Creating the Republican Family: Political and Social Transformation and the Revolutionary Family Tribunal

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The model of the family as a site for exploring Old Regime and revolutionary challenges to authority in social and political relationships has proved useful for understanding the development of democratic institutions and citizenship practices.¹ Changes in family law during the French Revolution provide one area for assessing such developments. At the very moment the Republic began, its leaders legislated marriage as a civil contract and divorce as a means to end that contract because they believed that any "inviolable agreement" risked losing the most fundamental liberty of the individual.² The theoretical basis of this legislation paralleled that which asserted the right of the people to reject the monarchy, to break the social contract, and to form society anew. In restructuring institutions, revolutionary legislators applied liberal principles to the institutions of marriage and family with the goals of reducing the arbitrary


² See the 1792 divorce law reprinted in Marcel Cruppi, *Le divorce pendant la révolution, 1792–1804* (Paris: Arthur Rousseau, 1909), 115–37. All translations from French are my own unless otherwise noted.
power of the father and the husband and to "strengthen the ties of the individual to the state. . . . Civil marriage [also] allowed citizens to see how marital love was allied to love of the state." Creating the Republican family became integral to the success of the Republic.

This article briefly explores revolutionary political and social representations of the family by women and men in Marseille between 1790 and 1792 as found in revolutionary pamphlets and journals and in Jacobin Club records. Such representations help us to understand how ordinary citizens shaped revolutionary ideology and culture and thus influenced changes in family law. I offer a preliminary analysis of divorce proceedings in Marseille's revolutionary family tribunals from July 1792 through July 1794 to assess the interplay between social reform and larger local and national political transformations. I analyze 246 divorces registered between December 1792 and July 1794. In addition, I sampled 67 out of 238 family tribunal meetings for such cases between July 1792 and August 1793 to assess how changes of leadership in Marseille affected these courts. I consider what a study of divorce in Marseille adds to our current understanding of revolutionary divorce, especially with respect to women's gains under the new family laws. What role did male leaders, especially local Jacobins, play in these cases? What connections may be made between the mediation of these private affairs and emerging conceptions of the Republican family? Part of a long-term study of how family inheritance and marriage strategies were transformed in eighteenth-century Provence, this article ultimately seeks to enhance current knowledge of the impact of revolutionary changes in family law on the French nation.

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4 Margaret Darrow contributed one of the first studies in this area with Revolution in the House: Family, Class, and Inheritance in Southern France, 1775–1825 (Princeton, NJ: Princeton University Press, 1989). Most recently, see Suzanne Desan, The Family on Trial. For studies on divorce, see Dominique
Like other women in France, revolutionary women in Marseille shaped the ideological construction of the family model of politics, thus underscoring that revolutionary ideology should not be considered exclusively as developed and imposed from the top down. As other scholars have demonstrated, women from all social and economic levels understood and used the egalitarian divorce laws. Local Jacobin leaders did not dominate family tribunals. While men and women chose Jacobin leaders as arbiters in their cases, they chose other professionals such as lawyers and notaries more often. Records reveal that arbiters in these cases represented men and women in fairly equal numbers, and their decisions do not reveal a prejudice against women or men seeking divorces. Even during the Federalist period when the leaders of the local sections closed the Jacobin Club and rebelled against the Parisian leadership, the tribunals continued to follow the laws of the Republic. Overall, women benefited from these decisions and, following other trends in France, used the tribunals in the first year of the new divorce law more than men. However, these early records also indicate a certain "rush" to divorce that should not be mistaken for a rejection of marriage. Instead, family tribunal records


Desan's study shows that men and women throughout the nation petitioned revolutionary leaders, fueling debates about paternal power in families, including debates over arranged marriages and husbands' power over wives. She highlights the influence of public demand for divorce on legislators' decisions, 60–67.

reveal that unhappy couples used the new law primarily to legitimate de facto divorces of the Old Regime.

