiled, or otherwise declared “civilly dead”; and those who were deaf, mute or insane.<sup>9</sup> A testament could be revoked at any time during the testator’s life since it went into effect only upon his or her death. However, its implementation naturally had to be left to others after the testator’s death.

Donations came in multiple forms. A *donation entre vifs*, or a “simple donation”, was an outright gift from one person to another made during the donor’s lifetime. It was an irrevocable act that took effect on the date the gift was signed. A donation had to be freely given, and for that reason the donor could not be constrained by any obligation or be facing imminent death. In theory, donations could not be made in exchange for “services rendered” since that implied that the donor owed something to the recipient and was therefore obliged to him or her.<sup>10</sup> However, numerous donations were made in recognition of services, especially services above and beyond what one might have expected. In Brittany, the donation could even be used to privilege one heir over the others for “reasonable cause”, such as special care during a prolonged illness.<sup>11</sup> The donation was an expression of *bonne amitié*, friendship or warm regard.

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<sup>8</sup> *Journal des audiences et arrêts du Parlement de Bretagne, Part II* (Paris, 1736), pp. 634-35.

<sup>9</sup> Jean-Marie Ricard, *Traité des donations entre vifs et testamentaires* (Paris, 1652), pp. 21-35; *Dictionnaire raisonné des domaines et droits domaniaux* (Rouen, 1762), vol. 3, p. 418.

<sup>10</sup> *Encyclopédie méthodique de jurisprudence* (Paris, 1784), vol. 4, p. 20.

<sup>11</sup> Title XII, Article 217, *Coutume de Bretagne et usances particulières de quelques villes et territoires de la même province* (Nantes, 1725), p. 226.

For this reason, the only circumstance in which a donation could be revoked once given was “ingratitude”.<sup>12</sup>

Just about anyone could give a donation. The law excluded only those absolutely incapable of giving – minors, condemned criminals, and gravely ill or insane people could not make any kind of gift. As with testaments, the law also excluded those whose position in life put them under obligation or outside of “legitimate society” – legal guardians, doctors, judges, concubines, and bastards were equally prohibited from giving gifts or accepting them.<sup>13</sup> Beyond that, there were fewer restrictions on donations than there were on wills. Even those who did not have the civil status required to make a testament could make a donation to another person – foreigners, unrelated friends, and emancipated minors could give gifts. The only true requirement of the donation was that the donors actually be in possession of what they were giving.

In most senses, testaments and donations were equivalent documents. Both acts permitted an individual to dispose of their goods in recognition of debts or affection. The less restricted form of the donation made it a somewhat more vulnerable document in that some jurisdictions upheld it as a request and not a full right.<sup>14</sup> However, since the donation took effect immediately, and the recipient had to acknowledge acceptance in writing, the donor had the ability to see that it was accomplished during his or her lifetime. The value of timing cannot be underestimated. Testaments, especially for those without much property or extended family, were routinely recorded while the testator was on his or her deathbed. By nature, testaments are less planned and certainly less controlled documents, dependent as they are on the cooperation of survivors. A donation might have required a certain amount of planning and cooperation between the donor and recipient, but the donor could see the impact of the gift and could have personally handled any legal challenges to that gift.

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<sup>12</sup> Robert Joseph Pothier, *Oeuvres posthumes de M. Pothier* (Paris, 1778), vol. 2, p. 507; *Dictionnaire raisonné des domaines et droits domaniaux*, vol. 2, p. 173.

<sup>13</sup> *Dictionnaire portatif de jurisprudence et de pratique* (Paris, 1763), vol. 1, p. 525.

<sup>14</sup> *Ibid.*, vol. 1, p. 522; *Encyclopédie méthodique de jurisprudence*, vol. 4, p. 17.

### *Restrictions on Women's Capacity to give Gifts*

The capacity of a woman to make wills and donations of any kind was largely determined by her individual status. Marital status was the biggest factor in deciding a woman's freedom to make gifts. Under French law and most customary codes, a married woman required the authorization of her husband to sign contracts, do business, and either give or accept gifts. In addition, a woman, like a man, earned full freedom to contract only when she reached the age of majority, which was 25 in most of France.

Widows and unmarried women, and those over the age of 25, were free to write wills and give gifts, especially when they were engaged in giving goods they had earned or acquired on their own. Lineage property was problematic because the claims of the family might interfere with an individual's wishes. Thus, it was not unusual for individual women or their kin to "declare" what was theirs alone and what had been personally acquired before being able to make a gift of it. This was to ensure that no kin laid claim to property that was unrelated to heritage. In essence, such a declaration told kin to keep away from any goods included in the declaration, especially if those goods were intended for a special friend or relative. For example, Jeanne Cabasse of Lorient declared in a notarized statement in 1734 that, though she had long shared a home with her widowed mother, the goods in that home were her own property, earned through her work as a mistress tailor and linen draper.<sup>15</sup> An inventory was attached, and the heirs of Cabasse's mother were warned that any claims on the goods would be illegitimate.

Most women's wills and donations found in the archives are those of widows or unmarried women, for the reasons outlined above. These women were not under the legal authority of a husband and had no need of anyone's consent. Widows with children certainly had to honor the rights and needs of their families, and even unmarried women often had to respect obligations to kin. But they were free as individuals to control their property as they wished, in contrast to married women. A married woman whose husband still lived presumably had less to give away anyway, assuming that her husband would need to care for their children, if they had any, and support himself if they had none. This does not mean there are no married women's wills to be found. It simply means

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<sup>15</sup> Declaration of 13 December 1734: ADM, 6 E 5243.

that a wife's testament or donation might be more limited in what she could claim or give away.

Most legal theorists agreed that a wife needed her husband's consent to make a donation of any kind. However, opinions were divided when it came to the subject of the last will and testament. Most customary codes, including that of Brittany, insisted that a wife could not make a will, or was very limited in what she could bequeath in a will, while her husband lived. However, experts in French royal law maintained that a wife's right to make a will had to be recognized. Pothier stated that no husband's power over his wife could extend into death, and so a wife's ability to make a will without her husband's authorization had to be accepted by law.<sup>16</sup> None of this means that a wife was free to give away property, however, even if it was completely her own. A married woman was equally restricted from either giving or accepting gifts or from serving as executor of a will without her husband's authorization. The legal situation of a wife was, needless to say, complex.

Gifts between spouses were among the most regulated gifts in French law. In contrast to practices in the Chartrain, the Auvergne, the region of Paris, and the Dunois, the province of Brittany permitted the gift of all goods.<sup>17</sup> Brittany was very generous with regard to how much spouses could give to one another, in spite of the fact that the legal code there was particularly insistent on a wife's getting authorization to sign any contract, including her own will. At the same time, this does not mean that legal minds missed the irony of Breton practice. The jurist Pierre Hévin expressed frustration that Breton law required a wife to get her husband's consent even on a contract, such as a mutual donation, that would clearly benefit the husband. A mutual donation explicitly states that the spouses are signing the contract out of "free will" and *bonne amitié*. Thus, it seemed odd to require one to authorize the other.

The Breton version of a mutual donation between spouses is therefore a perfect example of the conflicted and complex nature of legal customs surrounding women and inheritance law in *ancien régime* France. The need to protect legitimate heirs was paramount, so much so that a widow or widower in Brittany who was preparing to remarry would be deprived of a *don mutuel* in case there were children produced in the

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<sup>16</sup> Pothier, *Oeuvres posthumes de M. Pothier*, vol. 2, pp. 329-30.

<sup>17</sup> *Encyclopédie méthodique de jurisprudence*, vol. 4, p. 17; *Dictionnaire raisonné des domaines et droits domaniaux*, vol. 2, p. 159.

second marriage.<sup>18</sup> At the same time, jurists in Brittany fought hard to protect contracts signed between spouses in just about any other circumstance. As stated so eloquently by a lawyer protecting a mutual donation from the opposition of rival heirs: “The mutual donation is the most honored of all the contracts a husband and a wife can make. It is the only way accorded by law for them to give each other reciprocal proof of their warm regard.”<sup>19</sup> According to one scholar, the ironclad Breton version of the mutual donation was one of the few customs to remain intact up to the end of the *ancien régime*. “Inspired by affection”, and encouraged by the church and by Breton jurists alike, the practice survived the gradual encroachment of standard French and Roman law in the eighteenth century.<sup>20</sup> A survey of donations and testaments from this province will demonstrate the range of practices possible, even under a fairly restrictive and contradictory legal custom.

### *Wills and Donations in Brittany*

Just about every married woman’s will found in seventeenth- and eighteenth-century Breton collections carried the husband’s consent. Furthermore, married women’s wills in this province rarely included goods beyond alms and funerary arrangements, especially if the family was of modest means. The *coutume* of Brittany clearly stated that a wife simply leaving alms or paying debts did not need her husband’s authorization and yet the documents always seem to include the husband’s consent or permission. Barbe Nio, identified as the wife of a comfortable peasant farmer, simply asked that her husband approve the sale of her movable goods to pay for her burial and to say a mass for her soul.<sup>21</sup> Louise Legallec bequeathed 150 *livres tournois* to the rectors of her parish for prayers for her soul and those of her parents, 450 *livres* for a set of masses, and 24 *livres* for charity; her husband authorized her requests and formally promised to honor them.<sup>22</sup>

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<sup>18</sup> *Encyclopédie méthodique de jurisprudence*, vol. 4, p. 17.

