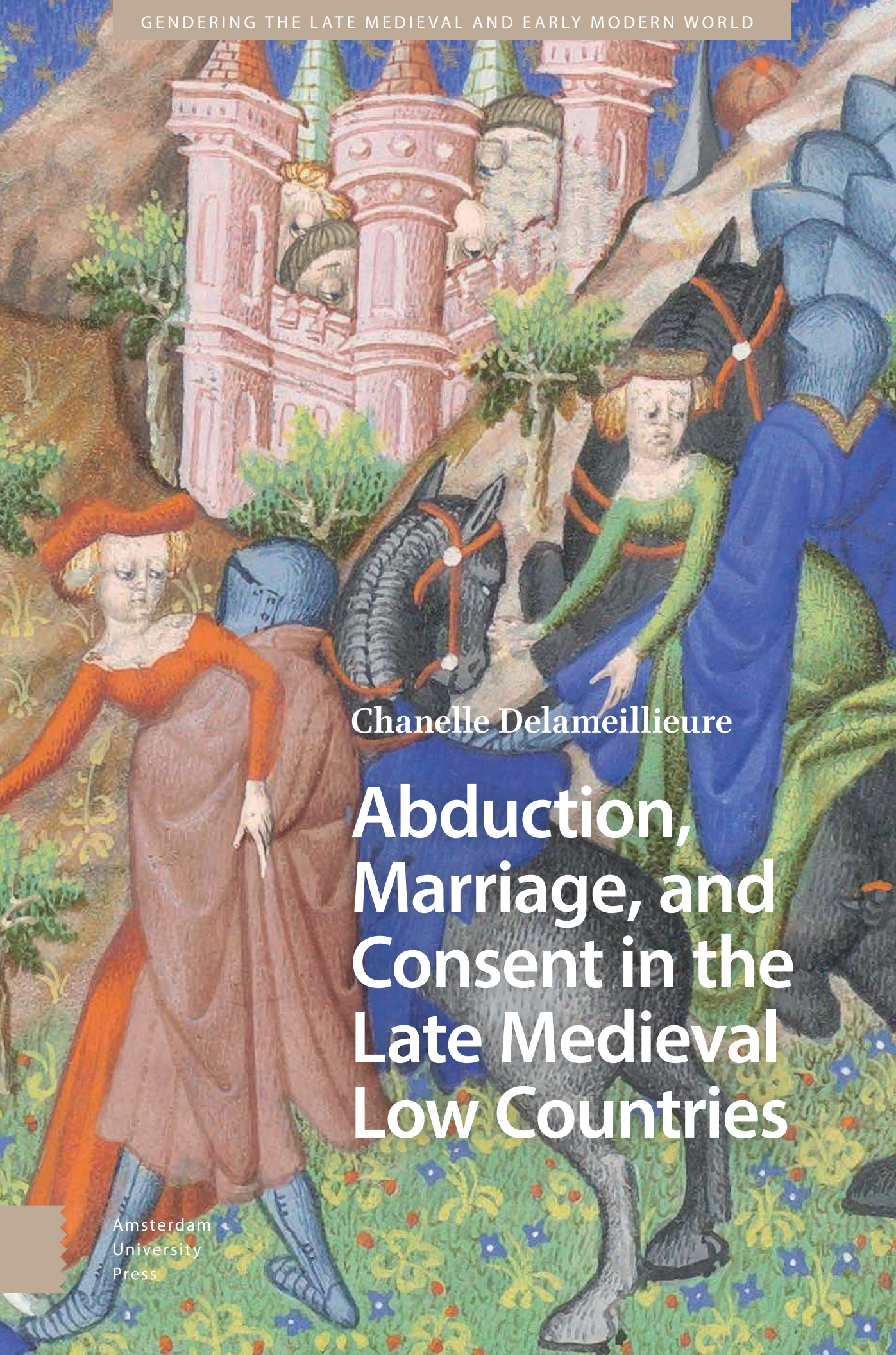
GENDERING THE LATE MEDIEVAL AND EARLY MODERN WORLD



Chanelle Delameillieure

Abduction, Marriage, and Consent in the Late Medieval Low Countries

Amsterdam University Press

Abduction, Marriage, and Consent in the Late Medieval Low Countries

Gendering the Late Medieval and Early Modern World

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Acknowledgments

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Introduction

Abstract
Was the seizure of women for marriage an indication of female oppression or emancipation and self-determination? Historians have struggled with accessing and understanding female agency in abductions with marital intent. By studying over 650 abduction cases, this book examines how coexisting but different interpretations of marriage making worked out in practice in the late medieval Low Countries. The introduction presents the topic, research questions and case study, sheds light on the dichotomous debates on marriage, abduction and female agency and proposes a new combination of multiple legal records to fully explore the complex nature of medieval abduction and partner choice.

Keywords: marriage, female agency, violence, legal records, middling sorts

'She had done it out of fear that she would have been given another, ugly man with a beard as she had heard would happen'.[1]

This is the alleged reason Woyeken Hagen married Symoen Vanderheyden after the latter had 'led her' away from her family, aided by his accomplices Janne Vanderheyden and Gaetan Lemmens, in Antwerp in 1500. An unspecified number of Woyeken's anonymous 'friends and relatives' sought out the bailiff right after the girl's disappearance, stating that Woyeken had been 'led away against her will' by Symoen, Janne, and Gaetan.[2] According to this group of relatives, Symoen had thus violently abducted Woyeken and forced her into marrying him, a serious offense that was punishable by death in the Low Countries. Woyeken, however, provided the bailiff with another storyline. She framed her marriage to Symoen as an elopement and an escape

1 SAB, CC, no. 12904, fol. 270rv.
2 Ibid.

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from the prospect of another, presumably arranged, marriage to a man she did not want to be with, as the quote above indicates. She reportedly stated that she had followed Symoen willingly and that she 'did not want any other man'. Woyeken's mother supported her daughter and corroborated her story.[3] This case is reported in the accounts of the Antwerp bailiff to whom Woyeken's aforementioned relatives complained. The record states that, despite Woyeken's alleged consent, a crime had been committed, as Woyeken and Symoen were both minors ('below their years'), meaning, according to Antwerp customary law, that they had not yet reached the age of twenty-five.[4] The bailiff nevertheless decided to not pursue this case in court. He used his right to settle via a 'composition'; Symoen, Janne, and Gaetan paid a monetary settlement to the bailiff, instead of being referred to the city court to be formally sentenced.

This case helps us to understand problems with both the traditional interpretation of abductions with marital intent and with women's allegedly strong legal and social position in the late medieval Low Countries. As shown in this example, the abduction of women in the late medieval Low Countries was intrinsically tied to marriage and sex, with perpetrators having one or both as their primary objective. In Woyeken's case, marriage was the main objective, and such abductions for marriage, called cases of *schaec* in Middle Dutch, are at the core of this study.[5] Abductions like this one have been interpreted as intergenerational and highly gendered conflicts over marriage-making; through abduction, women could circumvent parental involvement and enter into marriages of their choice.[6] At first sight Woyeken's case seems to fit this image, yet a few subtle inclusions suggest that this perception is overly simplistic and should be significantly qualified. First of all, it is difficult to know what to make of Woyeken's consent. Although the abduction is presented as an elopement by referring to Woyeken's dislike of 'ugly, bearded' men, Symoen is portrayed as the active party; he abducted her and had several helpers assisting him in this endeavour.[7] Moreover, the interesting involvement of relatives complicates the drawing of unequivocal conclusions as to Woyeken's 'agency'. Symoen shares a last name with one of his accomplices, Janne Vanderheyden, who was presumably one of his

3 Ibid.

4 Godding, *Le droit privé*, 72–73.

5 About this peculiar term, see Delameillieure, "They Call it Schaec in Flemish".

6 Cesco, *Elopement and Kidnapping*, 5; Greilsammer, 'Rapts de séduction et rapts violents', 50; Carlier, *Kinderen van de minne*, 102; Jordan, 'The "Abduction" of Ida of Boulogne', 1–3; Titone, 'The Right to Consent', 142; Prevenier, 'Courtship', 177; Brundage, *Law, Sex, and Christian Society*, 48.

7 Seabourne, *Imprisoning Medieval Women*, 158.

relatives. Moreover, Woyeken's family members played conflicting roles in this abduction. While a group of unnamed relatives framed the abduction as coerced, probably favouring another candidate (the ugly, bearded man?) over Symoen, Woyeken's mother supported her daughter's marriage to Symoen. While it is tempting to interpret this fascinating record as a conflict between a young couple and their relatives that embodies a dichotomy between personal choice and family strategy, some explicit and implicit elements raised in the record show the need for more complicated and layered narratives to understand this and similar cases as well as, more generally, the past phenomenon of abduction with matrimonial intent.

Another fascinating aspect of this case is the bailiff's ambiguous attitude towards the abduction/elopement. Although he seemed to have taken into account Woyeken's alleged consent, affirmed and shared by her mother, and probably used it as a justification for not taking matters to court, the record does explicitly state that what Symoen had done was legally considered a crime ('that it was a crime') and remained criminal whether Woyeken consented or not.[8] This is noteworthy given that some scholars have argued that women in the Low Countries could play active roles in the public sphere and make choices – including regarding marriage – independently from authoritarian family structures.[9] By contrast, in late medieval France, consensual abduction marriages were not criminalized, and in late medieval England, legal texts do not target this type of behaviour explicitly, although they increasingly included abduction, both coerced and consensual, in their definition of 'ravishment' from the thirteenth century onwards.[10] In Italy, on the other hand, fourteenth- and fifteenth-century legal texts did criminalize consensual abductions with marital intent, a policy that has been explained by the strong influence of Roman law in this region and the stricter patriarchal family structures in place.[11] In the Low Countries, a region with a very different legal regime, abundant law texts criminalizing consensual abductions can be found. The occurrence of these law texts and the framing of Woyeken's alleged elopement as a crime by the bailiff thus complicates the idea that the Low Countries' women enjoyed a strong social position that empowered them to marry freely. This evidence calls into question our prior understandings of the impact of the Low Countries'

8 SAB, CC, no. 12904, fol. 270v: *datter mesdaet was*.

9 De Moor and Van Zanden, 'Girl Power', 3; Bousmar, 'Neither Equality', 109; Boone, Prevenier, and de Hemptine, 'Gender and Early Emancipation', 23–24; Bardyn, 'Women'.

10 Garnot, 'Une approche juridique et judiciaire', 165–72 ; Vernhes-Rappaz, 'Rapt et séduction', 87–94 ; Dunn, *Stolen Women*, 30, 38.

11 Dean, 'A Regional Cluster', 158–59.

legal regime that attributed the ability to own and manage property, on women's position in society.

This study examines over 650 cases of abduction recorded in different types of judicial records in the late medieval Low Countries. It will argue that abductions, rather than marking the importance of free partner choice, testified to marriage's strategic nature within complex social constellations in which concern for property was of utmost importance. By exploring a broad array of legal and administrative sources, it aims to bring nuance to the often-polarized debates on female agency in marriage and abduction and shed light on the ways in which diverse but coexisting perspectives on marriage-making in the late medieval Low Countries were negotiated in and out of the courtroom. The new evidence presented here will demonstrate that abductions should no longer be considered only as a semi-criminal offence (as many authors have done) but as a crucial social phenomenon in the history of marriage, one that provides an extremely revealing lens through which to examine both people's interaction with the law and women's social and legal position in Western Christian Europe. An examination of cases of abduction tells us that medieval marriage, rather than being characterized by ideologically different views of church versus 'state', a traditional but highly influential portrayal, instead represented a crystallization of a legal system that contained inherent conflicts. While church law had a remarkably strange insistence on the consent of parties, even those at a very young age, secular authorities, specifically in the Low Countries, tried to limit the influence of the consent requirements in church law even as they gave women uniquely extensive inheritance rights to the estates of a large number of family members. This book uncovers the history of that conflict and in doing so tells us about female agency, the role of secular and religious authorities, and the role of the family and the law in marriage-making.

Abduction, marriage, and consent

Most studies on abduction have been strongly influenced by the focus among Anglophone historians on the crime of *raptus*, an umbrella term that prevailed in late medieval English legal statutes and records and encompassed three (and in modern discourses distinct) offences: abduction, rape, and theft.[12] Consequently, the multivalence of *raptus* and the similarly ambiguous term 'ravishment' are at the core of English abduction scholarship, which

12 Dunn, *Stolen Women*, 19.

tends to focus on rape rather than marriage.[13] For other European regions, the intertwining of rape and abduction was less of an issue as the categories were more distinct, both in contemporary descriptions and in modern literature.[14] In the late medieval Low Countries, abduction meant taking a woman for the purpose of marrying her or being 'romantically' involved with her, with or without her consent. In reality, marital abductions did not always include the literal kidnapping of a woman by bringing her from one place to another. Her seizure should be interpreted more as the act of removing her from the control of her family by marrying her without their consent and sometimes also without the consent of the targeted woman herself.