As early as 1790 women used the revolutionary moment to challenge gender boundaries, reviving images of the heroïnes marseillaises and creating new images of Amazonnes-Citoyennes, which they connected to revolutionary goals. To celebrate the first Festival of the Federation, a revolutionary vanguard of women petitioned the new municipal government for the right to participate formally. Thus, in a second day of celebrations set aside on 15 July 1790, three battalions of Marseille's citoyennes solemnly swore an oath of fidelity. The revolutionary government linked the women's desire to take their own civic oath to the population's reverence for its sixteenth-century heroïnes, who had saved the city from siege.

A month later, a pamphlet addressed to the city's Amazonnes-Citoyennes celebrated this patriotic act:

Charming Amazons, virtuous Citoyennes, dignified Mothers and you lovable Daughters . . . enjoy the advantage that you have had to have been the first to swear upon the Altar of Liberty, to be faithful to the Nation, to the Law and to the King. To the Nation, since she is your nourishing mother, through which you will find all of life's resources; to the Law, as it will defend the rights that nature accords to all

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8 New York Public Library, New York, Rare Book Division, Serment Federatif National Proclamation de la Municipalité (Marseille, 1790), 6.

9 Charles de Bourbon, having already devastated much of Provence, besieged Marseille in August 1524 for forty days. Elite and ordinary women reinforced the ramparts on several days. They were celebrated in regional and national poetry contests in the years immediately before the Revolution. See F. Reynaud, "Du Comte au Royaume (1423–1596)," in Édouard Baratier, ed., Histoire de Marseille (Toulouse: Privat, 1973), 126; and Hélène Echinard "Les dames du siège de Marseille (1524)," in Geneviève Dermenjian et al., eds., Le panthéon des femmes figures et représentations des héroïnes (Paris: Publisud, 2004), 111–12.
humans; to the King, since he is your friend, our leader, and our Father, never forget the obligations that you have contracted, and that your strength leads you to persevere."\(^{10}\)

The anonymous author offered an alternative vision of the nation, or the fatherland, as a nurturing mother and of mothers and daughters as revolutionary Amazons who possessed the zeal and courage of warriors as the women's "battalions" had shown. Other militant images for mothers and daughters developed in Marseille as did enduring representations of patriotic mothers and wives. Such transformations reveal how revolutionary culture used a family model of politics to regenerate the nation.

By July 1790, two women's political groups had become active in Marseille. The *Dames citoyennes* and the *Dames heroïnes* held their own political meetings, elected officers, petitioned authorities regarding local political issues, and made appearances at the Jacobin Club. The Dames citoyennes later became known as the Dames patriotes and became frequent attendees of Jacobin Club meetings.\(^{11}\) At the Jacobin Club meeting in November 1790, Mlle Marie Martin gave a speech on behalf of the Dames citoyennes. Her description of men's and women's roles fell comfortably within the evolving gender framework of men as the leaders and defenders of the Revolution and women as the nurturers and educators of its citizens. Nevertheless, her emphasis on education for all citizens demonstrated men's and women's overlapping political needs for the regeneration of the nation. In this vein, Martin privileged motherhood in the polity. Children, she argued, would receive these principles from their mother, who from their birth would "have them suckle with the milk, the great principles of equality,

\(^{10}\) BMD, *Avis pressant aux Amazonnes-Citoyennes; Concernant le retour des députés de la ville de Marseille, à la Confédération de Paris* (Marseille, n.d.), 3.

\(^{11}\) For more on these women's political associations, see Laura Talamante, Chapter 2, "Emerging Concepts of the *Citoyenne* in Marseille, 1790," in "Les Marseillaises: Women and Political Change during the French Revolution, 1789–1794" (PhD diss., University of California–Los Angeles, 2003), 38–62.
this ardent love for the country, for liberty, and this inviolable attachement to the Constitution."\textsuperscript{12} Mothers became the first and primary connection between children and the state; they molded their children from birth into patriotic citizens. Women as citizens thus changed women's traditional roles as wives and mothers. As a representative for unmarried women, Martin declared: "I believe I have the power to swear it in the name of all my Companions . . . no one should aspire to marry us, unless he firmly supports our nascent liberty."\textsuperscript{13} Women, as patriotic citizens, would deny marriage to unpatriotic men. The concept of citizenship and the duties attached to it politicized marriage, motherhood, and the domestic interior.\textsuperscript{14}