<sup>19</sup> Michel Sauvageau, *Arrêts et règlements du Parlement de Bretagne* (Nantes, 1712), vol. 1, p. 447.

<sup>20</sup> Jamont, “Étude”, p. 138.

<sup>21</sup> 31 March 1738: ADCA, 6 E 696.

<sup>22</sup> 4 August 1740: ADM, 6 E 4377.

Married women of means also sought the cooperation of their husbands in writing testaments. Marguerite Vincente Morin Leguichet, wife to *noble homme* Yves Desbois, sieur de Giernante in Saint-Brieuc, asked her husband to “continue to show her the signs of his friendship and grant her the authority to make bequests”. In her will, Leguichet left alms for the poor, wages, and a small gift to the servant who had cared for her during a prolonged illness, and some funds for the care and education of one Demoiselle Gerlin “at the hospital”. None of these things would seem to require authorization, but Leguichet got it anyway.<sup>23</sup> Marie Hervé, the wife of a wheat measurer, was asking for a number of gifts to be paid out of her marital community. She wanted funds for her burial and accompanying religious services, all her clothes and linens to go to her grandchildren, and a number of personal items to be given to women in their parish. Her husband readily gave his consent.<sup>24</sup>

There are exceptions, of course, to the general pattern of married women’s wills. The testament of Françoise Diguist in Rennes carried no authorization, only a note that her husband had been absent for 12 years.<sup>25</sup> Françoise Landry, a procurer’s wife in Nantes, did not have her husband’s authorization but named him executor of her will.<sup>26</sup> Marguerite Guillet of Nantes was married but explained that she and her husband had separated amiably years earlier and no longer lived together; this fact was simply stated before she began the list of her last wishes.<sup>27</sup> An even more exceptional will is that of Marie Gouy of Quimper.<sup>28</sup> Her will noted that her husband was present along with two other witnesses, but there was absolutely no mention of his consent or authorization. Marie’s will included a sizable list of textile-related debts and obligations, suggesting that she had commercial activities unrelated to those of her husband, a butcher by trade. Interestingly enough, she included among her debts the cost of her husband’s membership in a confraternity. She and the witnesses signed the testament, but the document notes that the husband was unable to sign his name.

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<sup>23</sup> 30 May 1738: ADCA, 3 E 2/59.

<sup>24</sup> 14 June 1733: ADLA, 4 E 2 511/2.

<sup>25</sup> 4 May 1731: ADIV, 4 E 2754.

<sup>26</sup> 23 January 1717: ADLA, 4 E 22/3. Note that French law actually did not permit spouses to serve as executors for one another.

<sup>27</sup> 15 July 1725: ADLA, 4 E 2/658.

<sup>28</sup> 10 April 1733: ADF, 4 E 221/119.

Widows and single women wrote the remaining testaments in this sample. Other than their marital status and occasional references to children, there is very little to distinguish between the wills of widows and those of women who had never married. Breton law favored partible inheritance, meaning that daughters inherited equally with sons and were often just as likely to receive lineage property, funds for professional training, or even shops and trade items from their parents. Thus, women who had never married might have had goods of their own to give away and their testaments and donations were sometimes quite generous.

As other scholars have found in the study of women's wills, female testators in Brittany tended to include very personal items to be given as tokens of personal esteem.<sup>29</sup> The widow Perrine Giraud, a cloth merchant of Nantes, listed her debts and then stated that her clothes, linens, and a gold chain would go to her daughter, Michelle, who had helped her with her "commerce and household since her widowhood and recent illness".<sup>30</sup> Giraud further noted that her other children had no further claims since they had received their portions when their father died, and that this bequest to Michelle was for special services. Then, with no additional explanation, Giraud stipulated that her spoon, fork, and wooden table should go to a Mademoiselle Texier. The unmarried woman Genevieve Morin, also of Nantes, bequeathed a long list of items to the Fremont sisters, Marie and Janne, for their "services".<sup>31</sup> It is unclear if the women were related or simply employed by Morin, but they were given the task of paying Morin's debts and overseeing her burial. In addition, they were to receive a leather-covered coffer, an armoire, a satin chamber robe, skirts, sheets, towels, a table, and chairs, and a cabinet containing books.

The most common reason cited for special bequests was gratitude to those who had cared and offered affection, especially during a time of need. Isabelle Larvor of Morlaix was a sister in the tertiary order of the Franciscans. In her will, Larvor paid special tribute to a niece and the niece's husband, who had housed and fed her for the previous five or six years.<sup>32</sup> Larvor had long since been unable to work, and everything she had once earned had been claimed by other heirs. All she had left was an

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<sup>29</sup> Howell, "Fixing Movables", 7-10; Natalie Z. Davis, *The Gift in Sixteenth-Century France* (Madison, 2000), p. 31.

<sup>30</sup> 1 July 1708: ADLA, 2 E 3222.

<sup>31</sup> 8 March 1740: ADLA, 4 E 2 519.

<sup>32</sup> 17 February 1729: ADF, 4 E 133/149.

armoire containing clothing and a bed; Larvor hoped the sale of these goods would pay for her burial and that anything left over would go to the young couple who had taken her in. Similarly, Anne L'Amisse of Rennes, an unmarried spinner, stated that a cousin had housed and fed her for nearly eighteen years.<sup>33</sup> L'Amisse had no money, only some debts owed to her by others. She assigned these to her cousin in the hope that someday the money would arrive to repay this lifetime of generosity.

Those without children or heirs of their own might still express concern for the well-being of others. Marguerite Corset, of Nantes but housed "à la Bastille", asked that all the goods and furniture of her house be sold to pay for five girls and five boys to learn a trade.<sup>34</sup> Many of the other wills in the sample included general references to "alms for the poor" or the use of "children from the hospital" to carry candles during prayer services. Catherine Gourtay, widow of a procurator in Quimper, included in her will an extensive list of bequests to religious groups and causes.<sup>35</sup> After the usual request for masses and prayers for her soul, Gourtay gave gifts to the Capuchins, Cordeliers, the sacristy of the cathedral, the *Dames hospitaliers*, the poor sick, the poor mendicants, five different local chapels, and the prisoners of the city.

Several wills listed nothing but debts with little or no explanation, simply indicating a lot of financial activity and possibly some poor planning. Jeanne Bernadine Le Toussaint of Morlaix, a widowed candle-maker, died owing money on her daughter's dowry along with at least four other sizable debts to people throughout the community.<sup>36</sup> She did not owe anything on her farm, however, and had a valuable collection of movables that should have covered her debts. Finally, Le Toussaint stated that her heirs should pay her debts dutifully. Marguerite Querre, a servant in Morlaix who worked for a regional tax collector, listed debt after debt owed to her by her brother, his wife, and child.<sup>37</sup> She had covered all of her brother's debts and expenses for years, even providing jewelry and clothing for his wife. She listed these debts in detail simply to account to future heirs for what had happened to her property. Her own funeral costs were to be paid out of the sale of her movable goods.

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<sup>33</sup> 6 March 1730: ADIV, 4 E 2753.

<sup>34</sup> 13 January 1730: ADLA, 4 E 2 798.

<sup>35</sup> 24 May 1734: ADF: 4 E 221/52.

<sup>36</sup> 27 December 1727: ADF, 4 E 133/149.

<sup>37</sup> 3 September 1711: ADF, 4 E 133/143.

Many of those who left wills did, indeed, have family to care for. The widow Jeanne Turaud used her will to assign a tutor for her four children and to make sure that her children were well situated for the future.<sup>38</sup> She chose her brother-in-law as guardian of her children, including her oldest son who was already emancipated at the age of seventeen and in training as a surgeon. Her three daughters were placed in the Convent of the Visitation until they were old enough to be emancipated. Her two nieces each got a good dress, a good skirt, shirts, and *coiffs* (cap or bonnet), “all to be parted amiably between them”. To her servant, the widow Piroteau, Turaud left two dozen shirts, a Corsican dress, her two best skirts, combs, six shirts with embroidered sleeves, and several night caps. In addition, since Piroteau had taken care of all her commerce during her illness, Turaud stated plainly that heirs were not to give Piroteau “any difficulty about any of her bills or furniture”, in case Piroteau be bothered in the least in concluding this business.

It was very common for testators to plead for the cooperation of heirs in this way. Some testators even tried to direct the way heirs behaved. Suzanne Denise Halbin, wife of Hervé Bonnet, sieur de Kerinire, rewarded her beloved servant for years of good service.<sup>39</sup> She did so with her husband’s permission, of course. Then, perhaps having no way to repay the actual debt, Halbin asks her heirs to “treat amiably” a Mademoiselle Kiriel for having paid for Halbin and Bonnet’s wedding out of her inheritance from her parents. Perhaps Halbin succeeded from the grave in making her kin feel guilty to remind them of what they owed to others.