Scholarship on abduction and marriage-making in late medieval continental Europe is scarce, as most studies only tackle the phenomenon in the early modern period, when abduction with matrimonial intent received more scrutiny as authorities increasingly criminalized this offense.[15] That said, a few scholars have focussed on cases of abduction in the Low Countries, showing that the criminalization of unconventional marriages by secular authorities started in the late Middle Ages there. This early criminalization of consensual abductions with marital intent in the Low Countries is striking, especially because historians have repeatedly argued that women enjoyed strong social and legal positions in this region.[16] Studying legal texts and records in Flanders and Brabant, Myriam Greilsammer has argued that it was precisely this beneficial position of women that caused them to want control over their marriages, leading to an increase in the number of *rapts de séduction* and the reaction of new, more severe legal texts. This explanation is unsatisfactory given historians' finding increasing penalization of marriages against the will of parents and family in regions where women did not have the same legal position, namely in various fourteenth- and fifteenth-century Italian cities. Moreover, Greilsammer does not support her argument with any statistics proving that the number of abductions with marital intent indeed increased throughout the late medieval period.[17] Scholarship arguing

13 Donahue, *Law, Marriage, and Society*, 169; Goldberg, *Communal Discord*, 175; Seabourne, *Imprisoning Medieval Women*, 92.

14 Cesco, 'Rape and Raptus', 695; two studies on abduction in France in the High Middle Ages and the seventeenth century, for example, explicitly connect abduction to marriage, see Joye, *Le mariage par rapt*; Haase-Dubosc, *Ravie et enlevée*.

15 Haase-Dubosc, *Ravie et enlevée*, 20; Cesco, *Elopement and Kidnapping*; De Munck, 'Free Choice'; Vernhez Rappaz, 'Rapt et séduction'; Garnot, 'Une approche juridique'; Hage, *Eer tegen eer*.

16 Bousmar, 'Neither Oppression, Nor Radical Equality'; Bardyn, 'Women'.

17 Dean, 'Fathers and Daughters', 96–97; Dunn, *Stolen Women*, 117–18.

for the strong legal position of women in the Low Countries has thus yet to be reconciled with the remarkable presence of abductions with marital intent in this region's late medieval law and legal practice.

As I will explain in more detail, studies of the Low Countries typically frame specific cases of abduction as elopements in which women subverted traditional lines of patriarchal authority by willingly following their boyfriends into matrimony, in spite of any familial rejection.[18] In doing so, these historians, as well as their counterparts working on other regions, have used the framework of agency, choice, and family authority to interpret and contextualize this fascinating phenomenon. Yet, while scholars studying abduction elsewhere have considered abduction as an exceptional phenomenon that only touched the lives of the aristocratic elites, where the stakes of marriage-making were highest, Walter Prevenier has shown that in the Low Countries abduction also occurred among the urban elites.[19] Using Burgundian pardon letters to elaborate on several cases of abduction, Prevenier interpreted abductions that occurred within well-known aristocratic and artisan families in different cities as mechanisms by which kin groups strove for power and prestige.[20] Abduction in the Low Countries was thus not merely an aristocratic phenomenon, an argument this study will second and expand. In this highly urbanized region, the so-called middling sorts were demographically dominant and culturally, politically, and socially highly significant.[21] In cities like Leuven, Brussels, Bruges, and especially Ghent, these working families let their voices be heard in politics in a way that is unique in late medieval Europe, including in legislation and enforcement of laws, a feature that has been insufficiently considered in current research into marriage-making in this region.[22]

Scholarship on abduction in and outside of the Low Countries has been embedded into wider debates about premodern marriage-making and partner choice that have held a central place in the historiography for decades. Today, historians emphasize the way family strategy and the capacity of individuals to choose their own spouses were intertwined in the Middle Ages.[23] Medieval and early modern sources reveal, however, a tension between the two spheres, leading historians to continue trying

18 Rousseaux, 'Crime, Justice, and Society'; Strange, 'Femininities and Masculinities', 230.

19 Dunn, *Stolen Women*; Goldberg, *Communal Discord*.

20 Haemers, *De Gentse opstand* (*1449–1453*), 19.

21 Dumolyn and Haemers, 'Let Each Man Carry on with His Trade'.

22 Boone, 'Een middeleeuwse metropool', 69.

23 McSheffrey, 'I Will Never Have None Ayents My Faders Will'.

to understand the social impact of contradicting yet coexisting views on marriage-making.[24] The abduction of Woyeken described above seems emblematic of that tension, since she married her abductor without, as far as we know, the consent of (a large share of) her family. Seen from this point of view, it would seem that Woyeken exercised free choice. Some scholars have pointed out that canon law's insistence on consent—the exchange of words of consent between partners in itself made marriage—permitted people in late medieval societies to treat marriages as personal, intimate affairs, and they could put the consent doctrine into practice by marrying persons of their choice or refusing marriages arranged for them.[25] For these scholars, abduction often serves as evidence of the importance of individual choice and even of love in premodern times.[26] But problematically, abduction can also be interpreted as a strategy men used to abuse women and enforce marriages beneficial to themselves. If the abductee consented to her abduction, these scholars have deemed it an elopement, while nonconsensual abductions have been interpreted as tactics used to pressure wealthy women into marriage in order to secure the men's climbs up the social ladder. Thus, abduction could have been both a tool of oppression and a sign of emancipation and self-determination. This ambiguity has raised the urgent question of abducted women's 'agency'.

By referring to consensual abductions as 'elopements', a term associated with secrecy and illegitimate love, an image emerges of abduction as a tool to put the church's doctrine regarding consensual marriage into practice and circumvent any familial interference. The historian James Brundage's influential work on marriage and sex in late medieval Europe greatly reinforced this elopement narrative. According to Brundage, consensual abductions were acts in which an 'importunate suitor eloped with his sweetheart against her father's wishes'.[27] Other scholars have endorsed this view and argued that the use of the term 'abduction' gives the false impression that women had no agency, while in fact, they may have been active accomplices who had planned/intended to marry their abductors,

24 Sheehan, 'Choice of Marriage Partner'; Chojnacki, 'The Power of Love'; Korpiola, 'An Act or a Process'; d'Avray, *Medieval Marriage*; Titone, 'The Right to Consent and Disciplined Dissent'.

25 Greilsammer, 'Rapts de séduction'; Wieben, 'Unwilling Grooms'; Titone, 'The Right to Consent'; Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 128–32; Pedersen, 'Playing the System'.

26 For example, Rolf Hage has recently argued that it was love which motivated most couples to marry via an abduction in the early modern Dutch Republic; see Hage, *Eer tegen eer*.

27 Brundage, *Law, Sex, and Christian Society*, 48.

perhaps for the same kind of political or financial reasons that motivated their husbands.[28] In her study on abductions in the early modern Venetian Republic, Valentina Cesco concludes that 'women were at times fully involved in arranging their own "kidnapping"', and marital abductions, therefore, included 'instances of female agency'.[29] Other historians have taken this a step further and contended that love was a common motive for young people to marry via abduction and that abduction was the logical consequence of a generational conflict between young people who wished to exert their right to consent to marriage and their parents who wanted to protect their honour and patrimony.[30] Research on this particular phenomenon is thus bulging with appealing narratives of couples defying the odds and resisting patriarchal expectations.

Historians over the last two decades have criticized this narrative and taken a closer look at our understanding of consent and at the ubiquitous but sometimes unsubstantiated use of the term 'agency' by women's and gender historians. Regarding consent, this evolution is paralleled by shifts in more theoretically informed scholarship on sexual consent in present-day societies. Until the 1990s, consent was largely perceived as an expression of willingness, characterized by a lack of perceptible resistance.[31] Researchers working on marriage and abduction in the Middle Ages have often adopted similar definitions, tending to regard consensual abductions as stories about lovers eloping and running away together. Yet over the last twenty years, the equivalency of will and consent has been severely criticized by social scientists. There is currently an intense debate about the meaning of sexual consent in the fields of sociology, law, and psychology as a reaction to the frequent use of the term 'consent' without providing a definition, with critics denouncing researchers who often 'assume a shared understanding of the term' and mix up the concepts of will, agreement, and choice, which are related but not interchangeable.[32] While most scholars today define consent as 'agreeing to something' rather than 'wanting something', the debate about the nature of this agreement continues.[33] The fog surrounding consent today

28 Jordan, 'The "Abduction" of Ida of Boulogne', 2.

29 Cesco, *Elopement and Kidnapping*, 178.

30 Prevenier, 'Courtship', 177.

31 Hickman and Muehlenhard, '"By the Semi-Mystical Appearance of a Condom"', 259; Beres, 'Rethinking the Concept of Consent', 373.

32 Beres, 'Rethinking the Concept of Consent', 374; Beres, '"Spontaneous" Sexual Consent', 92; about the inclusion of positive consent definitions in law and consent and coercion-based definitions of rape, see Dowds, 'Towards a Contextual Definition of Rape', 48.

33 Beres, 'Rethinking the Concept of Consent', 374–75.

further complicates the study of consent in the past. Did Woyeken Hagen's sworn affirmation of consent really mean that she enthusiastically longed to marry Symoen and consciously chose to be with him?

Influenced by these discussions, historians working on marriage and consent in late medieval England have scrutinized mentions of consent in the past, arguing that the line between consent and coercion may have been thinner than often assumed. It is not a coincidence that Anglophone historians are the frontrunners here, as premodern English literary and legal records use an extremely ambiguous terminology in which narratives of rape, love, coercion, and consent come together (raptus and ravishment; see above). Therefore, historians working with English material have dedicated more careful attention to the language used, taking into account that certain descriptions might have meant many different, even contradicting things.[34] James Menuge, for example, has argued that marital consent did not per se mean that men and women had free choice when selecting a spouse in late medieval English marriage cases.[35] Sara Butler, who examined force and fear as a legal impediment to a valid marriage in English consistory court records, has argued that the boundaries between consent and coercion were often blurry. Women were not granted many legal options for dealing with persistent suitors/abductors, which may have caused many of them to 'consent' to stay with coercive husbands.[36] Studying the confinement and abduction of women in late medieval England, Gwen Seabourne has argued that there was 'a whole spectrum between wholehearted agreement and active refusal, like reluctant agreement, passive acquiescence, resistance and consent' and critiqued those who systematically put 'abduction' in quotation marks as though to signal that the abduction was not forced, but a strategy to exercise free will in the face of parental opposition.[37] In a similar vein, Caroline Dunn wrote that 'the dichotomy between the abduction victim and active co-conspirator demonstrates both a post-enlightenment concern for individual choice and a feminist attraction to the perspective of the woman's experience'.[38] Hence, consent, free choice and love are distinct concepts and must not be conflated. These scholars have convincingly argued for treating these records and the stories they tell with suspicion and caution instead of jumping to conclusions.

34 Dunn, 'The Language of Ravishment'.
35 Menuge, 'Female Wards and Marriage', 154.
36 Butler, 'I Will Never Consent to Be Wedded with You!'
37 Seabourne, *Imprisoning Medieval Women*, 152–53.
38 Dunn, *Stolen Women*, 94.

When studying abduction, historians continue to categorize the cases they encounter as either abductions, which imply coercion, or elopements, which imply consent. In their recent book on Burgundian pardon letters, for example, Arnade and Prevenier discuss several abductions, attempting to categorize each case as either abduction or elopement.[39] Caroline Dunn dedicated one chapter to abductions and a separate one to elopements.[40] This tendency to categorize is justified, as late medieval law and judges also tended to distinguish between coerced and consensual abduction, the latter being referred to as *rapt de séduction* in French and *verleiding* (seduction) in Dutch. That is, just like many modern historians, late medieval judges saw these types of abduction as separate legal categories, as Chapter 1 will show. However, this label applied by judges reflected a legal rather than social distinction. Therefore, in trying to separate abductions from elopements, there lurks the risk of distortion in deciding whether or not specific cases were or were not elopements in which women played an active role and exercised 'agency'.[41] By examining an abductee's 'agency', scholarship continues to portray abductions as tools for women to act independently in a patriarchal context.

During recent decades, however, this conception of 'agency' has been intensely interrogated. Agency is a dangerous term, as it slips in ideas of rebellion and resistance.[42] Rather than framing women's actions as exceptional accomplishments in a society that impeded them on multiple levels, scholars have recently called for normalizing women's agency, as women did have structural opportunities and rights to act in premodern societies. In her article on women in the early modern period, for example, Allyson Poska introduces the useful term 'agentic gender expectations' to indicate that women could and were even expected to achieve things and exert power in early modern European societies.[43] Their actions should thus not always be framed as exceptional deeds or as reactions against highly oppressive patriarchal structures. This argument applies to this study too, as regarding marriage, late medieval societies expected women to be involved in marriage-making—at least to a certain extent. Canon law and church

39 See the titles of the abduction cases they discuss, 'The Abduction of Widow Anna Willemszoon', 'Abduction or Elopement?', and 'Elopement Cases' in Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 146–62.

