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Unwed mothers, urban institutions and female agency in early modern Dutch, German and Italian towns

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ABSTRACT

Recent scholarship has exposed the complexity of the position of unwed mothers in early modern society. The traditional focus on their social marginalization is complemented by a growing awareness and scrutiny of their agency in navigating the various social, cultural, economic and political constraints. The various formal and informal institutions that were available to them played significant roles in shaping the extent to which these women were able to exercise control and make meaningful decisions. The aim of this contribution is to assess how different institutional arrangements affected women's options in navigating unwed motherhood across seventeenth- and eighteenth-century cities in Holland, Germany and Italy.

Based on an overview of existing literature, we compare the experiences of unwed mothers by focusing on their scope of action before criminal courts, in litigation for marriage or financial compensation, and in abandonment practices. Differences cannot be characterized solely by contrasting Catholic and Protestant regions, nor can a North-South divide capture all variations we found. Rather, we argue, the contours of urban unwed mothers' agency were shaped by a combination of women's socio-economic status, the problematization of illegitimacy in societies, the availability of institutional arrangements relating to criminal prosecution, civil litigation, and welfare provisions, and the particular entanglements of these institutions in a given society.

KEYWORDS

Illegitimacy; unwed mothers; urban institutions; Italy; Germany; Netherlands; early modern

1. Introduction

The ways in which societies dealt with illegitimacy have captivated historians for a long time. In the early modern period, the circumstances of unmarried pregnant women were generally quite precarious. Aside from social stigmatization, they often faced harsh economic conditions. Much of the early, foundational research into single motherhood focussed on the marginality and social isolation of unwed mothers. These studies tended to explore the myriad ways in which illegitimate births aggravated their already miserable situation in social and economic terms, the absence of social protection, their lack of leverage on the marriage market and limited legal rights to seek aid from putative father (Fairchild, 1978; Fuchs & Moch, 1990; Tilly et al., 1976). More recently, as is also discussed in the introduction to this special section, scholars have emphasised that early modern single mothers also had

considerable agency in navigating these various social, cultural and economic constraints. Not only could these women often count on empathy and compassion from community members, they could also draw on a wide range of institutional support and furthermore strategically employed legal forums and instruments of social control, through which they could wield surprising leverage over the children's fathers (Evans, 2005; Williams, 2018; Mitchison & Leneman, 1998; Hayhoe, 2005; Fuchs, 2009, pp. 13–26; Vermeesch, 2016, 2019, p. 118). A sole characterization of single mothers as destitute, alone and ostracised does not do justice to the complexities of their everyday lives.

The experiences of women navigating single motherhood depended to a large extent on the coercive measures and forms of social welfare that secular and ecclesiastical authorities developed; arrangements that varied significantly across early modern Europe. Some of the most notable and explicit reflections on the different approaches to illegitimacy distinguish Catholic and Protestant models (Pullan, 1989, pp. 5–26; Lynch, 2000, p. 140). Brian Pullan delineated two fairly distinct approaches to the problem of illegitimacy: first, the reliance on large, centralised institutions in cities as did the Catholic Italian states. Second, the shrinking back from making overt arrangements for the care of bastards in specifically designated institutions, the transfer of responsibility to local poor relief institutions, and the attachment of responsibility of the child to its parents, like Protestant England (Pullan, 1989, pp. 20–21). Most comparative studies, however, do not contrast Protestant and Catholic regions, but rather refer to – cultural and economic – differences between Northern Europe and Southern Europe. In discussing the incidences of illegitimacy, scholars did not only note important changes over time, but also mapped and tried to explain regional variations in the percentages of extramarital births (Macfarlane, 1980, pp. 73–75; Kok, 2009).¹ Different factors were suggested as possible explanations for the observed patterns, such as courtship practices, the successes or failures in disciplining sexuality (Gorski, 2003, p. 54), religion (Gorski, 2003; Mitterauer, 1983), economic fluctuations, demographic characteristics such as sex ratios (Kok, 2009; Mitterauer, 1983), matrimonial regimes and family systems (Kok, 2009; Laslett & Oosterveen, 1973; Laslett et al., 1980; Leneman & Mitchison, 1987). Though not undisputed, some studies noted a North-South divide, with higher illegitimacy rates in the South and lower ones in the North of Europe (Gorski, 2003, p. 76).

Many previous studies have tended to concentrate on the *causes* of regional variations in illegitimacy rates. However, to understand the complexity of the phenomenon and the multitude ways in which unmarried women experienced it, we argue that a comparative perspective on the *consequences* of illegitimacy across Europe is necessary. Largely following Griet Vermeesch (Vermeesch, 2019, p. 119), we conceptualise 'experiences' as the actions, attitudes, and strategies or the outcome thereof that women adopted or were subjected to by other parties involved in the illegitimate pregnancy and birth. Whereas Vermeesch focusses on Antwerp, we would like to compare the experiences of women in cities in different regions, Catholic and Protestant, in northern and southern Europe. The aim here is not to provide an overview of all of the possible practices and resources, but to specifically focus on unwed mothers' scope of action before criminal courts, in litigation for marriage or financial compensation, and in choosing for abandonment. We will compare the experiences of unwed mothers in seventeenth- and eighteenth-century cities in Italy, Germany and Holland, to assess how different institutional arrangements affected women's options in navigating unwed motherhood. What will be emphasised is

the importance of specific interrelationships between legal institutions (civil, criminal, and notarial) on the one hand, and poor relief and charitable institutions on the other. The social networks on which women could rely furthermore significantly impacted women's experiences within these institutional constellations.