Such constructions by women were not unique to Marseille; they speak to an emerging political culture that women used to redefine gender and family norms. As early as August 1790 (and thus well before the revolutionary changes in family law mentioned above), Deputy Pierre-François Gossin's speech to the Constituent Assembly drew a parallel between the problems of tyranny in politics and tyranny in families, asserting the need "to draw up, after the declaration of rights of man and citizen, a declaration, so to speak, of the rights of spouses, of fathers, of sons, of parents, and so on."\textsuperscript{15} But earlier in June 1790, Dame Rose-Michel Reynoir publicly denounced her husband, Dominique-Barthélemi Cornet, consul of the Republic of Venice, calling for revolutionary retribution for all victims of

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\textsuperscript{12} Marie Martin, \textit{Le patriotisme des Dames citoyennes. Discours prononcé à la tribune de l'Assemblée Patriotique} (Marseille, 1790), 2.
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\textsuperscript{13} Martin, \textit{Le patriotisme}, 2.
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\textsuperscript{14} Desan develops this point in her discussion of pre-revolutionary and revolutionary critiques of marriage in chapter 1, "Freedom of the Heart: Men and Women Critique Marriage," and chapter 2, "The Political Power of Love: Marriage, Regeneration, and Citizenship," \textit{Family on Trial}, 15–92. Marie Dorbe's speech to the Jacobin Club of Bordeaux in 1792 also argued that women should only marry patriotic men as part of her critique of women's degradation in the Old Regime. Ibid., 87.
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\textsuperscript{15} As quoted in Hunt, \textit{Family Romance}, 17.
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tyranny. In July, she turned to the Jacobin Club of Marseille. Having formed a reconciliation committee "to terminate the disagreements between members of [their] Assembly and between other citizens," Reynoir was one of their first cases. The revolutionary publication of her cause célèbre gained the support of local women, who in the month before Gossin's speech petitioned the local Jacobin Club to "avenge this Marseillaise [who is] dear to our hearts, because of the injustice of her fate. Remember that a victim of this ministerial and judiciary despotism still exists, that for so many centuries, made France cry . . . Among the victims of tyranny . . . is a wife." Records reveal the Club supported Reynoir's case and publicly applauded the women's petition.

Following the passage of the divorce law in 1792, the journal of Marseille's Jacobin Club, Journal des départements méridionaux, et de Débats des Amis de la Constitution de Marseille, returned to the question of women's oppression in marriage. It quoted Citoyen Gueyrard, a government official, who praised the new divorce law for its power to correct injustices such as men's physical abuse of their wives, which threatened the well-being of the family. In October, the journal

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16 Rose Michel Reynoir, Dénonciation faites à la municipalité de cette ville de Marseille (Marseille, 1790), 1. I consulted this rare publication in the Bibliothèques Municipales de Marseille. For an analysis of Reynoir's Old Regime and revolutionary publications against Cornet and his lawyer, see Laura Talamante, "Lawyers, Libel, Marriage and Honor in Old Regime and Revolutionary Marseille: Dame Rose-Michel Reynoir's Rhetorical Strategies for Justice," Selected Papers of the Consortium on the Revolutionary Era (2008) (High Point, NC: High Point University, 2010), 19–30.

17 As quoted in Michael Kennedy, The Jacobin Club of Marseilles, 1790–1794 (Ithaca, NY: Cornell University Press, 1973), 47. See also Archives municipales de Marseille, 2I, carton 1790, sessions of 21 June and 12 July 1790.

18 Pétition faite par des citoyennes, à l'Assemblée Patriotique, le 23 juillet 1790, en faveur de Madame Cornet (Marseille, 1790), 3–4. Also consulted in the Bibliothèques Municipales de Marseille.