40 Dunn, *Stolen Women*, 82, 98.

41 Jordan, 'The "Abduction" of Ida of Boulogne', 1–3; McSheffrey and Pope, 'Ravishment, Legal Narratives, and Chivalric Culture', 826–27; Seabourne, *Imprisoning Medieval Women*, 148–49.

42 See for example Howell, 'The Problem of Women's Agency'.

43 Poska, 'The Case for Agentic Gender Norms'.

courts required the woman's spoken words of consent for a marriage to be considered valid, and some evidence indicates that in secular courts too, the opinions and decisions of girls were acknowledged and valued.[44] In discussing the use of the concept of agency, Cornelia Hughes rightly states that instead of using a language of rebellion, subversion, and self-determination, scholars have to study 'how power relations were negotiated'.[45] In the late medieval Low Countries, as this study will show, abducted women were acting as legal agents while at the same time operating in very constrained circumstances. Their consent mattered but could mean many different things. Their marriages were not unilaterally imposed upon them by a patriarchal authority figure, but the choice of spouse was a bargaining process involving intense debates in which various interests were weighed and negotiated. In short, this study aims to go beyond using agency as a 'concluding argument', as has often been done when tackling cases like that of Woyeken Hagen. Instead, as argued for by Lynn Thomas, this study examines the 'form, scale and scope' of women and individuals' ability to shape their marriage and abduction while at the same time attending to the ways in which familial, legal, and societal forces 'shaped their lives'.[46]

Some scholars have tackled this debate with a different approach towards determining women's choices, looking at alternative ways in which abducted women could have played an active role, specifically through their appeals to justice. When the victim of a rape or abduction for marriage, a woman was granted the option to press charges. However, late medieval English lawmakers offered few such tools to women being pressured into marriage by aggressive suitors, as Butler and Dunn have argued.[47] Still, some female victims of abductors managed to prosecute and successfully convict their attackers. Historians have studied these pleas and shown how carefully they were constructed: female victims of rape and abduction framed what had happened in such a way that their narratives conformed with cultural notions of gender and power that were deeply rooted in late medieval culture. As Deborah Youngs has argued, 'a woman's agency, therefore, was present not so much in what she said had happened during the abduction, but in her actions that followed, specifically in the act of entering a plea and telling her story'.[48] In rape cases too, women and their attorneys were careful how they

44 Danneel, *Weduwen en wezen*, 180.
45 Hughes, 'Rethinking Agency', 827, 842–43.
46 Thomas, 'Historizing Agency', 325.
47 Butler, 'I Will Never Consent to Be Wedded with You!'; Dunn, *Stolen women*, 83.
48 Youngs, '"She Hym Fresshely Folowed and Pursued"', 81.

worded their allegations. Garthine Walker has shown that they preferred to focus on the aggression of their rapist towards them rather than on the actual sexual abuse, to avoid questions about the victim's complicity and sexual involvement.[49] In her study on late medieval Iberia, Marie Kelleher highlights this interesting paradox; women's litigation strategies reinforced gender stereotypes inherent to the patriarchal legal system.[50] According to Alexandra Shepard, this language of subordination used by women in court gave a 'double edge' to their agency.[51] In this view, abducted women could thus have been victims and agents at the same time, using opportunities offered by the patriarchal system to their advantage.[52]

The debate over an abductee's active involvement in an abduction marriage should therefore be conducted on different levels, dealing with questions both about free partner choice and about the possibilities and ways available for victims to tell their stories in court. Instead of focussing on whether one or more cases display women's agency and ability to choose their own spouses, it is more useful to investigate discourses on consent and control of marriage in relevant primary sources and to assess what they tell us about how late medieval people experienced marriage and abduction, why they had to exert, enforce, or escape control over partner choice, and what ideas circulated with regard to individual consent and family strategy regarding marriage-making in late medieval society.

Abduction marriage for all

This combination of sources (see below) sheds light on the lives of the upper and middling social groups in the urban societies of the fifteenth-century Low Countries. The upper groups or urban elites consisted of nobles, influential lineages of wealthy tradesmen, and landowners who traditionally held political power within the city. From the fourteenth century onwards, the nobility became increasingly urbanized, often making it impossible to distinguish between nobles and patricians, the traditional urban elites.[53] The

49 Walker, 'Rereading Rape', 7.

50 Kelleher, *The Measure of Women*, 13.

51 Shepard, 'Worthless Witnesses?', 719. See also Beattie, 'Women's Petitions to Medieval Chancery', 106 on how agency should not be defined as power. Several female litigants in Chancery petitioned because they could not afford bail or had no supporting network.

52 Bennett, 'Medieval Women', 148–49 ; Kelleher, 'Later Medieval Law', 139.

53 Dumolyn, 'Dominante klassen en elites', 94; Buylaert, *Eeuwen van ambitie*, 259–66; Damen, 'Patricians, Knights, or Nobles?', 176–77.

middling sorts formed a second, diverse category in the city: poorer labourers as well as shopkeepers, tradesmen, and craftsmen were part of it.[54] This study will show that these middling groups, like the rich, used abduction, punished it, and worried about its effects. Because the vast majority of well-documented abduction cases throughout this study concern people from the upper social strata in the city, people belonging to well-known (and thus well-studied) families take centre stage. Nevertheless, plenty of evidence shows that abduction did not affect only the upper echelons but was a broader phenomenon that touched the lives of labourers, artisans, and others in and out of the city.[55]

The fifteenth-century Low Countries are therefore an extremely revealing site for studies of marriage, consent, and women's agency, one that challenges our previous ideas while also informing us about men and women's use and knowledge of the law and their understandings and interpretation of personal and familial consent in matrimony. First of all, women enjoyed a favourable legal position in this region. Daughters had the same inheritance rights as sons and this would have given them more opportunities to make autonomous choices than women living elsewhere. Inheritance practices varied greatly across Europe. While in some regions, like Italy, a women's share of family property was dependent on the goodwill of her parents, other regions had both dowries and partible inheritance or had an inheritance system in which a share of the total bequest was partible. The Low Countries were on one end of this inheritance spectrum as laws guaranteed daughters would receive property and got an equal share as their brothers.[56] Greilsammer has argued that this legal advantage for women in the Low Countries gave them the freedom to take matters into their own hands and to make decisions regardless of any familial concerns for property, for example by engaging in *rapts de séduction*.[57] Some scholars have stated that it was precisely women's inheritance rights that made them vulnerable targets for abductors intent on a beneficial marriage: the law guaranteed that women brought property into the marriage, regardless of the approval of their parents.[58] In some contrast, however, legal historian Charles Donahue has suggested that the system of partible inheritance in the Low Countries might have led to a greater degree of control by relatives

54 Dumolyn and Haemers, '"Let Each Man Carry On with His Trade"'.
55 Blondé, Boone, and Van Bruaene, 'City and Society', 1–21.
56 Godding, *Le droit privé*, 318–19.
57 Greilsammer, 'Rapts de séduction et rapts violents', 50.
58 Godding, 'La famille dans le droit urbain', 25–36.

over marriage in this region: since all children received family property here, all of their marriages mattered and could have negative consequences for the family as a whole.[59] These contrasting evaluations of the consequences of women's unique legal position on marriage formation in this region call for a thorough investigation of disputes concerning marriage formation and how families, authorities and individuals used abductions with marital intent and dealt with them.

This book's main focus is on Ghent in the County of Flanders and Antwerp and Leuven in the Duchy of Brabant, three mid-sized to large cities with important positions in the late medieval Low Countries. All three cities fell under the rule of the Duke of Burgundy, who became Count of Flanders in 1382 and Duke of Brabant in 1430 (see Map 1).[60] These cities' archives all contain the same unique type of primary source, namely the fifteenth-century registers of the aldermen, a distinctive type of record that has never been systematically included in abduction scholarship (detailed below). Furthermore, all three cities had similar sociopolitical structures in which both the traditional power-holders, nobles and urban elites, as well as craft guilds, determined the political, economic, and cultural landscape. The Ghent and Leuven craft guilds had gained access to city government in respectively the early and second half of the fourteenth century.[61] In Antwerp, the craft guilds had failed to obtain representation in the city council but were involved indirectly, as they were represented in a council known as the 'broad council', which was closely involved in political matters and had to be consulted by the city governors.[62] These craft guilds united workers, but their inclusion in city government ensured that larger sections of the urban population that were to some extent propertied if not wealthy (the so-called middling groups) were given representation on the board. Such cities were governed not only by landowners and important families (the patricians) but also by more ordinary people. Lastly, all three cities granted women inheritance rights, and marital property law and local customs

59 Donahue, *Law, Marriage, and Society*, 603–9.

60 Prevenier, 'La démographie', 255–58. For Leuven, see Van Uytven who discusses the evolution of the population in Leuven over the course of the fifteenth century by making use of Brabantine household accounts edited by Cuvelier (*Dénombrements*, 432–33), see Van Uytven, *Stadsfinanciën*, 474–478, spec. 478. He mentions fluctuations between 15,000 and 24,000 people between 1435 and 1496. For Antwerp, see Klep, *Bevolking en arbeid*; Van Roey, 'De bevolking', 95–108; Soly, 'De groei van een metropool', 85–86.

61 Prevenier and Boone, 'De stadstaat-droom', 81–87; Eersels, *The Craft Guilds Are the City*, 45–46.

62 Everaert, 'Power in the Metropolis', 4–5.

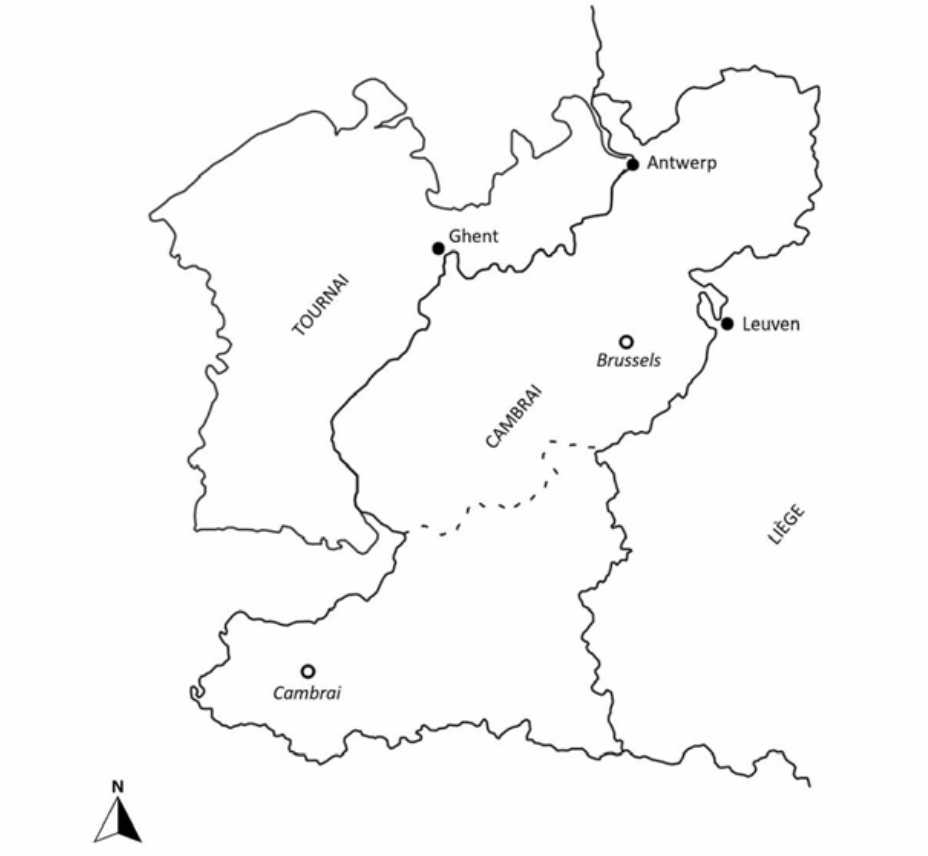
Map 1: The County of Flanders and Duchy of Brabant in the fifteenth century. © Hannah Serneels

regarding parental involvement in marriage were similar, despite small variations (discussed in Chapter 1). Studying abduction in multiple cities and districts allows for painting a broad picture of what this phenomenon entailed in the Low Countries.

Although the urban societies of Ghent, Antwerp, and Leuven form the main focus of this study, they are supplemented with a smattering of cases from other cities and other less urbanized areas in the Low Countries. This study incorporates abduction cases that occurred in various cities and villages in the dioceses of Liège, Cambrai, and Tournai (see Map 2).[63] These are the dioceses within which the three main cities under scrutiny were located, but because their consistory court records are limited and often fail to include information about the place of residency of the litigants appearing before them, all relevant cases found in these sources are included, regardless of where the actors lived within the diocese.[64] Consistory courts

63 The secular records of the district of Vier Ambachten in the quarter of Ghent are included in this study. However, unlike the city of Ghent, Vier Ambachten was not part of the diocese of Tournai but of the diocese of Utrecht. This diocese's consistory court falls outside of the scope of this study.