The wills studied here most often contained debts and religious obligations and only occasionally included intimate gifts or expressions of affection. In this regard, wills may not be the best source of information about women’s lives in the past because they are so formulaic and created under strict regulation. Donations had to meet many of the same strict legal requirements but, at least in this sample, tended to be more specific than testaments and offered the donor more control over her gifts. Furthermore, donations were almost exclusively created to express affection and gratitude to one individual in particular. More often than not, family and kin were rarely even mentioned in the donation contracts

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<sup>38</sup> 19 February 1747: ADLA, 4 E 2 524.

<sup>39</sup> 22 April 1732: ADCD, 3 E 44/40.

unless the gift was for usufruct only or the donor anticipated some potential difficulty from competing heirs.

Donors did sometimes ask for family approval, as Jeanne de Kerhoent, dame du Morizau, did when she wrote her brother in advance of a donation to a young woman who had cared for her during a long illness.<sup>40</sup> Kerhoent wanted to leave the woman a yearly rent from a piece of lineage property for life. The brother, an abbot living in Paris, wrote in reply that he most wished to see his sister one more time before she died. Barring that, he granted her anything that might ease her mind and promised to oversee the gift. This was a very sweet exchange, revealing quite a bit about the relationship between these siblings. Of course, the contract also allowed Madame de Kerhoent to express her affection and gratitude for Marie Jeanne Le Clerc de la Vieuxville, who had cared for her so well for over 10 years.

The donations in this study were most often based upon the *amitié* between the donor and the recipient. *Amitié* is most often translated as “friendship”, but its true meaning is much more complex than that. Spouses used the term to describe their relationship in their mutual donations and other contracts. Siblings and friends used the term when describing why they were favoring some individuals over all others. Neighbors and more distant kin used the word to refer to the cordial regard that kept conflict at bay. The word seems to have covered everything from passion and affection to basic civility.

Declarations of affection and warmth may have been necessary, however, in order to justify a gift in the face of potential challenges from heirs. In other words, a donation of any kind had to include recognition of services and gratitude if it was to have legal standing. At the same time, the simple payment of back wages or compensation for assistance could be accomplished in the testament. That people went out of their way to give gifts during life would seem to indicate that the gratitude and the warm feelings expressed in those contracts were genuine and that the donor wanted to be sure the gift took place. Even better, since the gift was accepted and took effect immediately, the donor got to see the exchange take place.

A special version of the donation was one exchanged between partners via a document called a “mutual donation”, an equal and reciprocal gift between two people. Mutual gifts were legally recognized

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<sup>40</sup> 20 April 1728: ADF, 4 E 133/149.

under French law in two distinct forms, the *don mutuel* and the *donation mutuelle*. Both of these gifts tended to serve the needs of spouses but could sometimes be made between individuals who formed partnerships or shared community. The two forms differ in terms of timing and in terms of the amount and sort of property that could be given. The *don mutuel* is a contract between spouses drawn up during the marriage (that is, after the wedding day has passed) stating that the survivor of the two will enjoy for life, by usufruct, half of the goods of the community of the first to die.<sup>41</sup> It generally took effect only upon the death of one of the spouses and it was not recognized in all jurisdictions in France.

The *donation mutuelle* was a reciprocal gift between two or more people, to the benefit of the survivor, of all their goods, communal and personal, or a designated portion of their goods.<sup>42</sup> The *donation mutuelle* “is that which is made by mutual affection” between individuals.<sup>43</sup> Spouses were free to use a *donation mutuelle* if they made it as part of their wedding contract or some other contract signed before the wedding day. However, this form of the gift was truly meant to serve the needs of “strangers”, “that is to say, people other than those joined in marriage” or “persons who may not be joined in marriage”.<sup>44</sup> Siblings, more distant kin, and unrelated friends routinely used mutual donations to mark a special relationship and to protect one another financially from the claims of other heirs.

In certain jurisdictions, unmarried adults who lived together could even create a life-long society with one another through the use of a *donation mutuelle*.<sup>45</sup> The *donation mutuelle* could include all goods and property in possession at the time the donation was signed, but if the donors shared a residence they could stipulate that future goods would be included as well. They could also designate if the gift was for usufruct or for propriety, assuming they were not giving away family lineage property. Donations of this sort were also considered to be irrevocable except that, as reciprocal gifts, they could be nullified by one or both

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<sup>41</sup> *Dictionnaire portatif de jurisprudence et de pratique*, vol. 1, p. 521.

<sup>42</sup> *Ibid.*, vol. 1, p. 529.

<sup>43</sup> *Collection de décisions nouvelles et de notions relatives à la jurisprudence actuelle*, 9<sup>th</sup> edition (Paris, 1777), vol. 2, p. 134.

<sup>44</sup> *Dictionnaire raisonné des domaines et droits domaniaux*, vol. 2, p. 206; and Ferrière, *Dictionnaire de droit et de pratique*, vol. 1, p. 507.

<sup>45</sup> Locklin, Nancy, “‘Til death parts us”, pp. 36-58.

parties at any time.<sup>46</sup> Thus, as was the case with *donations entre vifs*, the donor had quite a bit of control over this sort of gift even if it would only truly take effect upon the death of one of the partners. These were planned, reciprocal gifts that celebrated special relationships and heirs were expected to respect them as long as all the legal standards were met.

Mutual donations were the clearest examples of expressions of affection, especially when siblings or friends were making the gift to one another. The mutual donations between spouses were often strictly formulaic, and it is difficult to gauge the authenticity of the emotions listed in the contracts. However, the less common mutual donations were often quite detailed and very warm. Yves, Louis, Guillaume, Marguerite, and Marie Cloarec of Morlaix unanimously and sincerely declared their decision to live in community as brothers and sisters for “the rest of their days”, sharing their goods, merchandise and all other effects.<sup>47</sup> No other heir could claim a thing as long as one of the siblings remained alive. The Levenez sisters, Marie and Renée, had lived and worked together in Quintin since their parents had died and wanted to take care of one another until death.<sup>48</sup> They stated very clearly that their other siblings were only able to claim lineage property, and only after both Marie and Renée were dead. Servanne Chevalier and Charlotte Baudry, two seamstresses in Saint-Malo, had lived and worked together 20 years when they signed their mutual donation in 1763.<sup>49</sup> All their goods came from the trade they shared, so the survivor was entitled to every bit of it.

Each of the mutual donations mentioned above, and just about every other donation in this sample, included explicit statements warning off other heirs while the gift was in effect. The donation contract permitted such bold action. Olive de Serville stated plainly that she was arranging a mutual donation with her servant and assistant, Gillette Pagot, in order to avoid “contestations from any quarter about the wages owed to Pagot for services rendered due to de Serville’s infirmity, due to her advancing age, and due to the commerce they have shared in difficult times”.<sup>50</sup> The contract marked their affection for one another, but it served primarily to protect their merchandise, effects, goods, and clothes, all of which went to

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<sup>46</sup> Ferrière, *Dictionnaire de droit et de pratique*, vol. 1, p. 508.

<sup>47</sup> 5 May 1728: ADF, 4 E 133/149.

<sup>48</sup> 17 April 1753: ADCA, B 1299.

<sup>49</sup> 5 October 1763: ADIV, 2 B 291.

<sup>50</sup> 19 January 1743: ADIV, 2 B 266.

the survivor of the two. For her part, Pagot accepted and promised to continue to serve faithfully.

Simple donations often allowed the donor to see the recipient accept and enjoy the gift. Marguerite Morin of Saint-Brieuc gave her cousin, Mathurine, the use of a covered kitchen near the harbor in recognition of unnamed services.<sup>51</sup> Jeanne Chesneau gave Claude Marguerite Joyau the use of a house with a granary and garden for the rest of her life in recognition of services rendered to her and her deceased mother.<sup>52</sup> Guillemette Anne Therese Aubert de Tregomain gave her mother's retired servant 200 *livres* of annual rent for life and pledged all her goods and lineage property to cover the expense.<sup>53</sup> Olive Helenne Artur de la Mothe gave her servant the use of a room and boutique for life.<sup>54</sup> Each of these gifts included references to the gratitude and affection felt by the donor and the grateful acceptance of the recipient.

Many donations made a gift of "usufruct" of property, including lineage property. Donors made a point of saying the gift was for use during the recipient's lifetime and that the property in question should not be altered or sold in any way. The property was most often meant to revert back to the donor's heirs after the death of the recipient. It was still a gift, however, if it meant that the recipient would enjoy a home or the use of a business for years. Lineage property could not be given away in a testament, meaning that this was yet another way in which the donation offered more flexibility than a will did.