As sites with high concentrations of institutions, cities have naturally taken centre-stage in the histories of illegitimacy. It is for this reason that this article concentrates on the options for unwed mothers in the urban setting. It furthermore focuses above all on the protagonists in the most precarious type of illegitimacy: so-called 'general bastardy'. Historians have pointed at the complexity of defining illegitimacy. The ambiguity in the legal definition of illegitimacy was, among other factors, related to courtship practices, marriage law, marriage customs (Macfarlane, 1980, pp. 73–75; Kok, 2009). For our purpose it is crucial to distinguish between bridal pregnancy (also called 'special bastardy') in which case the couple had always had the intention to marry, and 'general bastardy', i.e. the situation in which the partners had never had the intention to marry, did not intend to marry anymore or when the marriage promise was contested by one of the partners, or if paternity was denied by the father (Macfarlane, 1980, p. 73). A marriage following a bridal pregnancy could 'legitimise' the child. While this did not automatically release the parents from prosecution, (proof of) intended marriage could influence the ways in which the authorities responded. The attitudes of fathers towards the child and the expectant mother thus clearly affected the options women had at their disposal. Those women dealing with general bastardy were the most disadvantaged culturally, socially, economically and legally, which makes an examination of their scope of action all the more fascinating.

This article centres on four important practices that demonstrate the breadth and diversity of single mothers' experiences across early modern Europe. It begins with an assessment of what unwed mothers inherently lacked – a marriage bond – and reflects briefly on the (limited) opportunities to demand marriage from putative fathers. This is followed by a discussion of the positions of unwed mothers before criminal courts, the risks of being prosecuted in cities in the different regions under examination, as well as the possibilities they had to escape such prosecution. The third section focuses on single mothers' litigation for financial support, including their comparative success and strategies they employed, followed, lastly, by acts of legal abandonment.

2. Demanding marriage

Throughout early modern Europe, the Reformation and Counter-Reformation had played pivotal roles in shaping the authorities' attitudes towards extramarital pregnancies. One of the most important changes lay in the re-evaluation of the nature of marriage. Both the Protestant ideals concerning marriage following the Lutheran Reformation (1517) and the matrimonial regime introduced by the Council of Trent (1545–1563) redefined the boundaries of what was considered as the start of matrimony, and consequently the start of legitimate sexual relations. The consent of the bride and groom had long determined married status – a process that was initiated by a binding marriage promise. The fight against so-called clandestine marriages (those initiated without a proper promise) transformed marriage into a publicly announced, celebrated and administratively documented ceremony requiring the presence of witnesses and a clergyman (Lombardi,

2016a, p. 124). While there were significant differences between the specific ideas and programs of the two reform movements (Lombardi, 2016a, pp. 119–141), both Catholic and Protestant rulers subjected marriage to new rules, controls and registrations to enable a clearer distinction between married and unmarried persons and circumscribe legitimate sexual activity within the marriage bond.

Across Europe, the sixteenth- and seventeenth centuries witnessed the establishment of a vast array of institutions, secular and ecclesiastical, charged with maintaining, controlling and disciplining the redefined boundaries of the institution of marriage. In the early modern period, marriage was widely regarded as the most suitable solution for an extramarital pregnancy. A popular conception was that the marital relationship legitimised female sexuality and restored (and protected) women's reputations (Cavallo & Cerutti, 1990; Burghartz, 2016, pp. 191–292). In some cases, marriage was even believed to erase all traces of the illicit sex that had occurred, restoring the women to the condition she was in before she was deflowered (Lombardi, 2016a, p. 133). Because an unmarried mother's stained honour also affected the reputation of the family, illegitimacy also closely touched the lives of her male kinfolk (Cavallo & Cerutti, 1990, p. 81). Both the immediate family and the wider community are therefore believed to have exerted significant pressure on expectant parents to marry. Men in particular, were forced to keep their word, and were met with sanctions such as ridicule, the exclusion from social events or direct ostracism if they did not conform (Cavallo & Cerutti, 1990, p. 87).

Unmarried pregnant women could attempt to utilise more formal instruments to try and pursue marriage through civil and criminal procedures. In the German-speaking territories, women could start a suit before a marriage court to claim broken marriage promises, although, depending on the region, this option was not open to everyone. In Frankfurt, for example, such a suit could only be started if proper marriage vows had been exchanged (i.e. in the presence of parents or guardians). This reduced the number of women who could opt for this measure significantly. Still, the law offered a loophole: if a courtship had resulted in pregnancy, women could start a suit for broken marriage promises *if* they managed to get the consent of their parents retroactively (Kamp, 2019, p. 194; Breit, 1991, p. 161).

On the Italian peninsula women and their kin could approach the ecclesiastical court to demand the fulfilment of a marriage promise (Lombardi, 2016b, p. 105). Here, the validity of the betrothal continued to be based on the exchange of consent between the two partners, but this was difficult to ascertain and proof without witnesses. In practice, therefore, it were predominantly the few women with publicly-recognised and long-term relationships that succeeded in persuading their partners to keep the promises that were made (Terpstra, 2012). Suits for so-called 'non-violent rape' (essentially meaning seduction) brought before Italian secular courts reveal that less than five percent of all suits resulted in a sentence to either marry or dower the deflowered (and often pregnant) woman, the latter option being the most common (Arrivo, 2006, p. 202).