64 The diocese of Liège did not have a seat within the territory of Brabant. Although a part of Brabant belonged to the diocese of Liège, Philip the Good promulgated ordinances to make sure that people from Brabant could only be sued before a consistory court situated in Brabant. This led to a conflict of power with the bishop of Liège, and complex mixed arrangements were



Map 2: Dioceses of Tournai, Cambrai and Liège in the fifteenth century. © Hannah Serneels

Map 3: The districts of Vier Ambachten, Oudburg, Land van Waas and the city of Ghent in the late medieval quarter of Ghent. © Hannah Serneels

or diocesan courts were church courts run by the bishop that dealt with a large share of marriage cases. Pardon letters dealing with people from different cities and villages in Flanders and Brabant are included too. This approach excludes the possibility of considering specific habits within a single diocese (or county/duchy) as the norm. This study also includes the districts of Land van Waas, Vier Ambachten, and Oudburg, located in the quarter of Ghent: an area that encompassed the city and some less urbanized districts surrounding it (see Map 3).[65] The records of these districts contain significant useful material and show that the rural vs. urban distinction is not as clear-cut as is often assumed; people from the countryside regularly appear in the urban records, the bailiffs of Antwerp and Leuven interfered in rural cases, and the line between those who lived in and out of the city was far from rigid.[66] This is especially visible in the phenomenon of abduction, which by definition entailed the movement of people from one place to another, often from the city to a surrounding village or vice versa.

Sources

The fact that this study mainly uses court records to study the abductee's role and involvement is problematic. Several scholars have treated these records as direct evidence of people's understanding and experience of the events they report, thus considering these records as unique documents through which we can access almost directly the voices of ordinary people in past societies.[67] Although the words people said in court could have been reflected in these records, the direct equation of these legal narratives with the actual words spoken by people in court has been intensely criticized , most famously by Nathalie Zemon Davis' provocative 'Fiction

made. The 1434–1435 Liège consistory court register studied here (SAL, AD, no. 1), however, contains many cases including litigants from Leuven or villages surrounding Leuven. See Vleeschouwers-Van Melkebeek, 'Aspects du lien matrimonial', 45–46.

65 About these regions consisting of villages, small cities, and domains, see Blockmans, *De volksvertegenwoordiging in Vlaanderen*, 93, passim; Bastien, 'Tussen autonomie en centralisatie'.

66 Historians have hypothesized that patriarchal constraints affected rural societies more than urban ones, arguing that women had more economic agency and that marriages were more personal affairs in the city than in the countryside, Goldberg, *Women, Work, and Life Cycle*. However, recent research on the countryside shows that the ways in which families managed conflicts and dealt with marriage and property resembled urban societies more than is often assumed; see Hoppenbrouwers, *Village Community and Conflict*.

67 Le Roy Ladurie, *Montaillou*; Ginzburg, *The Cheese and the Worms*; Farge, *Le goût de l'archive*, 12–13; Bourin and Chevalier, 'Le comportement criminel', 246.

in the Archives'.[68] Litigants' alleged stories were mediated as they passed through attorneys, courts, judges, and scribes who moulded testimonies, pleas, and defences into a specific format when registering them. Moreover, plaintiffs were likely to know how to tell their stories, because of which one should question the 'truth' these narratives hold as strategic distortions of a social reality in which exaggerations and alterations served to present a plausible yet convincing argument. Despite these caveats, these records remain extremely useful since they were produced within a social context and thus shed light on norms and ideas prevalent in the society within which they were produced.[69]

Nevertheless, historians continue to struggle to understand the relationship between the 'stories' offered in these records and the 'truth'.[70] Frances Dolan has charged that although historians acknowledge these sources' constructed, even fictitious, character, they continue to simply ignore such concerns.[71] To meet this criticism, I have tried always to include indicators such as 'reportedly', 'according to the plea', or 'the record states that' when referring to examples or discussing specific cases. When addressing the social reality behind the legal narrative, this will always be clearly indicated. To deal with the complex nature of 'the legal record' and to surpass particularities inherent to specific types of legal records, this study will combine different source types, as has been recommended by Tim Stretton in his article on the advantages and challenges of this type of source.[72] By examining records of criminal justice as well as civil lawsuits and administrative records, along with contracts privately initiated and arranged by families, this study aims to reveal, at least to a certain extent, how legal records captured social reality and to understand that reality more fully.

Concerning conflicts that emerged from the tension between canon law and social views on marriage, jurisdiction in all cities under scrutiny was mainly shaped by three players: the city governors (called aldermen or *schepenen*), the local bailiff who acted as a representative of a duke or a count and was in charge of law enforcement, and the diocesan consistory courts

68 Davis, *Fiction in the Archives*.

69 Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 15; Goldberg, 'Telling Tales in Court', 64; Stretton, 'Women, Legal Records, and the Problem of the Lawyer's Hand', 696.

70 For a recent overview of the challenges of reading women's voices in legal records, see Stretton, 'Women, Legal Records, and the Problem of the Lawyer's Hand'.

71 Dolan, *True Relations*, 113, 116. This critique was recently seconded, see Pedersen, 'Playing the System', 185.

72 Stretton, 'Women, Legal Records, and the Problem of the Lawyer's Hand', 694, 697.

which dealt with the validity of marriages. The secular records of criminal justice, namely the bailiffs' accounts and the books with the aldermen's final sentences, occupy a central place in this research and are complemented by the records of voluntary jurisdiction, pardon letters from the dukes of Burgundy, and consistory courts' records.

In cases of abduction in the cities under scrutiny, it was the city aldermen, selected from both elite families as well as the craft guilds, who issued legal texts and administered justice in the city. Their records contain final sentences in criminal cases and civil lawsuits in which they acted as judges. While detailed criminal proceedings have not been preserved, books containing the final verdicts of the aldermen are preserved in all three cities. Slightly different types of final verdicts thus have survived. The Ghent *Ballincbouc* (book of banishments) deals exclusively with sentences of banishment in the late fifteenth century (1472–1537), while the Leuven *Dbedevaertboeck* (book of pilgrimages) only covers the beginning of that century and particularly contains the names of offenders sentenced to a forced pilgrimage (1398–1422). The Antwerp *Vierschaar* book covers more of the century (1412–1515) and records a wider variety of sentences, albeit incompletely. These sentence books, which treat criminal cases, are supplemented by some detailed records of civil lawsuits (sometimes containing plaintiffs and defendants' legal argumentation), to be found within the aldermen's registers, a source type discussed below.

Although bailiffs did not have the authority to pronounce actual verdicts, they dealt with the practicalities of a lawsuit in the sense that they, as prosecutors, investigated offences and were the officials with whom one could file a complaint. The bailiff, called *schout* in Antwerp, *meijer* in Leuven, and *baljuw* in Ghent and the Ghent districts, had a pivotal role in urban justice, as he called the aldermen together and requested them to sentence suspects. Furthermore, he was responsible for apprehending criminals, gathering evidence so that cases could be tried, and supervising convicted offenders to ensure they complied with the sentences issued by the aldermen. The bailiff, however, did not have to pass every offence encountered on to the aldermen, and could instead decide to not press charges by making monetary settlements with the alleged offenders, called 'compositions', as we saw in the Woyeken Hagen case.[73] This practice was widespread, and bailiffs allowed suspects to buy their way out of prosecution by paying a

73 About this practice, see Van Rompaey, 'Het compositierecht in Vlaanderen'; Dupont, 'Le temps des compositions (II)'; Dupont, 'Le temps des compositions (I)'; Prims, *Rechterlijk Antwerpen in de middeleeuwen*.

composition for a variety of reasons: usually lack of legal evidence, because the parties involved had already made private peace settlements, or because this practice could be very profitable for the bailiff.[74] Bailiffs' accounts preserved today list the names of criminals punished and the income (via compositions) or costs of their cases (e.g., the wage paid to the hangman). Occasionally, bailiffs accounts also include final sentences issued by the aldermen. These accounts cannot be taken at face value, since they framed what had happened in such a way that justified the bailiff's decision to settle through composition instead of in court. For the less urbanized districts within the quarter of Ghent, only bailiffs' accounts have been studied, since no sentence books for these regions have been preserved.

Abduction and partner choice conflicts can be found in another unique series of sources that have been preserved for the entire fifteenth century in Ghent, Leuven, and Antwerp.[75] In addition to promulgating ordinances and judging civil and criminal cases leading to the discovery of some civil lawsuits in these registers (above), the aldermen also fulfilled a notary function for both city residents and people from surrounding villages and smaller cities. Citizens could come to the aldermen board to register various kinds of private contracts and arrangements. In return for a small fee, the aldermen cast this information into a legally valid charter to which they attached their seal. The aldermen always noted a brief copy of each charter in their registers, leading to deeds which are referred to as records of 'voluntary jurisdiction'. Whereas the original charters have not survived the ravages of time, the aldermen registers of these charters have been preserved. These give historians unrivalled access to thousands and thousands of private arrangements, ranging from rent contracts and wills to neighbourly agreements and private settlements for all kinds of disputes. The registration of these matters by the aldermen ratified them and provided those involved with a legal guarantee.

Records of voluntary jurisdiction offer new information on abduction from a bottom-up perspective. Until now, abduction has been studied via court records and mostly (at least for the Low Countries) through final sentences and other records of legal settlements. Whereas these 'traditional' records inform us of the penalties for abductors and abductees and narrate the abduction story in a way that justifies the verdict, records of voluntary

74 Unsurprisingly, this lucrative system paved the road to corruption; see Buylaert, 'Familiekwesties', 7; Prevenier, *Prinsen en poorters*, 98–99; Van Rompaey, 'Het compositierecht in Vlaanderen', 58–59.

75 See Ceunen, *De Leuvense schepenbank* for more information on the Leuven aldermen registers.

jurisdiction help us to reflect upon decisions, arrangements, and initiatives enacted by the abductors, abductees, and their families themselves. These records thus allow us to study abduction more broadly, as a social phenomenon rather than simply a legal question. Records of voluntary jurisdiction shed light on a variety of arrangements regarding abduction, but most common are private arrangements between families after their children had married without consulting them, property arrangements made in case of a woman's abduction, and, most fascinatingly, declarations of consent made by abductees before the aldermen (see Chapter 3). In short, they tell us a great deal about the actions people and their families undertook outside of the courtroom.

Pardon letters are lengthy records that offer detailed descriptions of the offenses they deal with. During ceremonial city entrances by dukes or counts (referred to as 'joyous entries') and other festive occasions, or after receiving a petitioner's request, sovereign governors (i.e., a duke or count) could decide to officially pardon offenders for crimes they had committed. Every subject of a duke or count in the Low Countries had the right to request a pardon orally or via a written letter, as in many other European regions.[76] A scrutiny of the pardon letters regarding abduction granted by the Dukes of Burgundy alone is worthy of study. This study includes a small number of about thirty letters written between 1387 and 1501 and dealing with abductions for marriage in the County of Flanders and to a lesser extent the Duchy of Brabant.[77] These letters are a particularly challenging source because of their story-like and strategically constructed narratives.[78] Just as the bailiff had to explain why he allowed a composition in his accounts, these letters had to justify the duke or count's decision to grant a pardon, and thus were designed to raise some sort of sympathy for the pardoned offender. They thus sometimes played with the truth and so require a critical view, but should not be dismissed as fictional.[79] It is particularly interesting to see how patterns in the abduction stories within these letters can be matched with other records, such as the private contracts in the aldermen registers.

Finally, these secular records are complemented by consistory court records. In principle, secular judges dealt with the abduction preceding the

76 Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 6–13.

77 These letters were kindly provided to me by Walter Prevenier, who has studied Low Countries' pardon letters extensively and is currently working on an edition of all of these letters involving abduction, rape and other sorts of violence against women. See *Pardon Letters from the Dukes of Burgundy*, ed. Prevenier, intr. by Arnade and Colwill (forthcoming).