Donations sometimes did come with strings attached. It was not uncommon for the terms of a gift to stipulate that the actual gift of funds or property would take place when the donor died. Such gifts often also explicitly expressed gratitude in advance for the continuation of *amitié* and services until the donor's passing. By accepting the gift, the recipient tacitly agreed to stay and care for the donor as long as was necessary. For example, Catherine de Talhoüet, dame de Pennemance *et autre lieux*, left usufruct of multiple parcels of land and outright ownership of movable goods to her two companions, Therese Jaurequay and Marie du Moulin.<sup>55</sup> Talhoüet stated that the gift was irrevocable unless either of the two died or left her. The donation that Françoise Boucheteau gave her assistant

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<sup>51</sup> 22 May 1734: ADCA, 3 E 2/55.

<sup>52</sup> 4 May 1751: ADLA, 4 E 2 525.

<sup>53</sup> 4 January 1764: ADIV, 2 B 292.

<sup>54</sup> 6 February 1765: ADIV, 2 B 293.

<sup>55</sup> 19 November 1743: ADM, B 3647.

embroiderer noted that the gift was in recognition of the services Renée Guillou “has rendered to her and renders to her daily and will render to her until the day she dies”.<sup>56</sup>

A donation could only be revoked for “ingratitude” and a gift recipient’s neglect (or perceived neglect) could result in the loss of the donation. The widow Yvonne La Treste revoked the gift she had given to the parish church at Plougoumelen for “certain causes and reasons” that she did not name.<sup>57</sup> Similarly, Sieur Yves Drollet and his wife revoked a gift they had given to Pierre Brisson and Marie Jeanne Ferlande in a marriage contract; the reason, they said, was “ingratitude deduced and proven between them”.<sup>58</sup> No other explanations were given. Though a will could certainly be revoked and rewritten, a donation could be enacted and then erased during the donor’s lifetime. Thus, the donation offered far more control to the donor than a will did.

### *Conclusion*

The examples cited above show that codes can guide practice but that people will take advantage of flexibility whenever possible. Julie Hardwick demonstrated that, especially among the families of notaries, donations could be used to strengthen the marital community over other heirs and distant kin in spite of strict laws that privileged the extended family.<sup>59</sup> Even if such strategies were more of an exception than the rule, their existence points to the importance of personal control over property. Knowledgeable families worked together for best consolidation and preservation of property but individuals still had some room to maneuver.

Since much of French law and Breton custom already privileged the needs of the family, any group action to optimize benefits for the family often served to further disadvantage women as individuals. However, the principle of individual liberty applied even to women, according to Ricard, and there were always women who knew how to make use of the conventions at their disposal. Where a last will and testament had to be constructed with other heirs in mind, a well-timed

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<sup>56</sup> May 1731: ADLA, 4 E 2/1516.

<sup>57</sup> 11 August 1732: ADM, 6 E 2478.

<sup>58</sup> 14 June 1744: ADM, 6 E 5083.

<sup>59</sup> Julie Hardwick, *The Practice of Patriarchy: Gender and the Politics of Household Authority in Early Modern France* (University Park, PA, 1998), p. 114.

donation might allow a woman the freedom to state her wishes and defy the demands of her kin. Savvy women of Brittany, who already enjoyed unusually good access to inherited property, knew how to make use of this personal legal strategy.

## 6 Writing Wills and Families: Constructing Mixed-Race Families in Eighteenth-Century France\*

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*Jennifer L. Palmer*

Individuals from all walks of life made wills in eighteenth-century France. People throughout the social spectrum went to notaries to have wills drawn up, from wealthy nobles to artisans and laborers. Women and men made them, and so did people of color in France's Caribbean colonies, expending carefully husbanded resources in order to confer the legitimacy and legality of the notary's stamp. Yet although notaries could expect clients who ranged from rich merchants to poor dockworkers, it was less common for will-makers in eighteenth-century France to write their own wills. Composing one's own will posed practical as well as legal challenges. It required not only a high level of literacy, but also fluency in the kinds of phrases that fell easily from a notary's pen, yet seemed stilted in daily life: "heretofore", "the aforementioned", "residual legatee", "all my worldly goods". Making such a document also required a willingness to think about one's own mortality, and to imagine one's family and friends going about their lives even after the testator's death. Perhaps because they required reflections about personal relationships and how to recognize them, holographic testaments could offer individuals opportunities for self-expression that notarized testaments might not. As testators allocated property and made legacies, they very clearly outlined how they perceived family relationships, and what these intimate connections meant to them.

This essay focuses on two particular holographic testaments. Aimé-Benjamin Fleuriau and Marie-Jeanne Fleuriau Mandron were father and daughter, yet they approached will-making very differently, and with

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\* Please note that portions of this essay previously appeared in "What's in a Name? Mixed-Race Families and Resistance to Racial Marginalization in Eighteenth-Century La Rochelle", *French Historical Studies* 33 (2010), 357-85.

different purposes. Both used their testaments to record their own versions of family relationships. Yet the very distinct ways in which they did this put forth their own conflicting versions of who could be included in a family. Although family may seem on the surface to be a self-evident category, in the eighteenth century it was changing due to France's intimate contact with its Caribbean colonies. For both Fleuriau and his children, particularly his eldest daughter Marie-Jeanne, family ties were intimately entwined with race and status. As a result, father and daughter outlined the connections among these categories in very different ways and with different levels of investment. Fleuriau had on the line his authority as a patriarch and his reputation as a prosperous and respectable merchant. Marie-Jeanne risked more. Her very position and even presence in French society depended on her family connections, and she used her testament as an instrument to highlight them.

In 1755, the interesting family of Aimé-Benjamin Fleuriau arrived in the French Atlantic port city of La Rochelle.<sup>1</sup> This small band included Fleuriau himself, a Rochelais merchant returning after achieving the elusive colonial fantasy of fabulous wealth, and five children whom he identified as "Joseph, Paul and Jean, Marie and Charlotte Mendroux".<sup>2</sup> Although Fleuriau gave no clues about their paternity in his statement, he had fathered these mixed-race children, all of whom had been born in the French Caribbean colony of Saint-Domingue.

Fleuriau's return to France from Saint-Domingue differed in surprising ways from what colonial émigrés may have dreamed about when they set out for the tropical island that historian Jacques de Cauna calls "this new El Dorado".<sup>3</sup> True, Fleuriau's financial success was the stuff of which dreams of the colonies were made: he returned to his

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<sup>1</sup> The exact date of their arrival is uncertain, as the passenger lists for La Rochelle are no longer extant for that period. Fleuriau and his slave Hardy certainly arrived in 1755. Although the rest of the family may have arrived slightly later, they were all certainly in La Rochelle by 1763: "1 nègre, le Sr. Fleuriau": ADCM B 6086: "Registre de la Majesté commencé le 23 mars 1753 et fini le 14 avril 1757", 2 August 1755. Fleuriau states that he and Hardy had arrived in France the month before.

<sup>2</sup> "Registre pour recevoir les déclarations des nègres, negresses, mulâtres, & mulâtresses qui sont dans cette ville de La Rochelle, suivant les lettres de M. l'Intendant", 1763: AMLR, 352. In other records the family name of these children is given as "Mandron", and I will use this spelling throughout the article.

<sup>3</sup> Jacques de Cauna, *Au temps des isles à sucre: histoire d'une plantation de Saint-Domingue au XVIIIe siècle* (Paris, 1987), p. 12.

hometown one of its wealthiest men. But Fleuriau did not simply leave colonialism behind when he returned to France. Instead, he literally brought some of its complications with him: five of his eight mixed-race children, sons and daughters of his former slave Jeanne, arrived in La Rochelle with or soon after their white father.

In a France fully embroiled in and dependent upon colonial slavery yet increasingly frantic about the growing population of people of color within its own borders, such people attracted attention disproportionate to their actual numbers.<sup>4</sup> Fear of the “disorders” caused by the presence of people of color in France pushed the French state towards an ever-closer surveillance of their actions and reinforced emerging racism.<sup>5</sup> However, the social realities of many people of color belied simple legal hierarchies based on race alone. In France’s Caribbean colonies some free people of color, often descendants of white male slave owners and black enslaved women, held considerable wealth, received extensive educations, and carved out significant economic and social niches in the complex colonial system. Notably, John Garrigus highlights the estate worth 200-300,000 *livres* owned by Julien Raimond, a free man of mixed racial ancestry whose family had been well established in the

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<sup>4</sup> Most historians agree that a steady population of about 4-5,000 people of color, free and slaves, lived in France in the eighteenth century. The *Causes célèbres*, in reporting on the case of Jean Boucaux, put the number of people of color in France at 4,000 in 1738: François Gayot de Pitaval, *Causes célèbres et intéressantes avec les jugemens qui les ont décidées* (Paris, 1734-54), vol. 13, p. 537. See also Shelby Thomas McCloy, *The Negro in France* (Lexington, KY, 1961), p. 5; Sue Peabody, “There are No Slaves in France”: *the Political Culture of Race and Slavery in the Ancien Régime* (New York, 1996), p. 5. Dwain Pruitt convincingly argues that slave owners had good reason to obfuscate the actual numbers of slaves brought into France, and he puts the number of slaves in Nantes much higher than previous scholars have maintained. Dwain Pruitt, “The Opposition of the Law to the Law”: Race, Slavery, and the Law in Nantes, 1715-1778”, *French Historical Studies* 30 (2007), 147-74, espec. 169-74. Most recently and precisely Pierre Boule has identified 2,329 individuals who were living in France and were counted in the 1777 *Police des Noirs* survey: Pierre Boule, *Race et esclavage dans la France de l’ancien régime* (Paris, 2007), p. 109.