Dutch unmarried women had the option to demand a marriage with the father of her child through a paternity suit (Haks, 1985, pp. 88–89), a legal act that will be discussed in more detail later on. The overall number of these civil lawsuits filed were small and the outcomes depended on the social and cultural statuses of the plaintiff and defendant, the marital status of the defendant, the availability of a declaration under oath, and the plaintiff's embeddedness into the community, as will be discussed more extensively

below (Vermeesch, 2016, p. 69; Vermeulen, 2009, pp. 14, 24–26; Haks, 1985, pp. 93–95; Boerdam, 1985, p. 166). In all three regions, the courts moved very cautiously in imposing a reparatory marriage – well aware that the stability of such unions was weak at best.

There are some important indications that women across early modern Europe found themselves increasingly disadvantaged before the courts. Daniela Lombardi argued that women began losing the judicial privileges that derived from the medieval conception of the marriage promise between the sixteenth- and eighteenth centuries (Lombardi, 2016a, p. 137). Throughout the Italian peninsula, a combination of the church's ambition to defend the institution of marriage and the state authorities increasing the burden of proof regarding marriage promises and non-violent rape cases meant that the plight of unmarried expectant mothers worsened, particularly during the eighteenth century (Ferraro, 2008, p. 7; Bianchi, 1997, p. 63; Arrivo, 2006, p. 20; Cavallo & Cerutti, 1990, p. 100; Sandri, 2006, p. 73; Lombardi, 2016b, p. 107). Increasingly, betrothal was only considered legally binding when definite proof, such as a contract, could be presented to the court.

Scholars have noticed a similar shift in various regions in early modern Germany. In the first decades after the Reformation male and female petitioners had roughly the same chances in matters relating to marriage and divorce. After this foundational phase of a new moral regime, most urban and ecclesiastical authorities moved from a relative lenient and integrative position to a punitive and criminalizing one (Burghartz, 2016, p. 191). In eighteenth-century Antwerp too, a gradual and adverse shift in the administrative resources available to unwed mothers has been noted (Vermeesch, 2019, p. 130).

This waning of judicial privileges did not mean that women stopped appealing to justice, nor that their prospects before the courts were hopeless. Sometimes just filing a case was sufficient to come to an agreement with the father after all. Moreover, as we will see, it was not always marriage that women and their kin were after. Suits were often used as a way to enforce a different solution, most often financial compensation (McTavish, 2013, p. 197; Haks, 1985, p. 88). Since authorities had turned against imposing forced marriages, financial remuneration became an increasingly frequent outcome of litigation surrounding (the products of) illicit sexuality throughout early modern Europe (Lombardi, 2016a, p. 135).

3. Risking and avoiding prosecution

It has become clear that Protestant Reformers and Catholics shared a commitment against illicit sexual relations and that both viewed unwed motherhood as a problem to be countered by new rules, controls and registrations. Despite these similar overarching aims, significant differences emerged in the institutional treatment of women pregnant out-of-wedlock across early modern Europe.

Compared to the other two regions under discussion here, the practices of control were stricter in the early modern cities in German speaking territories. The treatment of illegitimacy, and consequently the options available to women, cannot be separated from the process of confessionalization that took place both in its Protestant and Catholic regions. Confessionalization refers to the process of increasing control of the state over religious matters, including the discipline of marriage and sexuality (Headley et al., 2016). While the concept was introduced to analyse how authorities (re-)implemented religious ideals and mainly refers to the period until 1700, the process and its impact on the

institutional framework in which illegitimacy was controlled, was long-lasting. During the sixteenth and seventeenth centuries rulers of all denominations introduced new regulations concerning the nature of marriage (and relating to this, illicit sexuality) and set up specific courts to control these regulations (Burghartz, 2016, pp. 176–200; Breit, 1991; Watt, 1992; Gleixner, 1994; Harrington, 1995; Schmidt, 1995; Hull, 1996; Burghartz, 1999; Strasser, 2004). New criminal offences were introduced penalising extra-marital sexuality: fornication (*Unzucht, Hurerei*) and profligacy/lewdness (*Leichtfertigkeit, Liederlichkeit*) (Burghartz, 2016). With the introduction of the offence of ‘premature carnal knowledge’, even children conceived before- but born within wedlock became a reason for prosecution (Burghartz, 2016, pp. 187–188).

Although the organization of these newly established moral courts differed across early modern Germany, they shared many important characteristics. First, they were lower courts, meaning that the courts’ magistrates could only impose minor sanctions (monetary fines, shaming punishments, or dismissal of the city) and no penal punishments (*peinliche Strafen* i.e. corporal punishments & the death penalty). A second characteristic is that the courts were often used as an instrument of the centralization efforts of authorities to suppress and/or supplement other infra-judicial or informal practices concerning the regulation of extra-marital sexuality and its primary consequence, illegitimacy (Härter, 2005, pp. 820–929). The authorities increasingly demanded that the informal or extra-judicial arrangements that women made with the children’s fathers were reported to the court, in order to guarantee control and prevent a circumvention of justice (Härter, 2005, p. 820). In the eighteenth century, the authorities of Frankfurt penalised the placement of illegitimate children in foster care, as well as the regulation of child support before a notary, without the explicit consent of the city’s consistory court (Kamp, 2019, p. 166).