19 Journal des départements méridionaux, et de Débats des Amis de la Constitution de Marseille [hereafter JDM], N° 95, 11 octobre 1792, 390.
also emphasized the link between the new law and the health of the Republican family. The divorce law transformed marriage from a union of bondage to one of bonds of mutual respect and affection. The article reported on an October speech in Paris by Citoyen Chaumet, President of the Commune, to a recently married couple: "Marriage is no longer a yoke, a chain, it is no more than it should be, the accomplishment of nature's great plan, the receipt of an agreeable debt that each citizen owes to the fatherland." As opposed to the prejudices and unnatural perversions of the Old Regime, love and affection—guided by the principles of liberty—now provided the foundation for marriage. Individual freedom might have united couples, but marriage was also conceived of as an obligation to the nation. Chaumet urged the newly married couples as citizens of the Republic to prepare themselves for this new role: "Without a doubt, from this union will be born the citizens of the republic . . . Teach them early to understand, to cherish their work, their rights, and the first words they will stammer, will be the sacred words of the fatherland, of liberty and equality." Republican marriage provided the stable foundation upon which the success of the nation depended.

Creating the Republican family meant deconstructing Old Regime mores and broken marriages. The legal deconstruction of the Old Regime family happened in the sessions of the family tribunal where legal language dominated. Consequently, men's and women's claims during divorce proceedings were expressed primarily in reference to the new laws rather than to the revolutionary rhetoric that led to the creation of these laws. Arbiters also expressed their decisions in terms of what article of the new laws fit the facts presented. These sessions reveal that reconfiguring rather than regenerating the family became the

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21 As quoted in JDM, N° 104, 1 novembre 1792, 426.
primary task of the arbiters. So how do we evaluate what this means about the regeneration of the family? How do we attach meaning to the decisions in light of the revolutionary rhetoric of ending tyranny and protecting individual liberty?

While neither the arbiters nor the parties involved in the family tribunals used the revolutionary rhetoric, the application of these laws reveals what types of marital problems divorces solved. Tyrannical power and moral regeneration of the family could be associated with many of these problems. The return of women's dowries and the division of assets highlights the protection of individual rights. The freedom to end marriages itself attested to each individual's liberty to break contracts, which can also be interpreted as ending the tyranny of the Church and the state to force individuals to remain together against their will.

My analysis of 246 cases of divorce in the first eighteen months after its legalization encompasses the height of Jacobin and Federalist political power in Marseille, ending with the fall of Robespierre in July 1794. Included is an analysis of the composition of the arbiters in a random sample of sixty-seven cases from the revolutionary family tribunals. Of these cases, approximately 25 percent represent tribunals from between July 1792 and April 1793 before the temporary fall of the local Jacobins during the Federalist period. The analysis of the Federalist period includes a random sample of thirteen out of thirty-nine cases, representing approximately 33 percent of the cases before the restoration of Jacobin power in late August 1793.

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22 Archives départementales, Bouches-du-Rhône, Marseille [hereafter ADBdR], Series L3303 and L3304 represent this timeframe, and L3305 covers the Federalist period.

The purpose of family tribunals was to settle disputes that arose between family members, such as those that occurred between "husband and wife, father and son, . . . or any other parties having such a relationship." The actual composition of the family tribunal changed according to the parties involved since each party in the dispute named two relatives as family arbiters, who mediated claims and judged their outcomes. If one party would not name their arbiters, then the other party could apply to the District Tribunal, and the judge would name arbiters to act on behalf of the reluctant litigant. In deadlocked cases, the arbiters had to agree on an additional arbiter to decide the matter in question. Either party could, if dissatisfied with the decision, appeal to the District Tribunal, which registered all decisions by the family tribunals and had the power to "overturn or modify judgments."

In Marseille, similar to other locations in France where divorce has been studied, the composition of family tribunals did not largely consist of family members. Most often, lawyers, men of letters, members of the new judiciary system, and administrative officers composed these tribunals. However, only four major leaders of the local Jacobin Club sat as arbiters in the family tribunals. The Maillet brothers—school teachers before the Revolution and justices of the peace during—both served. Of the sample cases analyzed, Augustin Maillet, the younger brother and President of the Club by August 1792, served on 15 percent of the cases while François, the elder brother, served