<sup>5</sup> The “Déclaration pour la police des noirs” of 9 August 1777 refers to “les plus grands désordres” caused by people of color in France: Isambert, Decrusy, and Taillandier, *Recueil général des anciennes lois françaises, depuis l’an 420 jusqu’à la révolution de 1789* (Paris, 1830), vol. 25, p. 82.

south province of Saint-Domingue for several generations.<sup>6</sup> In colonial society until the last quarter of the eighteenth century skin color was one factor among many in determining status: parentage, wealth, personal history, and education also played roles. Race and status certainly were entwined, as free men of color, barred from political participation because of their skin color, and slaves, who saw no whites among their numbers, surely understood. At the same time, some free people of color existed in a world apart from slaves, with a status more akin to that of their planter fathers and grandfathers than their enslaved mothers and grandmothers. In the colonies a good number of those who counted themselves among the free colored population lived quite comfortably, and a few possessed great resources, including land, slaves, and the cultural capital that came from a French education or the display of material acquisitions.<sup>7</sup>

Although colonists' practice of bringing or sending slaves to France made slavery far from uncommon there, especially in Paris and Atlantic port cities, few well-off free people of color lived in the metropole. This created legal and social challenges for those such as Marie-Jeanne who did live in France. For most of the eighteenth century French law did not classify free people of color differently from whites. Free people of color in France had the possibility of having their race go officially unnoted; for example, while priests clearly annotated the race of slaves in the margins of parish records, they included the race of free people of color circumspectly if at all. However, this colorblindness only extended so far, and race had a very different weight in social interactions. In the Atlantic port of La Rochelle no mixed-race children of white planters married white French men or women during the eighteenth century, although in the colonies this practice certainly occurred with some frequency.

In the eighteenth century the family formed the central building block of French society, and for free people of color, as for all people in France, gender defined family roles and relationships.<sup>8</sup> Testaments were a

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<sup>6</sup> Garrigus, *Before Haiti*, p. 217.

<sup>7</sup> Chaela Pastore, "Mahogany as Status Symbol: Race and Luxury in Saint Domingue at the End of the Eighteenth Century" in Dena Goodman and Kathryn Norberg (eds.), *Furnishing the Eighteenth Century: What Furniture Can Tell Us about the European and American Past* (New York, 2007), p. 43.

<sup>8</sup> Sarah Hanley, "Engendering the State: Family Formation and State Building in Early Modern France", *French Historical Studies* 16 (1989), 4-27; Christine Adams, *A Taste for Comfort and Status: A Bourgeois Family in Eighteenth-*

major way individuals delineated and reinforced family relationships. The weighty responsibility for preserving patrimony for their descendants most often fell to male heads of households, but women also used inheritance as a way of articulating and reinforcing ties of kinship and friendship and demarcating where they thought the bounds of the family lay.<sup>9</sup> In spite of the relatively strict common law delimiting how testators had to allocate their assets among spouses and children, those who made a will had some flexibility in how they chose to apportion their wealth.<sup>10</sup> Through this flexibility free women of color such as Marie-Jeanne Fleuriau Mandron could use testaments to put forth their own interpretations of family units, versions of family that often looked very different from those constructed by their white fathers.

### *Aimé-Benjamin Fleuriau and his Family*

Aimé-Benjamin Fleuriau was born and bred in La Rochelle, a cosmopolitan Atlantic port city and a historical hotbed of Huguenot resistance to the French crown. Many of the merchant elites who comprised the wealthiest and most prominent families in the city depended on profits from transatlantic trade, and they reinforced trading partnerships through ties of family and religion.<sup>11</sup> But as a young man, Fleuriau had

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*Century France* (University Park, PA, 2000); Sara Chapman, *Private Ambition and Political Alliances: the Phélypeaux de Pontchartrain Family and Louis XIV's Government, 1650-1715* (Rochester, NY, 2004); Jennifer Ngairé Heuer, *The Family and the Nation: Gender and Citizenship in Revolutionary France, 1789-1830* (Ithaca, NY, 2005); Suzanne Desan, *The Family on Trial in Revolutionary France* (Berkeley, CA, 2004).

<sup>9</sup> Martha C. Howell, *The Marriage Exchange: Property, Social Place, and Gender in Cities of the Low Countries, 1300-1550* (Chicago, 1998), p. 163.

<sup>10</sup> The customary law of La Rochelle is outlined in Charles A. Bourdot de Richebourg, *Nouveau coutumier général, ou corps des coutumes générales et particulières de France, et des Provinces* (Paris, 1724), vol. 4. Also see Jean Yver, *Égalité entre héritiers et exclusion des enfants dotés: essai de géographie coutumière* (Paris, 1966); and Emmanuel Le Roy Ladurie, "Family Structures and Inheritance Customs in Sixteenth-Century France" in Jack Goody, Joan Thirsk, and E. P. Thompson (eds.), *Family and Inheritance: Rural Society in Western Europe, 1200-1800* (Cambridge, 1976).

<sup>11</sup> See Nicole Vray, *La Rochelle et les protestants du XVIe au XXe siècle* (La Crèche, 1999). Family ties played an important role in commercial endeavors,

little to do with the crème de la crème of Rochelais society. The son of a bankrupted sugar refiner and one of ten children, he mostly depended on his own resources to make his way in the world.<sup>12</sup> Necessity as much as a quest for wealth drove him to Saint-Domingue. He arrived in the colony around 1729 at the age of about twenty, one of thousands of essentially anonymous young men emigrating from France's Atlantic coast.<sup>13</sup> Young Aimé-Benjamin acted prudently, as he already had colonial connections: his uncle Paul Fleuriau had made the voyage to Saint-Domingue in 1710, and by the time of his nephew's arrival he had established himself comfortably as a plantation owner.<sup>14</sup> Ten years later young Fleuriau struck out alone and established himself as a sugar merchant in the town of Croix-des-Bouquets. His timing could not have been better. By the 1750s, French consumption of "populuxe" goods, including sugar, had begun in earnest.<sup>15</sup> Fleuriau rode the sugar high, and the immense boom in the sugar market, combined with an inheritance from his uncle, enabled him to buy a plantation of his own situated near Croix-des-Bouquets.

In this small town Fleuriau began his relationship with Jeanne "dite Guimbelot", a woman of color who at one time had been his slave. The frequency of such liaisons belies the violence embedded in them; they were, however, widespread colonial practice.<sup>16</sup> We know little about

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especially for Huguenots: see Bertrand Van Ruymbeke, "Minority Survival: the Huguenot Paradigm in France and the Diaspora" in Van Ruymbeke and Randy J. Sparks (eds.), *Memory and Identity: the Huguenots in France and the Atlantic Diaspora* (Columbia, SC, 2003), p. 10; and Bertrand Van Ruymbeke, *From New Babylon to Eden: the Huguenots and their Migration to Colonial South Carolina* (Columbia, SC, 2006).

<sup>12</sup> Fleuriau had two siblings and seven half-siblings, children of his father and a previous wife: Cauna, *Au temps des isles à sucre*, p. 254. On sugar refining in France, see Robert Louis Stein, *The French Sugar Business in the Eighteenth Century* (Baton Rouge, LA, 1988), Chapters 7 and 8.

<sup>13</sup> Jacques de Cauna, *L'Eldorado des aquitains: gascons, basques et béarnais aux îles d'Amérique (XVIIe-XVIIIe siècles)* (Biarritz, 1998), p. 13.

<sup>14</sup> Cauna, *Au temps des isles à sucre*, p. 28.

<sup>15</sup> Cissie Fairchilds, "The Production and Marketing of Populuxe Goods in Eighteenth-Century Paris" in Roy Porter and John Brewer (eds.), *Consumption and the World of Goods* (New York, 1993), p. 242. Although Fairchilds does not explicitly classify sugar as a populuxe good, the expanding popularity and availability of this good brings it under her rubric.

<sup>16</sup> Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York, 1997), p. 85.

Jeanne, except that the union between the planter and the woman he called “sa petite” endured for at least ten years.<sup>17</sup> They had no less than eight children together: Jean-Baptiste in 1740, Marie-Jeanne in 1741, Marie-Charlotte in 1742, Joseph-Benjamin in 1743, Pierre-Paul in 1745, Jean in 1747, Toinette in 1748, and Marie-Madeleine in 1749.<sup>18</sup> All these children were classified as free people of color at the time of their birth.