A third important characteristic is that the courts functioned both as a civil and a criminal court. This had important implications for women’s options because the institution that was responsible for the disciplining of extramarital sex was the same as the institution in charge of the settlement of paternity suits and alimony cases (Kamp & Schmidt, 2018; Burghartz, 1999, pp. 276–284). This means that going to court nearly always meant self-disclosure (Schmidt, 1995, p. 18). Penalties for fornication and other sexual offences were often high, and could easily represent a year’s wages for women, or a banishment from the city (Habermas, 1992, p. 113). In seventeenth-century Hall, illegitimacy was among the most prominent causes for the banishment of women (Dürr, 1995, p. 229). In eighteenth-century Lippe, between two-thirds and three-fourths of the mothers of baptised extramarital children were prosecuted and sentenced by these moral courts (Frank, 1995, p. 331). The stakes were clearly high for unwed mothers in the German territories, though, as we will see, the potential benefits could outweigh the consequences of criminal prosecution.

Whereas the process of confessionalization had been a paramount factor for the German-speaking territories, the formal separation of church and state defined the treatment and experience of illegitimacy in the Dutch Republic. Notably, litigation and prosecution were not intertwined institutionally, and successful litigation could in fact aid women before the criminal court. The Reformed church strongly condemned extramarital sexuality and intensified its efforts to discipline fornicators in the cities in Holland after the Further Reformation. Being a ‘privileged’ rather than a ‘state church’, however, church discipline could only be exercised over members of the congregations and its sanctions were limited

to admonition and suspension from the Lord's supper. Aiming to both to reconcile the malefactor with the church and to uphold church morality, churches preferred to deal with cases of illegitimacy within their communities. They could even choose to refrain from taking any formal action, or keep names of moral offenders secret in order to avoid their reputation to be threatened. Publicly known moral offences – as was a likely scenario in case of a pregnancy – were treated more severely (Van der Heijden, 1998, pp. 205–207; Roodenburg, 1990, p. 277). Married men who had impregnated their servants were suspended from the Lord's supper until the mother of their illegitimate child had left their home (Van der Heijden, 1998, pp. 251–252). Evidently, upholding church morality was considered more important than the safety and financial security of an unwed mother and her illegitimate child.

Extramarital sexuality and giving birth to an illegitimate child was considered a criminal act and was consequently prosecuted by criminal courts in Holland. Both men and women were prosecuted for indecency, although the majority of defendants consisted of women. Sentences were severe, as women convicted of carnal intercourse typically found themselves sanctioned with banishment anywhere up to twelve years (Van der Heijden, 2016, pp. 106, 111–112). For Rotterdam, it has been shown that after 1650 the focus shifted from the prosecution of illegitimacy primarily as evidence for extramarital sexuality towards the prosecution of illegitimacy as such (Van der Heijden, 1998, pp. 121–122). This points to an increased anxiety about the birth of children out of wedlock. Despite this anxiety, Dutch women encountered more leniency before the courts than their German counterparts. Criminal courts were sometimes prepared to close a case when a financial agreement was reached between the mother and the natural father (Kamp & Schmidt, 2018, p. 687). In other cases, courts refrained from harsh punishments when couples eventually married. But there also appeared to be a direct relation between the sentence imposed by criminal courts and the financial compensation women received from the child's father. Women were at least expected to be able to mention his name and preferably be able to prove that he paid alimony. Women who could not, were punished more harshly (Van der Heijden, 1998, p. 124)

There is ample evidence that it was the Dutch local authorities' highest concern to avoid unmarried mothers and their children becoming a financial burden. Banishment from the city – a common sentence for giving birth out of wedlock – should be viewed in this light; this way authorities could avoid financial responsibility for the mother and child. It is clear that this worked in the advantage of the more settled and the more well-to-do, who were more likely to be able to find other solutions, leaving the marginal, more mobile women as the prime object of the social control of criminal courts (Vermeesch, 2016, p. 68). Similar motives can be discerned in Germany. The responses of the authorities to illegitimacy in German cities also became increasingly linked to the regulation of poor relief finances of illegitimacy rather than morality, though they relied on harsher punishments as opposed to the leniency of the Dutch. It is telling that in 1755 Frankfurt's city council issued an ordinance to expel all unmarried foreign women together with their children (Kamp, 2019, p. 187). Preferably, they were expelled while still pregnant, to avoid that the city would have to pay the costs of childbirth that these women would probably be unable to afford themselves.

This focus on the financial burdens surrounding unwed mothers and their illegitimate offspring was notably absent in the dockets of early modern Italy. Throughout the centuries and across the Italian peninsula moral offences were dealt with by different courts: criminal, civil, mixed, and ecclesiastical (Black, 2001, p. 197). While the secular jurisdiction over sexual misbehaviours expanded significantly in some parts of Italy (such as Venice) from the sixteenth century onwards, other states kept viewing crimes against the sacraments as religious affairs to be dealt with by ecclesiastical courts. This was also the case in early modern Bologna, where most 'crimes of the flesh' were distinguished as being subject to civil or canon rather than secular criminal law.²

Normatively, all sexual relations outside of the marriage bond were criminalised on the Italian peninsula, and the punishments could be severe. In theory, ecclesiastical and secular courts could impose severe penalties for fornication or deviation, including monetary fines, banishment, corporal punishment and forced labour (Sandri, 2006, p. 77). In practice, repression was particularly severe only under certain specific circumstances: repression was harsh towards adulterers, widows with daughters suspected of licentious behavior, and towards women from the popular classes who had relationships with elite men (Lombardi, 2016b, p. 112). Infanticide too, perhaps the outcome of illegitimate relationships that was most feared, was almost invariably punished with a sentence to death (Angelozzi & Casanova, 2014, p. 19). All of these types of crimes were fairly uncommon (Ferrante, 1987, p. 993; Angelozzi & Casanova, 2014, p. 200).