78 Davis, *Fiction in the Archives*, 15–25.

79 Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 13–18.

marriage, whereas episcopal judges judged the marriage contracted after an abduction.[80] The bishops exercised jurisdiction over various matters in their dioceses' courts, including a large share of matrimonial cases. The bishop was represented by the 'official', surrounded by a court consisting of legal specialists such as prosecutors (called 'promotors' in the records) and lawyers.[81] I include the records of the dioceses of Cambrai, Tournai, and Liège. In the diocese of Cambrai, two courts were installed, one in the city of Cambrai and one in the city of Brussels. The court in Brussels was founded in 1422 and from 1448 onwards operated on an equal and completely independent footing from the one in Cambrai.[82] The Brussels court was responsible for the northern archdeaconries of Brussels, Antwerp, and Brabant, while the Cambrai court dealt with cases from the southern archdeaconries (see dotted line on Map 2). For the fifteenth century, registers with final sentences from the Brussels court have been preserved for years between 1448 and 1459, and between 1438 and 1453 for the Cambrai court. They can be consulted via the editions by Vleeschouwers and Van Melkebeek, and have been extensively studied, albeit not with regard to abduction.[83] For the Liège court, only one fifteenth-century register (1434–35) has survived that contains not only final sentences but also pleas and defences, thus offering more detailed information on these cases.[84] Ghent was situated in the diocese of Tournai, but since only accounts and no sentences or legal proceedings have been preserved for this diocese's consistory court, its records are not as useful as the other consistory courts' records.[85]

In total, these different types of records yield accounts of over 650 abduction cases between 1381 and 1536. The book focuses on the fifteenth century, when Low Countries' cities were governed by elites as well as middling sorts, but includes some cases from the late fourteenth and early sixteenth centuries that were included in the series of sources studied. Whilst some

80 These authorities' roles and scopes of competency form the subject of Chapter 4.

81 Donahue, *Law, Marriage, and Society*, 33–34; Damoiseaux, 'L'officialité de Liège', 6–44.

82 Vleeschouwers-Van Melkebeek, 'Bina matrimonia', 245–46.

83 Find the edited registers in Vleeschouwers and Van Melkebeek, *Registres de sentences*; Vleeschouwers and Van Melkebeek, *Liber sentenciarum*. The following studies have made a thorough examination of these consistory courts' dealings with matrimonial cases, see Vleeschouwers-Van Melkebeek, 'Aspects du lien matrimonial'; Donahue, *Law, marriage, and society*; Vleeschouwers-Van Melkebeek, 'Marital breakdown'; Vleeschouwers-Van Melkebeek, 'Emotional Mobility and Gender in the Courtroom'; Van der Linden, 'Visis articulis promotoris'.

84 SAL, AD, no. 1 (1434–35).

85 These accounts of the court do include some references to cases of abduction; see the edition in Vleeschouwers-Van Melkebeek, *Compotus sigilliferi curie Tornacensis* (*1429–1481*); Vleeshouwers-Van Melkebeek, *Compotus sigilliferi curie Tornacensis* (*1483–1531*).

types of records have been examined thoroughly, such as bailiffs' accounts and sentence books, others could be accessed only partially through references to specific records in secondary literature or through search tools made available by different archives. When including quantitative overviews throughout this study, I mostly limit myself to the 420 cases found via the bailiff accounts and the sentence books between 1400 and 1536, since I have fully examined these series of sources and selected all relevant cases for this study. In addition, I have divided the 420 cases into 308 cases that seem to be clear examples of abductions and 112 cases that could alternatively have been cases of rape or abuse. The terminology used in the Low Countries records is more straightforward than the one used in medieval English records. While the Antwerp and Leuven cases were easy to label as either abduction or rape, the Ghent cases were more challenging. In Antwerp, eighty percent of the cases studied were abductions, while twenty percent could have been cases of rape or abduction. In Leuven, the ratio is eighty-eight percent vs. twelve percent. In Ghent and the Ghent districts, sixty-nine percent of the cases recorded in the bailiffs' accounts and sentence book were straightforward abduction cases while thirty-one percent could have also been cases of rape without matrimonial intent. The difference between Ghent (Flanders) and Antwerp and Leuven (Brabant) stems from the difference in the language used to record the offences, namely French and Middle Dutch. Middle Dutch had a specific term (*schaec*) to describe abductions with marital intent, while French records use more general and ambiguous terms.[86] While the legal terminology used in laws and statutes distinguished between rape (*vrouwencracht*) and abduction with marital intent (*schaec*) in the Low Countries, unlike in England were the legal categories themselves were ambiguous, the sources that record actual cases sometimes describe what had happened in a vague manner because of which it is impossible to be sure if the perpetrator intended to rape the victim or take her with him (and sometimes rape her) for the purpose of marriage. There are 112 of these cases with ambiguous language in the bailiffs' accounts and the sentence books.

Structure

The first chapter will set the scene by outlining customary law's views on marriage-making and by examining the legal statutes and ordinances against abduction issued by secular authorities in the Low Countries. It

86 See detailed analysis in Delameillieure, 'They Call It Schaec in Flemish'.

argues that the legal framework became increasingly strict in the late Middle Ages, an evolution that is particularly visible in the laws and statutes from late medieval Ghent. After this discussion of the legal framework of marriage-making and abduction, I will shift my focus to the judicial records, which provide insight into the actual practice of abduction with marital intent. Chapter 2 outlines the social profile of abductors and abductees and zooms in on the perpetrators and their motives for using abduction as a tool to force marriage. It complicates the common portrayal of abduction as either a conflict between a man and a woman or one between a pair of lovers and the woman's family. Chapter 3 looks at the abductee and revolves around the legal and social importance and meaning of her consent. It analyzes narratives on consent and coercion in court and studies the impact of an abduction on the abductee. The final chapter examines how authorities reacted to and dealt with abductions after they had occurred and how they tried to restore the familial and societal balance that had been broken by the act of forcing a marriage that was not agreed upon by all parties who would have been involved in the normal process of marriage-making.

Focussing on different parties' actions and involvement allows me to consider and bring together multiple medieval perspectives on marriage-making, abduction, and consent. By looking at abduction and marriage-making within middling and upper social groups in different cities in the Low Countries and as they are recorded in a varied and diverse body of legal and administrative sources, this book examines abduction with marital intent as a much more multi-layered phenomenon than it has been represented before. This work reveals that the complicated relationship between consent, marriage, and the family in the Low Countries can only be understood in relation to women's property rights and the unique powers of urban middling groups to make law.

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1. Perks and Perils of Being an Heiress

Abstract
Chapter 1 looks into what marriage making entailed amongst the middling and upper social groups in the cities of Antwerp, Leuven and Ghent and how partner choice conflicts arose and were perceived. By examining legal, social and cultural ideas surrounding marriage making and partner choice, this chapter will show that women's extensive inheritance laws in the Low Countries pushed middling and upper social families to use their powerful position in the city to try and limit their children's options to marry freely, leading to the intense criminalisation of abductions with marital intent in the late medieval Low Countries.

Keywords: law, inheritance, middling groups, age of majority, consent

Elisabeth Dop was twenty years old when she made it into the records of the Burgundian administration after marrying Michiel de Heedene. Her father was a citizen of Bruges, but for unknown reasons, the family was living in Antwerp when sometime in June 1438, Elisabeth was abducted from her parental home by Rogier and Michiel de Heedene, a father-son duo from the County of Flanders. The men took Elisabeth from Antwerp to Mechelen. Once there, Elisabeth declared to local officials that she had not been taken against her will but had consented to go with the men to marry Michiel. Elisabeth's parents were distressed about the abduction and made a complaint to the aldermen of Bruges. These city governors banished Michiel from Flanders for one hundred years and punished Rogier with a six-year banishment for his complicity. In August 1438, however, Michiel and Rogier applied for pardon to Philip the Good, Duke of Burgundy, sending him a written request reporting their version of the events. The latter granted the pardon and overturned the men's sentences.[1]

1 This case is reported in the French-language pardon letter issued by Philip the Good, but it includes a Middle Dutch transcription of the sentence issued by the Bruges aldermen: ADN, B1682, 34rv (1438).

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The punishment given to Rogier and Michiel de Heedene by the city governors of Bruges shows that this behaviour was frowned upon by secular authorities due to their concerns with marriage made without the consent of parents and other kin. Yet it was canon law, not secular law, that defined what constituted marriage and stated that it was the free consent of the parties that made a marriage lawful and binding, not that of their relatives. As long as Michiel was at least fourteen years old and Elizabeth at least twelve when they verbally exchanged their consent, along with a few other stipulations as to their status, canon law considered their marriage valid and unbreakable.[2] Elisabeth's abduction demonstrates the tension between canon law's 'consensualist' approach to marriage and the custom of familial involvement. Moreover, the high penalty for the abductor, which amounted to perpetual banishment, is striking as is the fact that this punishment meant that Elisabeth would be separated from her husband and could, given catholic doctrine, never marry again. It is hard to know what to make of it, especially because we do not see these severe penalties elsewhere in Europe. Even though in this instance the men obtained ducal pardon and avoided the penalties, the risk they ran raises questions about the feasibility and prevalence of abduction as a strategy to marry over the objections of parents or other concerned parties who sought to prevent the match.

This chapter outlines social concerns regarding marriage-making in the fifteenth-century Low Countries. It starts with examining the factors that evoked family scrutiny regarding marriage-making, including concerns over honour and property among Low Countries' urban elites and middling groups. The next section turns to the secular laws against abduction and clandestine marriage promulgated by seigneurial and local authorities from the late twelfth century onwards, outlining the penalties issued for abductors, abductees, and accomplices. Afterwards, the importance of the abductee's age and consent in these law texts is discussed to end with a discussion on the change in tone the laws and statutes display between the twelfth and fifteenth centuries through a focus on Ghent. Abductions with marital intent were criminalized remarkably early and intensely in the Low Countries in comparison to other European regions. It is this chapter's argument that this evolution should be interpreted against the background of the system of partible inheritance that prevailed in the region under scrutiny in combination with the power and influence of the urban elites and middling groups. Elisabeth Dop's case reveals the anxiety women's extensive inheritance rights evoked within those propertied social groups

2 Reynolds, *How Did Marriage Become One of the Sacraments*, 714–15.

who therefore, as this chapter will unearth, enacted strict laws against abductions with marital intent much earlier than elsewhere in Europe.

Reputation, property, and ages of consent

Antwerp poet Anna Bijns (1493–1575) gave the following advice to young girls: 'Do not accept the hand of someone you do not know, make sure to be well informed. If you think you have found someone after your heart, do not do it without the advice of friends and relatives'.[3] The phrase stems from Bijns' moralizing poem 'Refusal Looks Good on All Girls', in which she warns women to not fall for the tricks used by suitors trying to court them.[4] Anna Bijns instructed girls to respect custom by considering their families when contracting marriage.[5] In doing so, this poem voices families' social and material concerns regarding their children and especially their daughters' choice of spouse.[6]

In the late Middle Ages, wealthy middling people increasingly identified themselves as a distinct group and held significant power in the cities. They exhibited growing concern for social control, imposing certain social rules and norms that those who wished to be part of the community had to respect.[7] An increase in moral regulation went hand in hand with a growing intolerance towards any behaviour that deviated from these norms. This process was closely tied to ideas of respectability. By having 'a good name' a person obtained respect and recognition as a reputable member of the community.[8] The honour of men and women was strongly affected by their sexual reputation and that of their family members. Honour was also a highly gendered construct.[9] For young unmarried women specifically, behaving

3 Keßler, *Princesse der rederijkers*, 12–13.

4 Bijns, 'D' Weigeren staat den meiskens met allen wel', Pleij ed.

5 Howell, *The Marriage Exchange*, 197; Hutton, 'Property', 157.

6 Philips, *Medieval Maidens*; Lewis, 'Modern Girls?', 39, n. 3; Gowing, *Domestic Dangers*, 146–47.

7 McIntosh, *Controlling Misbehaviour*, 24; McSheffrey, *Marriage, Sex, and Civic Culture*, 137; Hardwick, *The Practice of Patriarchy*, 221.

8 For an overview of the concepts of honour and reputation, as well as a listing of the most relevant literature, see Laufenberg, 'Honor and Reputation', 375–77.