While we cannot know how Jeanne felt about their liaison, the historical records show that upon the birth of each of their children Aimé-Benjamin Fleuriau and Jeanne dite Guimbelot took the infants for baptism at their parish church as mandated by law and custom and had their free status duly recorded in the parish register by the priest. These registers, kept by royal decree, included baptism records for slave and free children, people of color and whites; the priest kept all these important proceedings in the same book, without regard to the color or status of those who received the sacraments. Marie-Jeanne and her brothers and sisters all received the appellation “*fille*” or “*fils illégitime*”, children of Aimé-Benjamin Fleuriau and Jeanne, “*negresse libre*”.<sup>19</sup> Fleuriau acknowledged them all as his own, although the presiding priest recorded their illegitimacy in each of their baptism records, in accordance with Church practice. All were given the surname Mandron even though mixed race children often took the name of their white father, suggesting that Fleuriau distanced himself from his children even as he acknowledged his paternity.<sup>20</sup>

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<sup>17</sup> Jeanne was referred to in this way in the “*Livre de comptes*”, 1743: ADCM 1 Mi 255.

<sup>18</sup> Fleuriau specifically acknowledged his paternity in baptism records of seven of the eight children he had with his former slave Jeanne Guimbelot. État Civil, Croix-des-Bouquets, Saint-Domingue: CAOM, 85 MIOM 46; and 85 MIOM 47. Although I did not find the baptism record of Jean-Baptiste in this collection, he certainly was Fleuriau’s son. Fleuriau left Jean-Baptiste’s heirs a legacy in his will equal to that he left his other surviving Saint-Domingue children, and Marie-Jeanne referred to Jean-Baptiste as her brother in her own will.

<sup>19</sup> État-Civil, Croix-des-Bouquets, Saint-Domingue: CAOM, 85 MIOM 46; and 85 MIOM 47.

<sup>20</sup> A later law did indeed prohibit mixed-race children from taking the name of their white father. “*Règlement des administrateurs concernant les gens de couleur libres*”, 24 June and 16 July 1773, in Médéric-Louis Elie Moreau de Saint-Méry, *Loix et constitutions des colonies françaises de l’Amérique sous le vent* (Paris, 1784-90), vol. 5, pp. 448-50.

In spite of Fleuriau's efforts his children occupied a somewhat liminal status even in colonial life: free but illegitimate, of mixed racial origins but the beneficiaries of whites whose goodwill toward them depended on their regard for their father. Nonetheless, in the colonies mixed-race children of wealthy white planters comprised part of the colonial elite, positioned not at but sometimes near the pinnacle of society. Mixed-race sons of white planters enjoyed options. They could become part of the military, practice a trade, work on their fathers' plantations, or perhaps even own land and slaves themselves. Daughters of wealthy planters often married well and participated in colonial free colored society: light-skinned brides of mixed race would have had excellent marriage prospects.<sup>21</sup> In the colonies the Mandron children's skin color was, for the most part, a social asset. Although excluded from the very upper ranges of society and denied a political voice, their father's wealth and his effort in embedding them in a network of social connections made them better off than the majority of people who lived in either France or its colonies.

Once Fleuriau and his children arrived in France, however, their social situation changed dramatically. Fleuriau returned to La Rochelle in a blaze of wealth and glory, a living testament to the possibilities for social mobility offered by the colonies. Because of his new fortune, made from sugar and other colonial products produced by his slaves, La Rochelle's wealthiest families welcomed him as one of their own. His children, however, found themselves thrust into a social milieu very different from what they had known in Saint-Domingue. Used to privileges, they instead found their social opportunities severely circumscribed. Rochelais society seemed to overlook the colonial commonplace that people with dusky skin could be part of the social elite, as long as they were wealthy enough. Few free people of color in all of France enjoyed the economic resources Fleuriau put at his children's disposal; the free colored layer of colonial society, to which the Mandron children certainly belonged, simply did not exist in the metropole. In France they had little recourse to the society of free people of color, and no mixed-race peers of their own social status in their new seaport home. And although the people of La Rochelle accepted slavery on French soil without undue compunction, the elite of the city appeared unwilling to absorb these dark-skinned children of one of their

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<sup>21</sup> King, *Blue Coat or Powdered Wig*, Chapters 9 and 10; and Garrigus, *Before Haiti*, p. 48.

most vaunted members. None of the Mandrons married in France, although all of Fleuriau's white children, born after he returned to La Rochelle, married members of other wealthy Huguenot families. In spite of their father's wealth and position, the Mandrons lived in a world apart from that of their white French kin.

### *Race, Family, and Legacies*

Marie-Jeanne Mandron and her sister Marie-Charlotte never returned to Saint-Domingue after they arrived in their father's hometown of La Rochelle. Although at or approaching marriageable age for women when they arrived, neither ever married. In the colonies each would have been considered quite a catch for any free man of color and for most white men because of their status as daughters of a wealthy white planter, but instead Marie-Jeanne and Marie-Charlotte lived together in a house owned by their father in La Rochelle's central Place d'Armes not far from where Fleuriau and his new white French family resided at a much more exclusive address on a street now known as the rue Fleuriau. For the rest of their lives, Marie-Jeanne and Marie-Charlotte Mandron lived in close proximity to their father's new wife and their children; their own mother remained far away in Saint-Domingue. The two households maintained relations even after their father's death.<sup>22</sup> Although both women lived there until they died, Marie-Charlotte in 1773 at the age of thirty and Marie-Jeanne in 1793 at the age of fifty-three, they continued to occupy a marginal position in La Rochelle, simultaneously part of the prominent Fleuriau clan and very much outsiders.<sup>23</sup>

Although Aimé-Benjamin Fleuriau provided for his daughters generously after they arrived in France, once on metropolitan soil he never officially identified Marie-Jeanne and Marie-Charlotte as his kin. This had the effect of excluding them from the highest ranks of Rochelais society, to which Fleuriau's *legitimate* children certainly belonged. During the eighteenth century a sense of lineage was very much alive, indeed

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<sup>22</sup> After their father's death Paul Mandron in Saint-Domingue exchanged letters with his half-brother Louis-Benjamin Fleuriau in La Rochelle. Paul Mandron wrote letters on 12 December 1792, 15 May 1794, 11 February 1794, and in *an II* of the Revolution, and letters survive from Louis-Benjamin Fleuriau to Paul Mandron dated *an II* and 11 February 1794: ADCM 1 Mi 238 and 1 Mi 239.

<sup>23</sup> État-Civil, Saint-Barthélemy: AMLR, GG 313 (1773), and GG 354 (1793).

strengthening, among the nobility of both sword and robe, a status to which the Fleuriau family ardently aspired, and also among wealthy non-nobles.<sup>24</sup> This suggests that Fleuriau made a deliberate choice in his failure to recognize his relationship with his *mulâtre* daughters, a move meant to exclude them from his lineage or house. Their race may or may not have played a direct role in this decision; fathers of illegitimate children always had the choice of barring them from their patrimony in an effort to consolidate the inheritance of legitimate heirs. Further, in making this choice Fleuriau was in numerous company. Over the course of the eighteenth century the number of foundlings in France grew dramatically, suggesting that fathers increasingly shunned responsibility for their illegitimate children.<sup>25</sup> Unlike many French fathers, Fleuriau did accept financial responsibility for his illegitimate children, and he also maintained ongoing relations with them. However, although Marie-Jeanne and her siblings certainly interacted with the Fleuriau family, their legal exclusion from the formal family structure had financial, social, and personal repercussions. In particular, the Mandron daughters never married, although their father certainly was in a financial position to dower them well. Perhaps based on her own personal experiences in La Rochelle, Marie-Jeanne seems to have thought formal inclusion in the Fleuriau family important. As a result she moved independently of her father to claim the Fleuriau name for herself and her siblings.

As women, Marie-Jeanne and her sister Marie-Charlotte could contribute very little to augmenting the Fleuriau fortune. While their brothers returned to Saint-Domingue to run their father's plantation, the girls remained in La Rochelle. Of all their siblings they had the longest and most intimate relationship with their father, and through his generosity they lived in relative comfort. Few free people of color of their social position lived in all of France, and few, if any, French men of any social position whatsoever would consider taking a woman of color as a bride, no matter how wealthy her father. Given these circumstances, perhaps it is not surprising that Marie-Jeanne felt a strong connection with her siblings in Saint-Domingue, particularly after her sister's death. She also drew

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<sup>24</sup> François Lebrun, *La vie conjugale sous l'ancien régime* (Paris, 1975), pp. 65-66. Fleuriau made an unsuccessful attempt to be ennobled, but his legitimate children were: Cauna, *Au temps des îles à sucre*, pp. 48-50.

<sup>25</sup> At the end of the *ancien régime* about 40,000 foundlings were abandoned in France each year: Allan Mitchell, *The Divided Path: the German Influence on Social Reform in France after 1870* (Chapel Hill, 1991), pp. 100-1.

upon the wealth and prestige of their well-known father by appropriating his name. Then using his name and his money she set up her own transatlantic family lineage, thereby simultaneously subverting her father's desires to keep the Fleuriiau and Mandron families clearly separate while also asserting her family connections with her siblings in Saint-Domingue.