It is remarkably that the bulk of illegitimately pregnant women went unprosecuted before Italian secular and ecclesiastical courts. An examination of the dockets of Bologna's archbishop's court in the late seventeenth century revealed that out of the women accused of sexual misconduct, only one in seven received a sentence such as banishment, a fine or house arrest (Ferrante, 1987, p. 1012). These women had generally been involved with religious men, or had been recidivists. The great majority of the female defendants fell outside of this category and commonly received a court order to stop seeing, frequenting and talking to the men they had been accused of having relationships with. Similar observations can be made from the Florentine criminal court.³ As long as women did not try to hide their pregnancies (*gravida occulta*) and did not continue their illicit relationships, magistrates often let these women go with a warning.

How unwed mothers experienced the law was vastly different in each of the three regions under scrutiny, and reflects dominant attitudes towards poor relief and welfare arrangements. Because abandonment of illegitimate new-borns was not only expected but also enforced in Italy, as will be discussed later, the potential future financial burdens of illegitimacy played a far smaller role in their prosecution than for their Dutch and German counterparts. The effects of such financial concerns on the position of single mothers were moreover not unequivocal; resulting in high levels of prosecution in German cities, while stimulating women to seek financial remuneration through other channels in Holland.

4. Litigating for financial support

Across early modern Europe unwed mothers could start civil claims against the father of the child. The names of these suits, the circumstances under which they were allowed, the burden of proof necessary, the phrasing of the aims, as well as the outcomes varied over time and space. From marriage claims to paternity suits and suits for 'non-violent rape';

under the umbrella term of civil suits women would demand either marriage with the father of the child, as was briefly discussed above, or, far more commonly, directly or indirectly asked for a financial compensation, whether it be for the honour that was lost, for the dowry that needed to be raised, for the costs of childbirth, or for child support. The suits initiated by these lone mothers are worthy of scholarly attention as they reveal important instances of pauper agency through the tactical use of opportunities offered by institutions and local communities (Vermeesch, 2019).

Just what a tight rope early modern women walked while navigating single motherhood is made clear by the German case, where civil suits had to be initiated before the same court charged with prosecuting crimes of the flesh. Paternity suits were aimed to establish the identity of the father before court, so he could be forced to take up his financial responsibility for the maintenance of the illegitimate child. The intertwining of civil litigation with criminal prosecution, however, made it hazardous for unwed mothers to undertake any legal action, as it meant subjecting themselves to criminal prosecution. Some women were denied the opportunity of civil litigation. According to an ordinance in Frankfurt from 1729 women who had engaged in a sexual relationship with soldiers were explicitly forbidden to start a suit in response to broken marriage promises and that regardless whether or not they became pregnant, they could not count on any compensation (Beyerbach, 1798, pp. 565–566). The majority of women who were able to initiate a suit, claimed that they had only engaged in intercourse after the man had made a marriage promise, even in regions where the exchange of marriage vows was not necessary to claim financial support (Härter, 2005, p. 863, 897; Gleixner, 1994, p. 85). Men often denied having had sexual intercourse with the woman altogether, or claimed she had had multiple partners. Portraying women as promiscuous was a common strategy used by men everywhere in early modern Europe to undermine her credibility in court. Women could, and often would need to, mobilise neighbours and family members to testify on their behalf (Burghartz, 1999, p. 279; Härter, 2005, p. 864; Gleixner, 1994, p. 55).

The high prosecution rates notwithstanding, the authorities were not disinclined to hear unwed mothers out. In roughly half of the paternity suits in Bavaria, the authorities had not yet started a criminal prosecution before the woman had indicted the illegitimate father for the payment of alimony charges (Breit, 1991, p. 144). While the penalties for fornication could easily represent a year's wages, self-disclosure could be profitable: the financial support women received through the payment of child-support exceeded the fines that they had to pay. Karl Härter calculated for Kurmainz a ratio of 1:200 (Härter, 2005, p. 841). The chances of success were also fairly high. In Bavaria about two-thirds of the women that had started a claim either settled the case – generally after having come to a financial agreement – or received a court ordered compensation (Breit, 1991, p. 149). German authorities supported women by enforcing compensation of illegitimate fathers. In case a man was unwilling to pay, authorities could (and did) proceed to withhold his wages or take him into custody until he fulfilled his financial responsibilities (Härter, 2005, pp. 839–844). These factors may explain why women were willing to expose themselves to possible punishment by reporting their extramarital pregnancies to the authorities.