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24 Phillips, Family Breakdown, 17.
25 For a brief discussion of the creation of the family tribunals, see Phillips, Family Breakdown, 17–20.
26 Ibid., 17–18.
27 Desan, Family on Trial, 99.
28 Scott, Terror and Repression, 41.
7.5 percent of the time.³⁰ Club leaders Etienne Seytres, district prosecutor, and Emmanuel Bausset, an abbé when the Revolution started, each served in 7.5 percent of the survey cases. The Jacobin Club leaders, as did other arbiters, served for both men and women. While their positions as Club leaders might have influenced their selection, lawyers served most often, and some more than others, notably Joseph Lavabre, who served in 28 percent of the sample cases prior to the Federalist period. Other lawyers served at relatively the same rate as Jacobin leaders.³¹

Federalist leaders, supported by the sections, closed the local Club in June 1793, rejected the Constitution of 1793, and reigned in Marseille from mid-May through August 1793. Records reveal no dramatic change in the composition of the family tribunals except for the absence of Jacobin leaders. Only Etienne Seytres, arrested by the Jacobins in April 1793 and eventually acquitted, served at least once during the Federalist rebellion.³² Professionals continued to serve as arbiters, and in the sample studied 56 percent of the arbiters in this period had also served prior to the dominance of the Federalists.³³ During this period the arbiters continued to adhere to the laws of the Republic concerning divorce, citing specific sections of the law to decide

³⁰ Augustin Maillet, who also served as the President of the Criminal Tribunal, served in eight cases out of fifty-four sampled. ADBdR Series L3303, L3304, and L3305. François Maillet, a Justice of the Peace, served in four cases out of the fifty-four. ADBdR, L3301 and L3304.

³¹ From the fifty-four cases sampled, the lawyer, François Honoré Noël Court, served on 7.5 percent; Jean François Chery, District Judge and lawyer, served on 9 percent; and lawyers Louis Auguste Sellon and André Sauvaire served on 15 percent and 11 percent of the cases, respectively.

³² Seytres was arrested on suspicion of embezzlement and plotting with the Mayor, but Marseille's Popular Tribunal acquitted Mourailles and Seytres in mid-May. Scott, Terror and Repression, 68–70 and 90–91, respectively.

³³ For example, François Honoré Noël Court and André Sauvaire served on five out of nine cases studied, Jean François Chery and Louis Auguste Sellon served on two out of the nine, and Jean Baptiste Joseph Estelle served on one out of the nine.
the cases of the family tribunal. However, of the fifty divorces granted during this period, thirty-five were listed under those renewed between Germinal (March 1794) and Fructidor (September 1794). The biggest impact on divorcing couples under the Federalists seems to have been the restoration of Jacobin power, which rejected the authority of the Federalists to grant divorces.

Divorce legislation gave specific criteria for evaluating divorce requests. The first article decreed that divorce dissolved marriage. Article two allowed couples to divorce by mutual consent and required no additional proof beyond the fact that both spouses had agreed to the divorce. The third article also required no proof as either spouse could pronounce the divorce "by the simple allegation of incompatibility of temper or character." Article four outlined seven specific reasons for obtaining a divorce which they classified as "specific causes" and which permitted either spouse to obtain a divorce if he or she could prove any of the seven causes: 1) mental illness; 2) condemnation of one of the spouses by a court of law that resulted in the loss of civil rights; 3) beatings or serious injury of one spouse to another; 4) notorious immoral conduct; 5) abandonment of one spouse by another for at least two years; 6) absence of a spouse without news for at least five years; 7) emigration of a spouse, notably by the decree of 8 April 1792. Article five allowed either spouse to petition for a divorce if the couple had previously obtained a separation.

One of the primary goals of the family tribunals was to try to reconcile couples, which they often emphasized when they failed to do so. For example, Jeanne Marie Pascal Bon left her husband in 1785 after filing a complaint that he physically abused her. Her husband filed for divorce in March 1793. Even though the couple had lived apart for many years, the arbiters noted their

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34 ADBdR, *Renouvelles* lists for divorce.
36 Cruppi, *Divorce*, 115.
efforts to reconcile them before granting the divorce on grounds of abandonment. One might ask, if one of the goals of family tribunals was to reconcile couples, did arbiters inhibit couples seeking a divorce? Records indicate that arbiters supported the vast majority of petitions for divorce; in the period surveyed, 80 percent of the couples who convened a tribunal obtained a divorce.