In his will Aimé-Benjamin Fleuriiau reaffirmed his commitment to provide for his mixed-race children's welfare while at the same time crowning his legitimate children as his true heirs, both in terms of the inheritance they received and in how he envisioned his lineage: amongst the Fleuriiau in La Rochelle there was little room for mixed-race kin. In February 1787, one month before his death, Fleuriiau wrote out his will in his own hand. In it he followed Rochelais common law to the letter in specifying that, after his wife's portion of the estate had been separated from his, the remainder would be divided among his three surviving legitimate children, Aimé-Paul, Louis-Benjamin, and Marie-Adelaïde.<sup>26</sup> He clearly considered his plantation in Saint-Domingue his most valuable asset; he specified that his children should own it jointly, and that each could only sell their share to the others.<sup>27</sup> Also in accordance with regional custom he favored none of the children over the others in terms of the monetary value of their inheritance, but he did allocate specific holdings to his children based on their gender and birth order. He specified that his most important property in La Rochelle, his *hôtel particulier* in the exclusive Saint-Barthélemy parish, go to his oldest son, with less important properties to his younger son, and sums of cash to his daughter, who had already married and whose dowry comprised part of her inheritance.

Although he excluded his illegitimate children from this apportioning of his estate, Fleuriiau left generous legacies to Marie-Jeanne, his daughter in La Rochelle, and his other mixed-race children in Saint-Domingue.<sup>28</sup> But his will addressed more than money: as he outlined these

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<sup>26</sup> On La Rochelle's common inheritance law, see Richebourg, *Nouveau coutumier général*, pp. 856-59.

<sup>27</sup> ADCM Notary Delavergne fils, 3 E 1698: "Dépôt du testament olographe de M Aimé Benjamin Fleuriiau", 21 August 1787.

<sup>28</sup> Although in Saint-Domingue it was quite common for white fathers of mixed-race children to leave legacies to them, historians have also identified instances in which fathers left the majority of their estate to their mixed-race children by their former slaves. See Tiya Miles, *Ties That Bind: the Story of an Afro-Cherokee Family in Slavery and Freedom* (Berkeley/Los Angeles, 2005), pp. 138-43; Kent

sizable legacies he also sketched his illegitimate children and grandchildren's relationships with each other. In doing so he delineated a family lineage for his children that extensively explained their connections to each other, yet which pointedly failed to include any reference to his own relationship as their father. He wrote, "I give and bequeath to the children of the late Jeanne Guimbelon, I mean, Guimbelot, free negress, resident while living of Cul-de-Sac, Saint-Domingue, which children are surnamed Mandron, namely Mademoiselle Mandron, *Créole*, current resident of the Place d'Armes of this town, the sum of 1,200 *livres*, money of France, of life annuity, which will begin to run the day of my decease". This document, written by Fleuriau himself, obscured his relationship with his own children. He did not claim paternity, as he did in their baptism records. Instead, he identified them only as the children of "Jeanne Guimbelot, free negress".

But far from indicating only indifference to his children and their children, the will took great care to provide for them. He gave generous sums to Marie-Jeanne, or "Mademoiselle Mandron, *Créole*", his daughter and for thirty years his neighbor in her house on the Place d'Armes. He also left sizable legacies of 26,000 *livres* each to her brother Paul Mandron in Saint-Domingue, and to the children of the deceased Jean-Baptiste. He charged Paul with the continued oversight of his plantation, and appointed him the guardian of his brother's children.<sup>29</sup> The amount of detail Fleuriau gave about his children's whereabouts, professions, marital status, and births of their children clearly indicates that he had maintained contact with his progeny in Saint-Domingue. Yet by emphasizing their lineage through their mother, Jeanne Guimbelot, free negress, he also indelibly marked them as people of color. Failing to mention his own relationship erased his children of color's ties to the Fleuriau name, even as he gave them access to a portion of his fortune.

But in addition to providing for his children and grandchildren's welfare, Fleuriau took further action to cut their ties to his name and his fortune once and for all. "My succession", he stated, "will be entirely free from obligation towards all of them [Marie-Jeanne, Paul, and Jean-

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Anderson Leslie, *Woman of Color, Daughter of Privilege: Amanda America Dickson, 1849-1893* (Athens, GA, 1995), pp. 80-104. John Garrigus also discusses methods fathers of mixed-race children used to circumvent rules of inheritance, including *donations entre vifs*: see Garrigus, *Before Haiti*, pp. 65-66.

<sup>29</sup> ADCM Notary Delavergne fils, 3 E 1698: "Dépôt du testament olographe de M Aimé Benjamin Fleuriau", 21 August 1787.

Baptiste's children], whatever titles they have". The Mandron children, if they were to try to claim a larger share of their father's estate based on his acknowledgement of his paternity at their baptism, would be cut off "without any of the dispositions previously made nor even any of my same liberalities".<sup>30</sup> This provision made quite clear that although the merchant valued his children and wanted to provide for them, he did not consider them entitled to an equal portion of his patrimony. This he reserved for his legitimate children. As his succession amounted to nearly 1,000,000 *livres*, with each legitimate child receiving well over 300,000 *livres*, this discrepancy was enormous, even if the sums he bequeathed to his illegitimate Mandron children were not ungenerous.<sup>31</sup> The legacies to the Mandron children, then, had the overall effect of *distancing* them from the Fleuriau clan, in spite of the close connections the two branches of the same family had fostered throughout Aimé-Benjamin's life. With the ties that had bound him to his Saint-Domingue offspring about to be severed by death, Aimé-Benjamin Fleuriau acted deliberately to exclude his mixed-race children from the Fleuriau family legacy that endured in La Rochelle.

#### *Marie-Jeanne Fleuriau Mandron's Last Will and Testament*

After her father's death, Marie-Jeanne remained the only surviving member of the Fleuriau clan with roots on both sides of the Atlantic. She took this legacy seriously: when she made her own will in 1788, scarcely a year after her father's death, she again worked to bind the two branches of the Fleuriau family together in name as well as in fortune.<sup>32</sup> She adopted

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<sup>30</sup> ADCM Notary Delavergne fils, 3 E 1698: "Dépôt du testament olographe de M Aimé Benjamin Fleuriau", 21 August 1787.

<sup>31</sup> Fleuriau's estate amounted to a total of 960,033 *livres* 13 *sols* 10 *deniers*. Each legitimate child received 316,011 *livres* 4 *sols* 7 *deniers* after their mother's portion of the estate was deducted: ADCM 3 E 1698: "Partage de la dite Veuve Fleuriau et ses Enfants [*sic*]", 24 September 1787. In comparison, Fleuriau left an annual income of 120 *livres* to his domestic servant. ADCM Notary Delavergne fils, 3 E 1698: "Dépôt du testament olographe de M Aimé Benjamin Fleuriau", 21 August 1787.

<sup>32</sup> Martha Howell found that women who made wills left legacies of personal property to people who made up their social network, especially other women, over lineal descendants. This had the effect of reinforcing affective ties by linking them with economic ones, for often personal property had significant market

the Fleuriau name and also ascribed it to her brothers, nieces, and nephews in Saint-Domingue, directly contravening her father's lifelong practice. This subversion, together with the fact that she named her Saint-Domingue relations her sole heirs, suggests that Marie-Jeanne aligned herself more closely with her transatlantic siblings than her French ones, in spite of the time and distance that separated her from the former and her proximity to and decades-long association with the latter.<sup>33</sup> Through her will she set up her own line of succession, drawn from the wealth and prestige of her father but also separate from the lineage of legitimate heirs he had laid out in his own will.

Marie-Jeanne began her testament by firmly inscribing herself within the framework of the Fleuriau family. She opened the document with her full name, thereby announcing her Fleuriau ties to anyone who read it. "I the undersigned, Marie Jeanne Fleuriau Mandron, maiden, resident of La Rochelle, Place d'Armes, have made and present my will, in case of my death, in the form that follows".<sup>34</sup> Adopting the Fleuriau name, a move she never openly made during her father's lifetime, emphasized her links to the wealthy, powerful, and well-connected Fleuriau clan and also flouted her father's practice of obfuscating his relationship to his mixed-race offspring.

However, Marie-Jeanne also identified herself by the name she and her siblings had been called since birth: Mandron. Her use of both these names, not only the one of her wealthy merchant father, suggest Marie-Jeanne's desire to affirm her family links with both the Fleuriau clan and her brothers and sisters in Saint-Domingue. Further, at roughly the same time her brother Paul in Saint-Domingue also adopted the name Fleuriau; he received several letters from his half-brother in La Rochelle addressed to Pierre-Paul Fleuriau Mandron.<sup>35</sup> This son of a La Rochelle

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value. See Howell, *The Marriage Exchange*, pp. 132-38, 162-67. Similarly, Marie-Jeanne Fleuriau Mandron chose to reinforce family ties with economic ones.

<sup>33</sup> For example, the Mandron sisters figured prominently in the Fleuriau family account books even after their father's death: ADCM 1 Mi 259: Michel-Joseph Leremboire to Aimé-Benjamin Fleuriau, 22 May 1785 and 31 July 1785.

<sup>34</sup> ADCM Notary Farjenel, 3 E 960: "Dépôt du testament de la citoyenne Mandron Fleuriau", 24 November 1793. The will itself, written in Marie-Jeanne Fleuriau Mandron's own hand, was dated 24 May 1788, although it was not filed until her death five years later.