In early modern Dutch cities, unwed mothers had similar administrative resources to obtain financial compensation from the father in the shape of civil suits (Haks, 1985, pp. 88–89).⁴ Generally initiated by pregnant women or her family, this civil litigation was part of a wide range of informal, extra-judicial, semi-judicial and judicial procedures at her disposal

to call fathers to account for their actions. These procedures could be – and often were – applied successively, taking one next step when the previous one appeared to be unsuccessful. First, neighbours, family members and friends could be mobilised to remember the father at this responsibility, to induce him to marry the pregnant woman or to pay compensation. Naming the father of a child was a common strategy. Though maybe primarily aimed at the restoration of the honour of the unwed mother, it is clear that this action could serve very well as a first step towards recognition, eventually leading to a marriage or to financial compensation (Haks, 1985, pp. 82–88). In some cases the mobilization of bystanders was more formalised and special ‘men of honour’ or midwives were designated to fulfil the task of reminding father of his responsibility (Koorn, 1987, pp. 92–93). The roles of midwives and notaries were regulated and institutionalised. Sworn midwives were obliged to ask an unmarried woman in labour for the name of the father. Declarations of midwives served various purposes, sometimes counteracted the interests of an unwed mother but could also very well serve her interests. Declarations about the father’s name passed in notarial acts were, like declarations under oath or notarial depositions laid down by women themselves, used to pressure fathers to come to an agreement without judicial interference.

When extrajudicial or semi-judicial instruments did not lead to a desired solution, women could take the next, judicial step by initiating a paternity suit. The overall number of cases filed was small. Sometimes just initiating a case was sufficient to come to an agreement with the father after all (Haks, 1985, pp. 97–98; Van Meeteren, 2006, p. 384). In other instances, cases were only brought to an end by a verdict of the aldermen. The outcome of these paternity suits depended on a range of variables, such as the social status of the plaintiff and defendant, the difference in social status between the two, the marital status of the defendant, the availability of a declaration under oath, and also the social and cultural position of the plaintiff were factors that mattered (Vermeulen, 2009, pp. 14, 24–26; Haks, 1985, pp. 93–94; Boerdam, 1985, p. 166; Vermeesch, 2016, p. 69). For domestic servants, impregnated by a married men of higher status, it was extremely difficult to obtain any sort of compensation. But overall, Dutch women were not without chance. Of all the cases brought to conclusion through a verdict by the court, nearly two-thirds were adjudicated in favour of the woman. In general, courts were hesitant to force defendants to marry the plaintiff, but they did sentence men to pay financial compensation or alimony for the upbringing of the child (Haks, 1985, pp. 88–91).

There is a growing body of evidence that the success of women in paternity suits was highly contingent on the organization of poor relief institutions. Florence Koorn pointed out that women in the rural, eastern region of Twente were less successful in securing compensation through paternity suits than women in towns in the western province of Holland. As a possible explanation she suggested that the bailiff in Twente had less direct connections with the local poor relief boards and acted from more archaic, rigid procedures (Koorn, 1987, pp. 96–97). The magistrates presiding the courts in Holland, by contrast, were highly motivated to achieve a financial arrangement between the unwed mother (to-be) and the father to avoid the unmarried woman and her child becoming a burden on public poor relief. More recently, Griet Vermeesch has shown how direct and crucial the support of the poor relief institutions is likely to have been (Vermeesch, 2016, pp. 68–69). A systematic analysis of the profiles of the single mothers in eighteenth-century Leiden revealed that the women who ended up taking legal action were women who were often strongly

incorporated in the local community, that they were more often members of the Dutch Reformed church than the women who did not pursue legal action, and were commonly recipients of poor relief. Vermeesch convincingly hypothesised that women seeking legal action had been actively encouraged by the consistory and the overseers of the poor chest to do so.

Paternity suits – which could be employed to force fathers to assume the costs of supporting illegitimate offspring raised by the unwed mother – were not legal instruments that Italian women had at their disposal, not in the least because the stern moral climate made it nearly impossible for a single woman to keep her child (Ferraro, 2008, p. 8; Bianchi, 1997, p. 63; Ferraro, 2016, p. 767; Pullan, 1989, p. 15). The only way in which these women could take men to court for a financial compensation was through a so-called suit for ‘non-violent rape’ (or seduction). In this type of case, pregnancy provided convincing evidence for the loss of the woman’s virginity with which the male defendant was essentially charged. In these claims, women emphasised that the seduction had occurred following a marriage promise. An examination of late eighteenth-century trials for non-violent rape before Florence’s supreme court of justice reveals what women stood to gain. Nearly half of the cases were settled out of court and halted before reaching a final verdict. Out of these settlements, nearly two-thirds of them were preceded by a marriage and the rest by a monetary compensation for the honour that was lost (Arrivo, 2006, p. 202). Real penal punishments, such as banishment or imprisonment, was only a consequence for a small number of ‘seducers’. Instead, over half of the men were sentenced to pay a fine, and a third to marry or dower the woman – the latter being more likely since forced marriages were generally deemed undesirably and uncommon. Appealing to justice furthermore allowed women to argue their case in public, and demonstrate that they had behaved properly in order to reaffirm their good reputation (Lombardi, 2016a, p. 141).

Unwed women thus had a fair chance of winning in these suits for non-violent rape; one of the few legal instruments to obtain a financial compensation for the situation that they found themselves in. Starting such a claim was furthermore free-of-charge in early modern Italy, as were other types of criminal litigation. Nevertheless, it was probably only a particular subset of women who could try to advance their position through this kind legal instrument, not only because a marriage promise was needed but also because women needed extensive support from kin and local community members to reach the burden of proof and vow for her former good reputation. Furthermore, the money that a woman might obtain through legal action was meant to enhance her dowry and, consequently, better her chances of marriage in the future, but never to support her in raising her illegitimate child. For most illegitimate Italian children, all roads led to the foundling hospital.