Marseille's records also indicate that women and men from a range of economic and social positions ended abusive, dysfunctional, or defunct marriages. Of the 177 women present to register their divorces, a little more than half of them signed their names, and the rest indicated that they did not know how to write. Approximately three quarters of the 101 men present signed their names. Although women were less educated than men, even those who were not literate were able to understand and negotiate the new divorce law successfully.

Throughout France, couples divorced for a variety of reasons, and "divorce was often used to terminate marriages that had effectively ended by desertion or informal separation many years earlier." Couples also came before the tribunals to work out financial settlements based on either legal or de facto separations prior to the Revolution. For example, women sought out pensions from their husbands during this time to allow them to support themselves and their children. As Desan notes, husbands often countered their wives' demands for a divorce with their own accusations of female misconduct. Husbands who won divorces based on specific causes (except mental illness) benefited in the division of assets. In such cases, wives received only their dowries and the personal items and household goods that they had brought to the marriage. Arbiters in Marseille applied the burden of proof for such accusations equally to men and women, presumably to weed out frivolous claims. They also

37 ADBdR, L3304, 26 mars 1793.
38 Signature pages are missing for 4 of the 203 cases registered.
39 Phillips, Putting Asunder, 162–63.
40 Desan, Family on Trial, 117.
often chose abandonment over immoral conduct if the details of the case allowed such a choice, revealing a different trend than Desan highlights in her study of the Calvados region, where mutual consent or incompatibility was often chosen over specific grounds. In my study of Marseille, only 7 of the 246 divorces were classified under mutual consent and 11 under incompatibility. The arbiters did at times decide that mutual abandonment had occurred, which put both parties at fault. However, both studies reveal that arbiters' decisions were not particularly biased toward men or against women.

Women pursued divorces almost twice as often as men. Wives initiated 124 of the divorces compared to the 70 divorces initiated by husbands and to the 8 couples who initiated the proceedings together in the first year. These statistics are similar to those from other parts of France.41 Women's greater desire to obtain divorces in these early years can be interpreted as the realization of their goal to be free from what the Dames citoyennes and many others had identified as the Old Regime tyranny of husbands over wives. It also attests to women's use of divorce to grasp one of the most direct means of power granted to them during the Revolution.

On a national level, women's petitions to the National Convention and other revolutionary authorities differed from men's desire for liberty. Desan notes that men desired a more abstract freedom from unhappy marriages while women focused more on freedom from "male domination or specific forms of abuse" within marriage.42 Abuse, whether physical or mental, was one form of tyranny dealt with in the family tribunals. Not surprisingly, of the twenty-two divorces registered under this category, men were accused of the abuse of their wives more

42 Desan, *Family on Trial*, 100–01.
often than women (sixteen men versus four women, one case of mutual abuse and one where the abuser was not clear). With only 9 percent of the cases studied falling under this category, one might consider this a relatively infrequent problem in marriages. However, arbiters also chose to classify some cases as abandonment rather than abuse. The statements of wives and husbands in these courts also reveal that abuse existed even when they demanded a divorce for abandonment.

Abandonment was the most widely cited cause for divorce in Marseille, with 46 percent of the cases in this category. The most common specific grounds, abandonment and absence, were similar to other parts of France (Table 1). Abandonment, absence, and previous separations represented a variety of marriage problems, including immoral conduct and abuse. Anne Amiel's case underscores how a husband's abandonment left many women adrift in society. Amiel stated that her husband forced her from her home, deprived her of her children, and lived with another woman. Although her husband initiated the proceedings and testified that she had abandoned him, the courts supported her demand for divorce. A later tribunal granted a pension for her and one son, but the husband kept custody of the daughter and the younger son. Her lack of a marriage contract limited the amounts the courts were willing to accord her. However, the ability to divorce placed her in a better position economically than her previous legally unrecognized state of abandonment. As Desan notes, "an abandoned or separated wife found herself curtailed by her legal inability to perform property transactions or make decisions about her children's welfare without the permission of her husband or a family council." Other women in Marseille brought to the forefront similar stories.