9 McSheffrey, *Marriage, Sex, and Civic Culture*, 174–75, 254, n. 35; Lett and Bührer-Thierry, *Hommes et femmes*, 168; Arnade and Prevenier, *Honor*; Prevenier, 'The Notions of Honor'. Scholars have challenged gender binary perceptions of honour in medieval society; see Capp, 'The Double Standard Revisited'; Phipps, 'Misbehaving Women', 66–71; Walker, 'Expanding the Boundaries of Female Honour'; McIntosh, *Controlling Misbehaviour*, 120–21.

virtuously was paramount, as is illustrated by a telling case from Ghent. The aldermen of Ghent sentenced Colaert Roose to a fifty-year banishment after he was charged with the defamation of 'a young, honourable virgin'.[10] Colaert had said 'shameful and despicable words' about Cornelijcken 'at many and diverse moments' and made 'claims about her honour', because of which 'she had missed several good marriages that she had wanted to have for her honour'.[11] Colaert probably spread rumours about Cornelijcken's sexual behaviour, the typical target for someone trying to discredit a woman.[12] When a young woman was associated with improper sexual relations, be it after an abduction, in a relationship before marriage, from accusations of licentious manners, or even through gossip and rumours of misbehaviour, this could shatter her image as a 'young, honourable virgin' and cause shame to her family, as Cornelijcken personally experienced. The case of Cornelijcken illustrates a recurring phenomenon in this study that is well-documented in other regions. Society expected high standards of young women, especially those from wealthy families that contracted strategic marriages to consolidate power and patrimony.[13]

Abduction and clandestine marriage struck at the heart of medieval society, as they affected power balances constructed by wealth and reputation. Indeed, an abduction both impugned the abductee's honour and disgraced her family.[14] When a woman had been abducted or had left her parental home to go with a suitor, this cast doubt on her virginity and triggered rumours about her behaving indecently and licentiously. Moreover, an abduction encroached on existing power relationships within the family, thus affecting family unity, which was, as Courtney Thomas has argued in her study on early modern elites, another important source of honour.[15] The abductor's reputation was also at stake since his actions opposed social views on how marriage should be made. It has been argued by Allyson Poska and Carol Lansing that concerns over reputation and honourability did not affect Spanish and Italian lower-status women's scope of action in the late Middle Ages.[16] Many poor, working women did not marry as they

10 CAG, S 212, no. 1, fol. 40v (14 August 1480).

11 Ibid.

12 Karras, *Common Women*, 29–30; Delameillieure and Haemers, 'Vrijende vrouwen', 198; Chira, 'De ardentissimo amore', 202–3.

13 Lett and Bührer-Thierry, *Hommes et femmes*, 43.

14 On how a daughter's sexual behaviour affected her male relatives, see Kane, 'Defamation', 367–68; Naessens, 'Sexuality in Court', 135–436.

15 Thomas, '"The Honour & Credite"'.

16 Poska, *Women and Authority*, 75–111; Lansing, 'Opportunities to Charge Rape', 87–88.

lacked dowries and were, therefore, less restricted by gender and family expectations than their wealthier counterparts. The women involved in abductions and marriage conflicts in the fifteenth-century Low Countries, albeit not belonging to the aristocratic elites, were more propertied than the women Poska and Lansing studied. As a teacher and the daughter of an Antwerp artisan clothmaker, the abovementioned Anna Bijns was herself part of one of the city's middling families. Her warning to girls to involve their parents when getting married must thus have shaped and been shaped by the views and behavioural patterns of the middling sorts, which take centre stage in this study.

Families put in place protective structures meant to prevent an unwanted marriage by abduction and seduction. For example, in Ghent, Marianne Danneel found evidence of wealthy families placing young women in isolation, deprived of any social contact with people outside of the family, out of fear that they would become involved in some premarital relationship not agreed upon by all the relatives.[17] Orphan girls were especially likely to be isolated because maternal and paternal relatives often became competitors and fought to select the orphan's future spouse, as will be explained further on. In the same vein, guardians often swore oaths before the aldermen not to arrange a marriage for the orphan under their care without consulting the other relatives.[18] Young women themselves were warned not to disregard the custom of parental consent, as evidenced by the abovementioned poem of Bijns. Families were very aware that the canon law perspective treated marriages as individual affairs that could be contracted without familial involvement. Indeed, according to canon law, it was the exchange of words of present or future consent (the latter being a promise to marry that was transformed into an actual marriage through sexual intercourse) in itself that constituted marriage.[19] If a man and a woman were Christians of marriageable age, who had not taken vows of chastity, were not involved in marital relations with a living person, did not share a great-great-grandparent, and were not forced to express their consent, exchanging consent made them husband and wife. Faced with this individualist interpretation of marriage, families tried to protect their children from aggressive suitors and educate them on the importance of consulting their parents.

17 Danneel, *Weduwen en wezen*, 123–25.

18 Danneel, 127, 168.

19 Unless indicated differently, this section on marriage in canon law is based mostly on Reynolds, *How Marriage Became*.

The involvement of relatives in marriage was deeply rooted in customary practice in the late medieval Brabant and Flanders. Legally speaking, the relationship between parents and children entailed both obligations and rights. The custom for parents to be involved in the marriage arrangements of their offspring was highly significant.[20] Their authority over their offspring could be defined in different ways. Roughly, two systems existed in the Southern Low Countries: paternal authority (*patria potestas*) and parental authority (*potestas parentum*). In the Flemish region of the County of Flanders, the latter prevailed: parental authority belonged to the child's father and mother. The city of Ghent's 1563 customary law states that 'children are and stay under the power and control of their father *and* mother'.[21] Late medieval legal records confirm that this rule already applied in the fifteenth century. When bailiff accounts and aldermen registers deal with clandestine marriage, they explicitly state that the marriage had taken place against the will of the bride's or groom's father *and* mother.[22] Evidence of both parental and paternal power exists in the Duchy of Brabant. In Antwerp, parental authority was exercised by both of the child's parents. In Leuven, however, sixteenth-century written custom held that parental authority belonged exclusively to the child's father.[23] In late medieval sources from Leuven, there are references to daughters, and occasionally even sons, who had married without gaining their fathers' approval. The mother's approval is rarely mentioned.[24]

If (one of) the child's parents had died, the interpretation of parental authority was complicated, as more people were now involved in decisions regarding the child's life and property. The records label children with one deceased parent 'half' orphans (*halve wezen*), and those with both parents deceased 'full' orphans (*volle wezen*). The next chapter will show that a significant number of the abducted women were orphans. Roughly speaking, there were three parties involved in orphans' life choices and thus marriages: the guardian(s), a group of relatives indicated in the contemporary records as *vrienden ende magen,* and city officials. Guardians managed all of the orphans' legal and financial matters. If only one of the parents had died, the surviving parent was most likely to become the child's guardian.

20 Godding, *Le droit privé*, 121–23.

21 *De kinderen zijn ende blijven in de maght ende bedwangh van huerlieder vadere ende moedere* in Gheldolf, *Coutumes de la ville de Gand*, XII, 1, 94.

22 For example: SAB, CC, no. 14111, January–May 1418, fol. 119v; no. 14113, September 1429–January 1430, fol. 9r; no. 14112, May–September 1421, fol. 15v.

23 Gilissen, 'Ouderlijke macht', 500; Craenen, *Wel wees*, 43.

24 SAB, CC, no. 12659, fol. 214v–215r; CAL, OA, no. 7340, fol. 355r–356r (27 May 1446).

Even in Leuven, where parental authority was fully paternal, in most cases mothers were appointed as their children's guardians after their husbands had died.[25] If both parents were deceased, one or more close relatives became guardian(s). These were usually male relatives, particularly uncles and grandfathers. In Antwerp, four guardians were selected by the *weesmeesters*, city officials who supervised the city's guardians.[26] In Leuven and Ghent, only one or two guardians were appointed. These guardians first had to make an inventory of the orphan's estate. Afterwards, they were responsible for properly managing that property and had to justify their actions by regularly presenting accounts to the aldermen of the city, as well as to other relatives.[27]

The orphan's friends and relatives (*vrienden* and *magen*) watched the guardians' actions closely. It is unclear whether this group of *vrienden* and *magen* were always relatives of the orphan. In any case, this group consisted of close relatives and possibly intimate friends who had to be consulted by the guardian(s) in any decisions regarding the orphan's property and persona. The consent of the *vrienden* and *magen* was required when the orphan married; they were to be consulted on all conditions and involved in the drafting of the marriage contract.[28] When a child became a half or full orphan, competition often arose between the maternal and paternal relatives. Since both families had a material interest, they wanted to keep a close eye on the orphan who would, once emancipated, receive their maternal and paternal inheritance portions.[29] Therefore, both maternal and paternal relatives had to agree to the orphan's marriage. These factors are illustrated in a contract governing the inheritance of three sisters whose father had died. It specified that one of the sisters, Marie Claes, would receive her inheritance portion when she got married 'with the consent of her mother and friends'.[30] Another contract explicitly states that an orphan had to marry 'with the knowledge and consent of two of his friends on his father's side and two on his mother's side'.[31]

In addition to the *vrienden ende magen*, the city government intervened in the care of orphans. In Leuven, that civic responsibility would only be institutionalized in the sixteenth century when the city established a

25 Craenen, *Wel wees*, 43–46.

26 Baatsen, 'Het voogdijschap', 12.

27 Danneel, *Weduwen en wezen*, 148–66; Godding, *Le droit privé*, 135–38.

28 Danneel, 'Vrienden en magen'; about these 'friends' and their role in intervening in marriage in England, see O'Hara, '"Ruled by My Friends"'.

29 Danneel, *Weduwen en wezen*, 121.

30 CAL, OA, no. 7746, fol. 150v (28 January 1476).

31 CAL, OA, no. 7352, fol. 212rv.

so-called *wezenkamer*, a specific city institution to supervise guardians. In Antwerp, a *wezenkamer* was set up in 1496, but already in 1428 there were two officials, called the *weesmeesters* or 'upper guardians', who supervised the city's guardians.[32] In Ghent, a specific bench of aldermen, the *Gedele*, functioned as 'upper' guardians and supervised the guardians of that city's orphans. The aldermen of the *Gedele* also mediated in all conflicts involving orphans, such as struggles between groups of relatives about the choice of spouse. These measures were part of a movement towards more urban control of guardianship in the late Middle Ages. Notably, this urban interference in the appointment of guardians was most prevalent for the wealthier social groups, which Inneke Baatsen argues shows the government's interest in keeping the orphan's property in the city.[33] Those wealthy orphans often belonged to families that had political power in their community, which may further explain the involvement of local authorities in these situations.

The parental right to consent to marriage applied to parents with minor children, since adults, male and female, no longer fell under guardianship and were considered legally capable.[34] However, in the late Middle Ages, there was no absolute line between childhood and adulthood. Many 'ages of majority' can be found in the Low Countries, varying between eighteen and even twenty-eight years old. According to sixteenth-century written customary law in Leuven, Antwerp, and Ghent, children became adults and had full legal capability once they were twenty-five years old. A late medieval charter from Brussels puts forward twenty-eight as the emancipatory age. Targeting marriages made without parental agreement, the charter states that the seduction of young girls was illegal 'because these young people under twenty-eight years old could not bind themselves without [the consent of] relatives'.[35] In theory, adult women over the age of twenty-five, or in Brussels twenty-eight, could marry whomever they wanted, since they no longer fell under their parents' authority. The late age of majority thus granted parents and senior relatives the ability to control their young adult children's life choices.

However, there was a significant difference between the secular age of majority and the age of consent put forward in canon law. The latter decreed that girls could consent to marriage from the age of twelve, while

32 Baatsen, 'Het voogdijschap', 11.

33 Ibid., 5.

34 Danneel, 'Vrienden en magen', 35–37.

35 'Ordonnance du magistrat Bruxellois' ed. Godding.

boys had to be fourteen years old.[36] Low Countries customary law thus directly contradicted the canon law stipulation that women reached the age of majority and thus the age at which they were able to consent at twelve. Therefore, there was a period of about ten to fifteen years in young people's lives during which canon law considered them able to individually consent to marriage and custom did not. Despite the secular fixation on control over minors, relatives often tried to control the marriage decisions of adult women too. In Ghent, for example, there is evidence of orphan girls from wealthier social groups being kept under guardianship until they married, regardless of their age. Their less wealthy counterparts were no longer supported once they were old enough to earn their livings, by working as maids for a wealthy family or by practising occupations.[37] Although the age of majority was rather hazy, it mattered in marriage cases. As will become clear throughout the following chapters, it was far more difficult for relatives to argue against the consent doctrine of canon law once their children were adults.

Along with considerations of honour and reputation, families wanted a say in their daughters' and sons' choices of spouse for economic reasons. Inheritance laws in the Low Countries guaranteed that men and women both received property, part of which they received upon marriage. Historians of the Low Countries regularly point at this principle of 'egalitarian' inheritance as a factor that reinforced women's social and legal position in this region.[38] The law guaranteed that women received property, unlike in many Southern European regions where daughters were dependent on the goodwill of their parents. Yet these property rights could also potentially curtail women's ability to make their own decisions. After all, a person's property was being transferred to a new household upon their marriage, meaning that the family lost control over the part of their estate they passed on to their sons and daughters. For the property to remain intact and preferably increase, a smart choice of spouse was essential. In Leuven, Antwerp, and Ghent, an advance on the children's inheritance portion was typically given as a marriage gift. The gift constituted merely an advance, as it couldn't supersede the principle of equal inheritance. Consequently, it needed to be factored into the recipient's share during the division of inheritance following the demise of the parent(s).Two methods were available for handling this situation. Firstly,

36 Menuge, 'Female Wards', 51; Reynolds, *How Marriage Became*, 171–73.

37 On the difference between maintaining an orphan and acting as its guardian, see Danneel, *Weduwen en wezen*, 66–68.

38 Danneel, *Weduwen en wezen*,

the child who had received the advance could keep the property acquired at marriage but would forfeit any additional inheritance. Alternatively, the value of the marriage gift could be integrated into the overall parental estate, ensuring each child received an equivalent portion of the inheritance. In the latter approach, the entire estate was reassessed and divided evenly among all offspring. Providing an advance upon a child's marriage was a means for parents to aid them in establishing their own households. A generous marriage gift also increased the child's value in the marriage market, which helped to attract a suitable partner.