5. Abandonment

Northern Europe’s tendency of attaching the (financial) responsibility for illegitimate children to one or more of their parents contrasted with the development of a highly integrated system of foundling homes in southern Europe towns. As is known, from the fifteenth century onwards specialised institutions emerged in the Catholic world seeking to preserve and restore the honour of poor, unmarried women by providing a safety net, often in the form of custody (Lombardi, 2016b, p. 111). Among the first of these institutions were the foundling hospitals, which aimed to prevent infanticide and protect the

honour of unwed mothers and their families by erasing the traces of their sin (Kuehn, 2002, pp. 96, 107, 111). Brian Pullan has provided one of the most explicit explanations for the reliance on large, specialised institutions to deal with the problem of illegitimacy, noting the weak development of the parish, allowing centralised rather than local institutions to flourish in Italian cities, the widespread custom of wet-nursing among the upper classes, and an overall willingness to accept a lesser evil in order to avert a greater one (Pullan, 1989, pp. 21–25).

Though not criminalised or condemned, abandonment was not without stigma. Many foundling hospitals therefore provided a *ruota*, a rotating door through which babies could be deposited anonymously and at night (Kuehn, 2002, p. 107). In many towns, such as in Bologna, the pregnancies of unwed mothers were closely monitored by bailiffs and midwives, who were required by law to register the pregnancy to the foundling hospital and had to make sure the baby ended up there. Aided by community members and other local officials, this highly integrated network of control and surveillance ensured that virtually all illegitimate children were abandoned: hundreds a year in any given Italian city.

The target audience for the foundling homes were bastards, the so-called *spurii*: illegitimate children of unknown parentage often following a temporary concubinage rather than a stable bond (Terpstra, 2012; Cavallo & Cerutti, 1990, p. 101). The mothers of these children are considered to have been the more mobile women, often servants, with partners that were not in the picture. The identity of the father was not asked when registering the unwed pregnancy, nor when the baby was consigned to the hospital (Bianchi, 1997, p. 43). This disinterest in tracking down the father emphasises that this institution was aimed at a particular group of otherwise marginalised women and their illegitimate offspring. Social disapproval as well as economic difficulty left these women with little choice than to abandon the child. At the same time, by erasing the traces of their sin, foundling hospitals salvaged the honour of the women whose reputations and marriage prospects would have been ruined, as well as the honour of the families whose duty it had been to watch over their sexual conduct, and prevented communities being scandalised by the presence of women openly rearing children out of wedlock (Lombardi, 2016b, p. 111; Kuehn, 2002, p. 96).

These foundling hospitals, found all throughout the Italian peninsula, were part of a bigger institutional plan. They fit within the broader proliferation in the Catholic world of integrated networks of semi-public charitable institutions from the sixteenth century onwards. This ‘new philanthropy’ had a special systematic focus on women, seeking to correct, supervise and help ‘problematic’ women and girls by providing a safety net, often in the form of custody (Cavallo, 1998, p. 115; Terpstra, 2000). If foundling hospitals helped unwed mothers of illegitimate children salvage their honour, other institutions focused on different stages of their life, linking shorter and long-term care and control through a range of dowry investment funds, orphanages, conservatories, workhouses, prisons, and a variety of enclosed shelters for women at the fringes of society (Terpstra, 2013, p. 17). In early modern Italy institutionalization, Sandra Cavallo argued, became part at this time of a policy of gender (Cavallo, 1998, p. 115). Maternity wards were instated for women of means who could, during their pregnancy, hide away and deliver the child discreetly. During the seventeenth and eighteenth centuries some Italian towns, such as Florence, started offering institutional assistance to pregnant women who were considered ‘marginal’ due to them being poor, migrants, unwed, adulterous or working as a prostitute (Sandri, 2006, p. 71). That even these marginal women had options within the social fabric can be viewed as an ‘inclusive’ approach to welfare arrangements. Some scholars

have, however, stressed the oppressive nature of the highly integrated network of care and control. When discussing the spread of foundling wheels throughout Europe under Napoleon's reign, Kertzer argued that this should be understood as a way for men to further relieve themselves of responsibility (Kertzer, 1991, p. 17). The primary aim of discreet abandonment was to protect fathers, not mothers, and women's honour was merely its idiom.

The links between illegitimacy and abandonment were far less direct in other regions in early modern Europe. In early modern Holland, the tendency to allocate the responsibility for the upkeep of illegitimate children to the parents where possible also meant that abandonment was generally not allowed, let alone was it encouraged officially (Van der Heijden, 1998, p. 126; Jansen, 1975, p. 622). Many of the orphanages established in Holland during the sixteenth and seventeenth centuries were burgher orphanages that restricted admittance to orphans of parents with citizenship rights, some of them even requiring a minimum number of years of citizenship before their children would be eligible for care. In some cases city governments established an orphanage that admitted all orphans, abandoned children and foundlings (Spaans, 2002, pp. 266–267; Jansen, 1975, p. 622). The orphanage in Delft, established in 1579, was an example of this kind of institution (Van der Vlis, 2001, pp. 44–45). In other Dutch cities new, more general children's homes or orphanages were established alongside of burgher orphanages, mostly during the mid-seventeenth century. Regardless, the number of illegitimate children in these institutions was most likely limited. In Leiden between 1775 and 1779, an average of seven illegitimate children entered the care of the Masters of the poor (Vermeesch, 2019, p. 16). In the German-speaking territories too, overt, structural institutions for the care of bastards were rare. Even the occasional foundling homes that were in place, such as the *Findel* in early modern Nuremberg, functioned as a *de facto* orphanage and foster home, with less than three illegitimate children admitted each year – a strikingly low number for an urban population of around 40.000 (Harrington, 2009, p. 154).