<sup>35</sup> Letter from Louis-Benjamin Fleuriau to citoyen Pierre-Paul Fleuriau Mandron of 11 February 1794: ADCM 2 Mi 238.

planter became one of the most highly visible and politically active men of color in the colony on the eve of the Haitian Revolution. With other free men of color he signed one of the first addresses made to the French colonizers; he signed his name “P. Fleuriau”.<sup>36</sup> Paul Mandron’s daughter, who died in Saint-Domingue in 1803, went only by the name of Fleuriau.<sup>37</sup> This use of the Fleuriau name alone specifically contravenes the widespread Revolutionary and post-Revolutionary tendency of children of white planters and their slaves to reject the names of their fathers.<sup>38</sup> The Mandrons’ adoption of this name, then, implies Fleuriau’s children’s motivation to, in the words of Laurent Dubois, “publicly declare family histories that had previously been hidden”.<sup>39</sup> By making their family history public they staked their own claim as an important and influential family in Saint-Domingue, by virtue of their ties to France. The Fleuriau name therefore became part of Marie-Jeanne’s legacy. It not only emphasized her ties to her father, it also connected her with her brothers an ocean away. She further strengthened this bond through her assets; she divided her estate among her surviving siblings, nieces, and nephews.

Like many women, Marie-Jeanne Fleuriau Mandron reinforced ties of kinship and affection through how she chose to dispose of her own estate.<sup>40</sup> In naming her brother Paul and the children of her brother Jean-Baptiste her heirs, Marie-Jeanne emphasized the strength of family ties

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<sup>36</sup> Jean Fouchard, *Les marrons du syllabaire: Quelques aspects du problème de l’instruction et de l’éducation des esclaves et affranchis de Saint-Domingue* (Port-au-Prince, 1953), plates 34-37: facsimile reproductions of this letter and its signatures. Paul Fleuriau’s signature appears on plate 37.

<sup>37</sup> Cauna, *Au temps des isles à sucre*, p. 55. Cauna is not clear on his source for this information, but it is probably CAOM, Notary Badoux.

<sup>38</sup> On the tendency of free women of color, in particular, to reject their white father’s name in the wake of the Revolution in Guadeloupe, see Dubois, *Colony of Citizens*, pp. 251-52. Other studies of naming tend to focus on slaves, not free people of color. See, for example, Cheryll Ann Cody, “Naming, Kinship, and Estate Dispersal: Notes on Slave Family Life on a South Carolina Plantation, 1786 to 1833”, *William and Mary Quarterly* 39 (1982), 192-211; Trevor Burnard, “Slave Naming Patterns: Onomastics and the Taxonomy of Race in Eighteenth-Century Jamaica”, *Journal of Interdisciplinary History* 31 (2001), 325-46; Jerome S. Handler and JoAnn Jacoby, “Slave Names and Naming in Barbados, 1650-1830”, *The William and Mary Quarterly* 53 (1996), 685-728.

<sup>39</sup> Dubois, *Colony of Citizens*, p. 251.

<sup>40</sup> Howell argues that women “tended to treat property less as economic capital than as cultural or social capital”: Howell, *The Marriage Exchange*, p. 153.

and became a matriarch through whom wealth flowed in her own right. In her will she wrote, “I instate as my heirs and universal legatees and give them in all propriety and in perpetuity, Pierre-Paul Fleuriau Mandron, currently inhabiting the quarter of Mirabalais of Port-au-Prince, and the children of Jean-Baptiste Fleuriau Mandron, inhabitant of the same quarter, as heirs of their father, all my goods, *immeubles, meubles*, effects, gold, silver, letters of credit, and other things of a moveable nature that are found to belong to me on the day of my death”.<sup>41</sup> She further specified that if her brother Paul should predecease her, his portion of her estate should go to his children. This transfer of cash and goods, then, not only re-emphasized ties of kinship, it also created ties of heritage by specifying that property would flow from one generation to the next.

By the time she made her will Marie-Jeanne Fleuriau Mandron had amassed a considerable estate. Her most valuable items included a black box with silver curiosities inside, fine linens, wines, a gilded mirror with a fine painting above it in the frame, two more mirrors with paintings in grisaille garnished with marble, a dozen cabriolet chairs covered in blue damask, a gold watch and chain, a bed, and a good amount of money both in silver and in paper currency.<sup>42</sup> Inheriting such legacies of goods or cash could provide heirs with a valuable start in the world, or add to already sizable holdings. Her estate, then, could offer her heirs considerable financial advantages that could perhaps allow them to augment their own fortunes, but her legacy went beyond her immediate beneficiaries. By this act of writing her testament and leaving her property to her nearest kin who shared her family names Marie-Jeanne Fleuriau Mandron passed along assets that flowed from one generation to the next, building the Fleuriau Mandron heritage.<sup>43</sup>

Although Marie-Jeanne never specifically acknowledged her relationship with her white half-siblings in her will, she nonetheless appointed her younger half-brother Louis-Benjamin Fleuriau de Bellevue, a scholarly young man 20 years her junior who eventually became a

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<sup>41</sup> ADCM Notary Farjenel, 3 E 960: “Dépôt du testament de la citoyenne Mandron Fleuriau”, 24 November 1793.

<sup>42</sup> ADCM Notary Farjenel, 3 E 960: “Inventorie Fleuriau Mandron”, 2 December 1793. She also had among her papers copies of her father’s will and letters from her brothers in Saint-Domingue. The paper money she possessed was in *assignats*.

<sup>43</sup> On inheritance, see Ralph E. Giesey, “Rules of Inheritance and Strategies of Mobility in Prerevolutionary France”, *American Historical Review* 82 (1977), 271-89.

geologist of some note, as the executor of her estate.<sup>44</sup> Naming him as her executor certainly highlighted their family relationship, perhaps part of a final effort to emphasize that she, too, was a Fleuriau. Louis-Benjamin fulfilled this commission scrupulously, hiring a notary to represent the interests of his half-brothers, the legatees, and arranging for an inventory of his half-sister's goods after her death.<sup>45</sup> This curious situation, in which at the request of his Creole half-sister a legitimate son and heir oversaw the succession of an estate comprised largely of the fruits of his father's largesse to his illegitimate mixed-race children, illustrates in high relief how colonialism complicated family relationships, and how individuals could intervene in defining the boundaries of the family. In appointing her half-brother her executor Marie-Jeanne Fleuriau Mandron clearly trusted that young Louis-Benjamin would distribute her estate as she wished. He thus became the means through which his father's wealth passed from the Fleuriau lineage and formed the basis of the Fleuriau Mandron heritage, newly established by Marie-Jeanne.

### *Conclusion*

For Aimé-Benjamin Fleuriau, colonialism changed what the family meant and who it included. He chose to acknowledge his mixed-race children at their birth, he decided to bring them to France, and he elected to leave them sizable legacies. These choices offer insight into how Fleuriau viewed the family. For him, family extended beyond a nuclear unit constituted by law or religion. A flexible entity, family included the mixed-race children with whom he shared ties of blood, personal history, and affection. In his view, however, membership in a family did not entitle

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<sup>44</sup> Louis-Benjamin Fleuriau, known as Fleuriau de Bellevue, published a number of scientific treatises on geology, hydrology, mining, agriculture, and natural history. He was a member of the Academy of La Rochelle, president of its Agricultural Society, and a deputy for the Charente-Inférieure. His publications include Louis Benjamin Fleuriau de Bellevue, "Mémoires sur de nouvelles pierres flexibles et élastiques et sur la manière de donner de la flexibilité à plusieurs minéraux: lus à la société d'histoire-naturelle de Genève", *Journal de Physique* 41 (1792), 86-108 ; and Louis Benjamin Fleuriau de Bellevue, *Notice sur le puits artésien des bains de mer de La Rochelle*, (Paris?, 1834).

<sup>45</sup> ADCM Notary Farjenel, 3 E 960: "Inventaire Fleuriau Mandron", 2 December 1793.

all individuals to equal treatment; although he provided for his mixed-race children in his testament, his legacies to them paled beside the estates his white children inherited. Despite this, Marie-Jeanne Mandron also viewed family as a pliable unit which individuals could shape and manipulate. Both father and daughter used the elasticity in the concept of the family as a springboard from which they could push back against narrowing legal definitions of race, albeit in very different ways and for very different reasons.

Close examination of the complexities of the Fleuriau clan offers a compelling vantage point through which to analyze how colonialism shaped the family as a unit as well as the daily lives of each of its members in eighteenth-century France. Colonialism changed and challenged European ideas and experiences of the family. Family members had different opportunities and levels of authority to delineate what a family meant and who was included in it. Olographic testaments proved one important place where women in particular could outline their own versions of family bonds and boundaries. The family relationships sketched in women's testaments suggest that these documents provide one valuable site for circumventing and challenging patriarchal versions of family relationships, and for exploring a much more expansive and egalitarian view of the family, defined not by a father, but by a band of siblings.

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