Both partners brought property into the union (through gifts from family, testamentary bequests, and inheritance advances), and that property would preferably find its way back to the familial lineage. In the Low Countries, communal property law determined that once married, each spouse retained full ownership over their personal property (*propres* or patrimonial goods), consisting of the immovables possessed before marriage, inherited, or acquired through (testamentary) gifts. Legally, property was considered immovable if it yielded a continuing income for its owner, property such as houses, land, and annuities.[39] In Leuven and Antwerp, houses were considered immovables, while in Ghent houses were movable property but the ground on which they stood was immovable. Ghent law thus had a broader definition of communal property in marriage, which reduced the control of the extended family. Antwerp also applied a broader approach than Leuven to communal property in the fifteenth century. Any investment of profit from patrimonial assets fell into this category in Antwerp.[40] The owner passed his or her personal property along to the legal heirs, which were descendants of the natal family if the marriage had not produced children. All movables and all property acquired during the marriage was part of the couple's communal property. The couple held joint ownership over these goods and could manage them freely without any interference from their kin. Although the property was communal, the husband could manage it without the official consent of his wife.[41] The natal family essentially lost control over all movables they passed on to children.

Once married, a husband became his wife's guardian, which meant that he had the authority to manage the communal property.[42] Moreover, he

39 Bardyn, 'Women's Fortunes', 28.

40 In Leuven and Antwerp, see Bardyn, 28–29; in Ghent, see Danneel, 'Orphanhood and Marriage', 103; Guzzetti, 'Women's Inheritance and Testamentary Practices', 83.

41 The limits of the husband's ability to act alone slightly varied between cities, see Bardyn, 'Women's Fortunes', 45.

42 Danneel, 'Orphanhood and Marriage', 103–4; Howell, *The Marriage Exchange*, 143.

was entitled to manage his wife's *propres* during the marriage, although he needed her consent for all transactions. All profits made from her personal property, however, could be used by the husband as he pleased. The wife could also manage her personal property, as long as she had her husband's permission. This gendered imbalance explains why most legal statutes (discussed below) expressed concern over the marital behaviour of daughters, not sons. Men were chief administrators in their households, while wives' legal capability was limited to concluding transactions with the permission of their husbands. Also, the way that communal property and *propres* were managed directly impacted the future inheritance, part of which would flow back to the family. In Ghent and Antwerp, the couple's children inherited the personal property of the deceased spouse and half of the communal property. The widow(er) kept his/her *propres* and received the other half of the communal property. In Antwerp, the surviving spouse could also remove from communal property personal belongings that he or she did not want to share with the deceased partner's heirs.[43] In Ghent, the surviving spouse got half of all proceeds of the inheritance belonging to the heirs of the deceased spouse in addition to half of the joint property and his/her *propres*.[44] In Leuven, all immovables, from both the deceased's personal property and the communal property, were united together. While the surviving spouse gained the right of usufruct of the immovables for as long as he or she lived, the children owned all of it. The marital estate's movables became property of the surviving spouse.[45] In all three cities, the law was advantageous to the surviving spouse, although Leuven spouses were especially favoured. If the marriage was childless, the competing interests were no longer between the surviving parent and the children but between the surviving spouse and the deceased's natal family, now the deceased's direct heirs.[46] This explains the interest of *vrienden* and *magen* in the marriages of their orphan nephews and, especially, nieces.[47]

Marriages thus had serious socioeconomic consequences since they brought about significant shifts in family property. Therefore, it was just too risky to leave the choice of spouse entirely in the hands of one individual,

43 Bardyn, 'Women's Fortunes', 32.

44 Danneel, *Weduwen en wezen*, 269.

45 For a summary on inheritance law in Ghent, see Danneel, 'Orphanhood and Marriage', 99–111; for a clear overview and comparison of inheritance law in Antwerp and Leuven, see Bardyn, 'Women's Fortunes', 31–34.

46 On conflicts between the surviving spouse and the deceased spouse's heirs about the division of all property, see Danneel, *Weduwen en wezen*, 268–69.

47 Danneel, 'Orphanhood and Marriage'.

especially if she were a woman. The law guaranteed that a woman received property from their family, which, once she was married, would be managed by a man from another family. Therefore, forming a marriage entailed an intense process of negotiation and compromise among relatives who hoped for a 'good marriage', that is, a strategic union of families which served their social and material interests. A well-considered choice of partner was thus essential and that is exactly what could be thwarted by canon law's interpretation of marriage.

From excommunication to decapitation

Canon law made it possible for couples to conclude marriages informally out of public sight, which were called clandestine unions. If a couple exchanged words of consent in private and married clandestinely, no third party was able to confirm the existence of the marriage. One of the alleged spouses could easily deny having said 'Yes, I do', thereby leaving their partner with nothing more than the memory of their version of events. By the 1215 Fourth Lateran Council, ecclesiastical authorities issued new rules to deal with this issue. From now on, couples had to inform their parish priest and the bans had to be published before the wedding, enabling anyone to report any impediment to the marriage. If no impediments applied, the couple could continue their wedding in the presence of witnesses and with the blessing of a priest. All marriages that failed to fulfil one or more of these requirements were considered clandestine. Most clandestine marriages were people simply not following these precise rules, but some clandestine marriages followed an abduction and were meant to force a marriage not agreed upon by all parties that under normal circumstances would be involved in this decision.[48] Synodical statutes promulgated by the bishop of Cambrai around 1240 state that priests had to forbid their parishioners to marry clandestinely and would be suspended and excommunicated if they failed to fulfil this task. The spouses themselves too would be excommunicated if they married clandestinely by exchanging words of present consent or if they 'after clandestine affiancing know each other carnally'.[49] Moreover, those witnessing a clandestine marriage formation should inform the bishop or

48 On clandestine marriage and the meanings of this term in the Middle Ages, see Avignon, 'Marché matrimonial clandestin'.

49 Donahue, *Law, Marriage, and Society*, 387.

his official within fifteen days on pain of excommunication.[50] In addition, these statutes remarkably include that the exchange of future consent, thus the betrothal, should be celebrated publicly. This betrothal or mutual promise of marriage was considered binding and could only be made undone by the bishop in the Low Countries. Other Cambrai synodical statutes include that the betrothal should be contracted in the presence of the parish priest and witnesses in a public space. If, however, the exchange of promises had happened privately, the couple had eight days to repeat their words of future consent in the appropriate, public manner. Although ecclesiastical authorities thus condemned clandestine marriages after abduction, they did not invalidate them, leading to frustration among lay families.

Consequently, secular laws and statutes on marriage and abduction emerged as a counterreaction to canon law's *solus consensus* doctrine. Powerful families, frustrated that canon law denied them control over their children's marriage, pushed secular authorities to come up with legislation that would protect their interests. When using the term 'secular authorities' to indicate lay society's response to the ecclesiastical model of marriage, it is important to be aware that these authorities did not react in the same ways everywhere in Europe, nor were the legal definitions of abduction universal in European law. There were substantial regional variations.[51] In the southern Low Countries, cities enjoyed a high degree of political power and independence. Therefore, there were not only laws at the county and local levels emanating from feudal jurisdictions, but also city regulations on marriage in this region, which was not the case in late medieval England, for example. Still, even within the Low Countries, differences between cities and even between urban and rural authorities occurred. What the secular laws in the Low Countries had in common, however, was the fact that they did not directly address the necessity of parental consent for marriage, but instead targeted cases of *schaec*, the Middle Dutch term for abductions with marital intent. By criminalizing abduction, which often preceded a marriage against the desires of relatives, secular authorities could indirectly challenge the doctrine of *solus consensus* without poaching on the church's preserve.

Secular authorities in several cities in the southern Low Countries promulgated laws on abduction to deal with marriage's social consequences (Table 1). Central to this study are three ducal charters intended for the

50 Donahue, 387–88; Vleeschouwers-Van Melkebeek, 'Classical Canon Law on Marriage', 17.

51 Korpiola, *Regional Variations*; Donahue, *Law, Marriage, and Society*, 598–632.

entire Duchy of Brabant,[52] several charters promulgated for Leuven[53] and Ghent[54] specifically, and two charters for the districts called Land van Waas[55] and Vier Ambachten[56] near the city of Ghent. These local charters were promulgated either by the city aldermen, the duke, or the count. For Ghent, there are five charters dated between 1190 and 1438, while only one charter for Land van Waas (1241) and one for Vier Ambachten (1242) survive. Furthermore, there are three Leuven ordinances on abduction and marriage dated between 1364 and 1406. I have not found any urban charters for Antwerp, besides one reference to an article on abduction in a 1514 charter from Charles V, in a contemporary collection of brief copies of urban ordinances.[57] All of these legal texts impose penalties on abductors, their accomplices and abductees. While the penalties for abductors and their accomplices vary from fines to capital punishment, the legal stipulations either say nothing about the abductee or demand that she lose her property and inheritance rights.

Table 1 Penalties for abductors, accomplices, and abductees according to ducal, comital and urban legal ordinances against abduction in the late medieval Low Countries.

LEUVEN		Abductor	Accomplice	Abductee
1364	*ducal*	execution	/	disinheritance
1396	*urban*	pilgrimage Cyprus	pilgrimage Cyprus	/
1406	*urban*	/	/	/

52 1356: 'De Blijde Inkomst', ed. Van Bragt; 1406: City Archives Leuven (CAL), Oud Archief (OA), no. 1335, art. 16; 1427: CAL, OA, no. 1254, art. 25. Later, other joyeus entry charters were promulgated but they do not contain any new stipulations on abduction. For a concise overview and analysis of the Brabantine joyeus entry charters' content, see the appendix in Vrancken, *De Blijde Inkomsten*, 347–56.

53 1364: 'CI: Ordonnance du duc de Brabant,' ed. Willems, 605; 1396: CAL, OA, no. 1258, fol. 16rv; 1406: CAL, OA, no. 1258, fol. 17rv. This text does not issue any new stipulations but states that Leuven saw a rise in abductions and indecent marriages. It repeats that abductions should always be punished.

54 1191: '1. Mathilde', ed. Prevenier, II, 1–16, spec. 13; 1218: 'VII. Ordonnance des échevins', ed. Gheldolf, I, 398–401 ; 13 c. Keure ou statut octroyé par la comtesse Marguerite', ed. Gheldolf, I, 405; 1297: 'XXIII. Grande charte des Gantois, ed. Gheldolf, I, 426–485, spec. 450–51; 1438 (urban); 1438 (ducal): 'LXXI. Peines contre le rapt et le viol', ed. Gheldolf, I, 623–25.

55 'De keuren van het Land van Waas 1241–1454', 344–50.

56 'De keure van de Vier Ambachten', 89–176.

57 CAA, O, no. 1646, fol. 8r.

GHENT		Abductor	Accomplice	Abductee
1191	*comital*	execution	/	/
1218	*urban*	execution	cutting off nose	/
1258	*comital*	fine/banishment	/	disinheritance
1297	*comital*	banishment	cutting off nose/ banishment	disinheritance
1438	*urban*	/	/	disinheritance
1438	*ducal*	execution	/	

LAND WAAS		Abductor	Accomplice	Abductee
1241	*comital*	execution/fine	/	/

VIER AMBACHT.		Abductor	Accomplice	Abductee
1242	*comital*	execution/banish-ment /fine	/	disinheritance

BRABANT		Abductor	Accomplice	Abductee
1356	*ducal*	execution	/	disinheritance
1406	*ducal*	execution	/	disinheritance
1427	*ducal*	execution	execution	disinheritance

Most of these legal charters stipulated the death penalty for abductors. Some specify that this should happen by decapitation with a sword, a common way of executing male criminals in the late medieval Low Countries.[58] By demanding execution, lawmakers placed the crime of abduction within the category of the most severe crimes, a category that also included murder and rape. The charter of Vier Ambachten demanded the death penalty for crimes 'of one of the *six causae*'.[59] Under these six crimes fell murder, theft, arson, rape/coerced abduction, trespass at night, and breach of peace settlements. The article on violent abduction included rape, because it had one clause on rape/violent abduction but a second one on consensual abduction. Other texts also include rape in their provisions on abduction. In the Middle Ages, there was a close connection between the crimes of rape and abduction. Abductors often committed both rape and kidnapping together, perhaps as

58 Caenegem, *Geschiedenis van het strafrecht*, 157–61.

59 The Latin legal text labels these crimes as the *six causae*, while the accounts from the bailiff of Vier Ambachten refer to law by stating that the crime under scrutiny *est un des six causes selont la keure de pays*. See for example: SAB, CC, no. 14116, fol. 98r (September 1457–January 1458).

a conscious strategy to pressure the women to agree to marry them. Loss of virginity affected the abductee's honour and reputation, which narrowed her chances of attracting a suitable partner. She might consequently agree more easily to a marriage with her attacker. Sexual intercourse was also associated with contracting marriage since it sealed a marriage through words of present consent. English legal texts and records from judicial practice consistently used the terms *raptus* or *rapere*, umbrella terms encompassing rape, violent abduction, elopement, and adultery.[60] This makes it difficult for historians to determine whether the crime was forced sex just for its own sake, or as part of a violent strategy to achieve marriage.[61] Although the terms *raptus* and *rapuere* occur in some Low Countries texts too, the distinction between rape and abduction can often be discerned in legal texts and judicial records, since these were generally written in the vernacular, which used the specific term *schaec* for abductions with marital intent and *vrouwencracht* for cases of rape.