Abandonment outside of specially designated areas was prohibited all over early modern Europe as it endangered the child's life, but there were significant regional differences in the degree to which abandonment was institutionalised (Lombardi, 2016a, pp. 73–74). It was difficult to reconcile an institution liable to pull disproportionate numbers of poor into a specific area with a parochial system of caring for the poor common in the regions such as Holland and Germany (Pullan, 1989, p. 20). The limited numbers of abandoned infants that were reluctantly admitted into orphanages notwithstanding, authorities preferred to attach the child to its parents wherever possible and made extensive attempts to identify errant fathers and force them to pay the child's expenses. For eighteenth-century Antwerp, Vermeesch described some mechanisms that were in place to try to prevent abandonment (Vermeesch, 2019, pp. 121–129). She argued that abandonment should be considered a sign of isolation and desperation rather than belonging. A desperate last resort in one society, an enforced practice in another; abandonment was one of the important acts shaping unwed mothers' experiences in the early modern period.

6. Conclusion

Whereas studies have in the past often tended to focus on the causes of the incidence of illegitimacy and its geographic variations, this contribution focussed on women's options

whilst navigating unwed motherhood in early modern cities across Europe. This focus on agency does not aim to deny the often deplorable positions in which many of the women who had fallen pregnant out-of-wedlock found themselves. Instead, it aims to look beyond the marginality of their situation and opens up the perspective of the *variety* of experiences of these women – experiences that were the outcome of actions, attitudes and strategies that were made within a particular institutional framework. The differences in the options for women cannot be explained by simply contrasting Catholic with Protestant regions, nor can a North-South divide capture all variations we found. Further comparative research based on primary sources is needed to assess to what extent the arrangements we found in German, Dutch and Italian cities represent distinct cultural or geographical models. However, we have demonstrated here that the contours of urban unwed mothers' agency were shaped by a combination of women's socio-economic status, the problematization of illegitimacy in societies, the availability of institutional arrangements relating to criminal prosecution, civil litigation, and welfare provisions, and the particular entanglements of these institutions in a given society.

When examining the options that women who were pregnant out of wedlock had in different regions across Europe, the responses of authorities are pivotal. The way in which societies problematised illegitimacy had decidedly gendered consequences. In the responses of authorities and thus the options of unwed mothers, differences between an emphasis on honour on the one hand and financial obligations on the other are notable. The historiography on early modern Italy suggests that aside from saving a child's life, it was primarily the protection of honour that constituted a leading principle in the institutional response to women pregnant of an illegitimate child. As such, the role of the child's father moved somewhat to the background in the process of finding a solution. Both in Germany and the early modern Dutch Republic, financial considerations related to poor relief were pivotal determinants in shaping women's experiences. Even though in practice it was the woman who was brought in a precarious situation by the pregnancy, the father did not escape the authorities' scrutiny because of these concerns.

Even if concerns were the same, evidence drawn from German, Dutch and Italian cities reveals how different the experiences of unwed mothers could be, also among regions traditionally described as having taken up similar approaches. Marked differences existed between the cities in the different regions in the entanglements of these arrangements, in the levels of formal intervention by the political and ecclesiastical authorities, and in the inclusive or exclusive effects of this interference. Both early modern Italy and Germany were characterised by high institutional interference: through pervasive pressures on unwed mothers to circumscribe her actions to the network of charitable institutions of care and control on the Italian peninsula, and through high levels of criminal prosecution in cities in Germany. The Italian networks of charitable welfare provisions such as foundling homes and maternity wards offered a relief from criminal prosecution, they also allowed for few alternatives. In Germany however, the intertwining of the moral courts' functions as sites of litigation for financial support as well as moral disciplining, leaving unwed mothers far more vulnerable for prosecution than elsewhere in early modern Europe. Dutch women had the same administrative resources that German women had, and shared the authorities' concern with unwed mothers and their illegitimate children becoming a burden on the poor relief system. Yet, they had more social and legal leeway than their counterparts elsewhere, as the possibilities for

informal settlements and overall low levels of institutional interference by the authorities provided a possible escape from the harsh prosecution and punishment.

Notes

1. A distinctive North-South divide is not only discussed for Europe as a whole but also, as for instance, for the case of England, for single counties. See Adair (1996).
2. *Bando generale della legazione di Bologna e suo contado, fatto pubblicare li 12. ottobre 1756 dall'eminentiss., e reverendiss. sig. cardinale Fabrizio Serbelloni, legato a latere di detta città.* Bologna, 1756, p. 92.
3. Archivio di Stato di Firenze, Otto di Guardia e Balia del Principato, Giornali di negozi, book 837.
4. The following three paragraphs are based on Kamp and Schmidt (2018).

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