43 See Desan, Family on Trial, 102; Phillips, Putting Asunder, 56–57; and, Dessertine, Divorcer à Lyon, 189. One notable difference is that couples in Rouen and Lyon used the uncontested category of incompatibility far more than in Marseille.

44 Desan, Family on Trial, 101.
of abandonment and lack of support from the husbands who had left them and often their children as well.

Interestingly, women and men divorcing in the first year of the new law had left each other in relatively equal numbers.\textsuperscript{45} This challenges, in part, the belief that women were usually victims under Old Regime laws. Marie Bon's case provides insight into how some women dealt with the difficulty of obtaining a separation during the Old Regime. In 1785, she submitted a legal complaint that her husband abused her, and, following this complaint, she left him. Similar stories dominate the first-year records of Marseille's family tribunals. These records enhance our understanding of the variations of tyranny and lack of freedom women experienced, but they also reveal how men and women had defied the marriage laws of Church and state even before the Revolution, abandoning their spouses and often beginning new relationships. However, under the former laws, individuals could never legitimate these new relationships or the children born from such unions.

Couples were married, on average, approximately fourteen years before divorcing during this period. Divorces between December 1792 and July 1794 represent 31 percent of all divorces registered in Marseille from 1792 to 1802.\textsuperscript{46} The early years of divorce reveal a "rush" for ending unhappy Old Regime marriages. The \textit{Journal et affiches du département de l'Oise} commented in August 1793 on such rushes to divorce: "You would think that a dam had been holding back all those who hoped to break their chains."\textsuperscript{47} This flood of divorce caused a high divorce to marriage ratio of 14 percent in this early period in Marseille.\textsuperscript{48}

\textsuperscript{45} Specifically, forty-six wives had abandoned their husbands in comparison to forty-one husbands abandoning their wives. Four couples stated that the abandonment was mutual.

\textsuperscript{46} Desan, \textit{Family on Trial}, 124.

\textsuperscript{47} As quoted by Desan, \textit{Family on Trial}, 93.

\textsuperscript{48} See Marseille's marriage and divorce registers for this period, ADBdR, 201 E. Desan cites Jacques Dupâquier's study from 1793 to 1802, which shows
Twenty-eight couples who married during the early Revolution (1789–1793) were among those who divorced between December 1792 and July 1794. Six of these were Republican marriages in 1792 and 1793, and women initiated five of these divorces. Such abrupt endings to the Republican family, however, do not seem to have been the norm. Marseille's overall ratio of divorces to marriages between 1792 and Year X fell to 9 percent, which was about average for large cities in France (Table 2). This indicates that urban women and men acted upon their new rights in relatively equal numbers and did not find the revolutionary tribunals a barrier to ending their unhappy marriages. Yet the opportunity to divorce did not overshadow the revolutionary impetus for creating the Republican family. Despite the higher rates of divorce in urban areas, marriages still far outnumbered divorces.

In the end, while the new family laws that guided these sessions were written and interpreted by men, the application of the new laws in the family tribunals seems to neither clearly nor consistently privilege men. The tribunals of Marseille did not hinder women from negotiating financial settlements for their benefit under the guidelines of the new law. When faced with such choices as abandonment versus immoral conduct, for example, arbiters more frequently chose abandonment, thus choosing not to privilege one spouse over another in terms of the financial settlement for the marriage. This benefited women, who were often still financially dependent on their former spouses for their survival and that of their children. Women received a range of financial settlements: the return of their dowries, household items and personal belongings; living allowances for themselves and their children; and provisions for the children's education. One could argue that some bias in women's favor existed despite the limitations of the law that

that the overall divorce to marriage ratio was 7.4 percent in large cities in France. Desan, Family on Trial, 123.
49Ibid., 124.
restricted women's settlement for divorces if they were judged culpable for the failure of the marriage. The fact that men were expected to provide for their ex-wives if the women did not have the personal means to do so reflected a gender bias that men had a responsibility to continue to support women despite the revolutionary critique of the foundations of Old Regime marriages.

Questioning what types of marriages these men and women now chose for themselves and whether or not these new unions lived up to revolutionary expectations provides an interesting avenue for continuing research. Were Republican marriages the pathway to conjugal love and more egalitarian roles for women in marriage? And if so, did these practices survive the return to paternal authority under the Napoleonic Code and the limitations on divorce? Or did emancipation from tyranny in marriage only truly expand the liberty of women who chose to remain single? The answers to such questions are important since women's use of the new laws reveals more about what continued to go wrong in marriages rather than what might have changed as a result of the new political, social, and legal changes that sought to build society upon the new foundation of Republican marriage.

As demonstrated, the family tribunals had less to do with creating Republican families than reconfiguring Old Regime and revolutionary families. Preliminary findings point to a change in ideas about what marriage was and what it meant, but not necessarily a change in the day-to-day or practical side of it. Individuals used the new laws to legitimate what had already been occurring under the Old Regime bylegalizing the permanent ruptures within families. Nevertheless, without the option of divorce, individual liberty for women during the French Revolution would have remained constricted. But while women and men in Marseille contributed to the revolutionary rhetoric of Republican families, which allowed women to create new political opportunities for themselves in the public sphere, the male head of household framework still existed. Even so, the new public nature of private lives subjected male heads of household to increased scrutiny by the state in ways that
undermined their traditional authority.

**Table 1. Grounds for Divorce in Marseille, Rouen, Lyon and Caen**

<table>
<thead>
<tr>
<th>Grounds</th>
<th>Marseille</th>
<th>Rouen</th>
<th>Lyon</th>
<th>Caen and Department of Calvados</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Women</td>
<td>Men</td>
<td>Both</td>
<td>Women</td>
</tr>
<tr>
<td>Incompatibility</td>
<td>0%</td>
<td>0%</td>
<td>5%</td>
<td>30%</td>
</tr>
<tr>
<td>Insanity</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Conviction</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>3%</td>
</tr>
<tr>
<td>Ill treatment</td>
<td>7%</td>
<td>2%</td>
<td>0%</td>
<td>9%</td>
</tr>
<tr>
<td>Immorality</td>
<td>2%</td>
<td>2%</td>
<td>0%</td>
<td>2%</td>
</tr>
<tr>
<td>Abandonment or Absence</td>
<td>42%</td>
<td>24%</td>
<td>3%</td>
<td>15%</td>
</tr>
<tr>
<td>Emigration</td>
<td>5%</td>
<td>0%</td>
<td>0%</td>
<td>2%</td>
</tr>
<tr>
<td>Separation</td>
<td>0%</td>
<td>0%</td>
<td>5%</td>
<td>1%</td>
</tr>
<tr>
<td>More than one ground or unknown</td>
<td>0%</td>
<td>0%</td>
<td>4%</td>
<td>2%</td>
</tr>
</tbody>
</table>
Table 2. Divorce to Marriage Ratio in Selected Cities

<table>
<thead>
<tr>
<th>City</th>
<th>Divorces (1792–1803)</th>
<th>Divorces to Marriages (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marseille</td>
<td>246 (December 1792–July, 1794)</td>
<td>14</td>
</tr>
<tr>
<td>Marseille</td>
<td>795</td>
<td>9</td>
</tr>
<tr>
<td>Lyon</td>
<td>844</td>
<td>9.2</td>
</tr>
<tr>
<td>Rouen</td>
<td>953</td>
<td>12.6</td>
</tr>
<tr>
<td>Paris</td>
<td>12,431</td>
<td>22.6</td>
</tr>
<tr>
<td>Caen</td>
<td>181</td>
<td>5.2</td>
</tr>
</tbody>
</table>

Table and data from outside Marseille adapted from Desan for ease of comparison, *Family on Trial*, 123–24. The percentage for Divorces to Marriages represents the number of divorces divided by the number of marriages. From January 1793 to August 1794, 1,748 couples married. Between December 1792 and July 1794 there were 246 divorces. So for every 100 marriages, there were 14 divorces in this period.