Besides the death penalty, several charters awarded banishment, forced pilgrimage, or payment of a fine (see Table 1). While the harsher punishments seem to have targeted violent abductions (which included rape), the other penalties seem intended for consensual abductions settled by marriage. However, the line between these two types of abduction is blurry and implicit rather than explicit in many texts, as will be shown below. The Leuven town ordinance (1396) stated that all abductors had to make a forced pilgrimage to Cyprus, the furthest possible destination. Once they arrived in Cyprus, they were to remain there for one year. They were to bring back an official charter from the local authorities proving that they had reached the place of pilgrimage. The goal of this penalty was to defuse the situation at home by sending the troublemaker away, thereby preventing vengeful actions and facilitating peace. Forced pilgrimages were commonly issued by Low Countries' secular authorities for all types of offenses.[62] Some legal texts also prescribe temporary banishment from the County of Flanders for those who facilitated, arranged, or failed to report an abduction. The 1297 text issued by Guy, Count of Flanders, for example, specifies either cutting off the nose or banishment from Flanders for as long as the aldermen deemed necessary for offenders, including those who encouraged the woman to go away with the man. The two Ghent legal texts composed in 1438 state

60 Cesco, 'Rape and Raptus'.

61 Dunn, *Stolen Women*, 22.

62 About this practice in the late medieval Low Countries, see Van Herwaarden, *Opgelegde bedevaarten*; Rousseaux, 'Le pélerinage judiciaire'.

that if the abductee did not file a complaint herself, the city should initiate *an ex officio* procedure. This clause shows the frustration authorities and wealthy families were feeling about abduction. It also demonstrates that late medieval urban society revolved entirely around conflict management.[63] These measures were meant to discourage those who were considering abduction: the penalties were severe, even for accomplices, and banishment and pilgrimage served to ameliorate the post-abduction situation and allow the peace to be restored.

Disinheritance was a well-known penalty for abductees or girls marrying without consulting their relatives. This penalty occurred in many late medieval laws and statutes.[64] In the Low Countries too, both Flemish and Brabantine laws contained stipulations on disinheritance and confiscation of property (Table 1). The ducal charters for the Duchy of Brabant, for example, state that the abductee should lose her *have ende erve*, her property and her inheritance.[65] Still, these stipulations are remarkable because they are completely at odds with the Low Countries' 'gender blind inheritance custom', as Shennan Hutton has called it.[66] Law guaranteed that women received property, but choosing the wrong spouse deprived them of that right. Although this penalty of disinheritance occurred in several late medieval legal texts, for example, in Leuven and Brussels, it is never described in as much detail as in Ghent texts. Also, there seems to be a significant difference between the Ghent and Brabantine texts. The Ghent texts always contain the stipulation 'she will lose her property as if she were dead', which meant that the abductee's belongings would be transferred to her lawful heirs. In the Brabantine ducal texts, however, the right to confiscate the abductee's property belonged to the duke: 'then we would have her property and her inheritance for as long as she lived, and after she died, her property and her inheritance would go where it was supposed to go'.[67] The abductee's property would be transferred to her heirs only after she died. A legal text issued by the duke of Brabant for Brussels (1375) stated explicitly that from this point forward the duke would confiscate only half of the abductee's property. Myriam Greilsammer has hypothesised that this stipulation was the result of protest by citizens who lost their property either to the abductor

63 Jussen, 'Peculiarities of the Amicable Settlement'.

64 Korpiola, *Between Betrothal and Bedding*, 169; Dunn, *Stolen Women*, 15, 105, 117; Matter-Bacon, *Städtische Ehepaare*, 52–53.

65 *De Blijde Inkomst*, ed. Van Bragt; SAL, OA, no. 1335, art. 16: Joyeus Entry Antoon van Brabant, 18 December 1406; no. 1254, art. 25: Joyeus Entry Filips van Saint-pol, 23 May 1427.

66 Hutton, *Women and Economic Activities*, 30.

67 CAL, OA, no. 1254, art. 25 (1427).

or the duke, a possible but unsubstantiated explanation.[68] Historians have repeated frequently that disinheritance was rarely applied and that the majority of the families decided to reconcile instead, an argument that will be examined in Chapters 3 and 4.[69]

What classes of women were targeted by these legal texts and at what stages in their life cycles? Most texts do not specify any markers relating to life cycle. The ducal charters for Brabant only differentiate between women and minors ('underaged children'). It is noteworthy that these children could be girls or boys. The age difference is important because according to custom, minor children were still under their parents' authority and those parents had to consent for the minor to marry. A few texts, however, do specify the abductee's position in the life cycle. The 1438 ducal charter for Ghent held that the abduction of 'young girls, women, widow and others' was a criminal act.[70] Wielant, the jurist quoted above, specifically described abductees as virgins or honourable widows.[71] The focus on young marriageable women is logical, and the explicit inclusion of widows is not surprising. After all, widows were often attractive as marriage partners because of their considerable property. Prevenier's examination of the abduction of a sixty-year-old wealthy widow from Hulst, near Ghent, by a servant exemplifies this phenomenon well.[72] In addition to life cycle, some texts refer to the abductee's social status. Historiography generally maintains that abductions occurred more in noble and wealthy non-noble circles than in lower social groups.[73] While a few of the early texts in Ghent target the abduction of elite women especially, the 1396 Leuven town ordinance quoted above defined an abductee as 'every woman, lady, or noble woman', which identified women from various social groups as possible abductees.[74] Some Brabantine texts indicated that women from different social groups could be abductees by defining the abductee as *wijf*, which simply means 'woman', or *vrouwe or joffrouwe*, which were words for women of standing.[75] The inclusion of not only noble women but also of women with a more modest background in these legal texts suggests

68 Greilsammer, 'Rapts de séduction', 68.

69 Cesco, 'Rape and Raptus', 694–96; Dean, 'A Regional Cluster?', 149; Danneel, *Weduwen en wezen*, 116; Mogorović Crljenko, 'The Abduction of Women'; Dunn, *Stolen Women*, 117.

70 *Aucune pucelle, femme vesve ou autre* in 'LXXI. Peines contre le rapt', *Coutumes*, 623.

71 Wielant, *Corte instructie*, ed. Monballyy, cap. 60.

72 Prevenier, 'Vrouwenroof'.

73 Goldberg, *Communal Discord*, 175.

74 CAL, OA, no. 1258, fol. 16rv.

75 CAL, OA, no. 1335, art. 16 and CAL, OA, no.1258, fol. 16rv: 'wijf, vrouwe ofte joffrouwe'.

that also among the urban middling groups, there was a fear of careless marriage-making.

Age and consent as legal parameters

Most legal texts differentiated between different 'types' of abduction, not only between violent abduction and consensual seduction but also between the abduction of minors and that of adults. These 'types' of abduction were ranked as distinct judicial categories with different legal consequences. All the joyous entry texts of the dukes of Brabant and Burgundy contain separate treatments in their articles on abduction: one about children and one about adult women. The 1406 charter stated that 'if someone abducts or leads away a child, either a boy or a girl, he will lose his property and his life'. Regarding adult women, it reads: 'if a woman or lady is abducted who cried out, or if we find out that it happened against her will [...] the man who perpetrated the abduction will lose his life and his property'.[76] These stipulations show clearly that the abductee's age and consent mattered.

To begin with, the abduction of a minor was always a criminal act, even if the child followed her or his abductor by choice. Young girls were still under the authority of their parents or guardians, who, as discussed earlier, held the right to consent to minors' marriages. In this case, the decisive factor was not the abductee's consent but her parents' or guardians' consent—and specifically the lack thereof. In contrast, the abduction of adult women was only considered a criminal act if the abductee was taken violently against her will. The abductee's outcry was proof that she was taken by surprise and, therefore the case was a nonconsensual abduction. Various court records in fact highlight the evidentiary value of the abductee's loud verbal protest in the judgment of whether she had consented.[77] If no one could testify that the adult woman had cried out for help, and if she stated that she had followed her abductor willingly, the abductor could not be punished according to law. In the Low Countries, adult women were considered fully legally capable, and as such they could—in theory—marry whomever they wanted.[78] The problem was, however, that there was no definitive age to distinguish minor from adult. As discussed earlier, the age of majority

76 CAL, OA, no. 1236, fol. 39r–43v.

77 Buntinx, *Verkrachting en hulpgeroep*.

78 About single women and their position in the Low Countries, see Schmidt, Devos, and Blondé, 'Single and the City', 15–19; Hutton, Women and Economic Activities, 90.

fluctuated around twenty-five in Leuven, Ghent, and Antwerp. Based on the customary laws on the age of majority and parental authority and these princely and urban charters on abduction, we can only presume that men and women over approximately twenty-five could freely choose a spouse.

Whether the abductee risked disinheritance also depended on her consent. Most records specify that the abductee would be disinherited if she married her abductor after being taken by him against her will. The joyous entry charters for Brabant, for example, stipulated that women who were abducted against their will 'but afterwards nevertheless stayed with the abductor' should be disinherited, while this did not happen to women who rejected their abductors after the fact. The 1297 law for Ghent from Count Guy of Flanders treats the penalty of disinheritance in more detail, elucidating the roles played by age and consent in this matter. This legal text specified that minors who were abducted with their consent but against the will of their relatives were disinherited. This was not the case for adult women. If they followed their abductor by choice, they could not be punished, regardless of the opinion of their relatives, at least in theory. If relatives wanted to disinherit an adult daughter or niece in such a case, those relatives had to argue to the court that she had initially been taken against her will. Like the joyous entry proclamations, this legal text added that abductees, regardless of age, who were taken against their will would be disinherited if they stayed with the abductor. The only way to prevent the disinheritance was for the abductee's relatives to agree to the marriage after the abduction.

Two factors nuance the importance of the abductee's consent. To begin with, secular authorities consciously made only a vague distinction between violent and consensual abduction in the legal texts they issued. The articles on abduction in the charters quoted above, for example, penalized adult women who had initially been abducted against their will but afterwards decided to stay with the abductor. These contradictory provisions on the adult woman's consent reveal that the intention of the authorities was to prevent unconventional marriages.[79] Although these laws were meant to discourage women from reconciling with their abductors via marriage, the laws also allowed the authorities some legal manoeuvrability. The contradictory clause on the consent by adult women in combination with the flexible age of majority allowed authorities and relatives to frame the marriages of adult women that were contested by their relatives as cases of violent abduction. All the court had to do to punish a consensual abduction

79 Danneel, *Weduwen en wezen*, 115.

was to find evidence of the abductee's resistance, such as a witness who had heard her cry out, which allowed them to frame the situation as a nonconsensual abduction.

Furthermore, the abductee's consent was not always considered. On the one hand, the consent of underage women did not matter since taking them without the consent of their relatives went against customary provisions on parental authority. On the other hand, there are also a few legal texts that explicitly state that the abductee's consent, regardless of her age, did not matter and would not influence the penalty. One is a city charter from Leuven (1396), which holds that: 'nobody shall escape punishment, even if the woman or the lady or noblewoman, after she had been abducted, declared before the aldermen that it happened with her will and consent' and that 'whether she screamed or not, all perpetrators should make a pilgrimage to Cyprus'.[80] These factors show that while legal texts generally identified parental consent, age, and the abductee's consent as determinative parameters, some also undercut the clarity of those parameters with ambiguous and even contradictory language, as in the Leuven text above.

Increasing criminalization: Ghent (1191–1438)

The division between forcible and consensual abduction became increasingly blurry in late medieval legal texts. The explicit distinction of the twelfth and early thirteenth centuries was more often ambiguous or even missing entirely in later texts that criminalized consensual abductions. Whereas the earliest anti-abduction laws only targeted violence against women and their families by focussing on forcible abduction and rape, the agenda behind later legal texts shifted gradually to punishing abductions that were actually clandestine marriages made without the consent of relatives. Based on the legal framework on abduction in Ghent and its surrounding districts, this section argues that the growing intolerance of 'irregular' marriages, which in many regions only occurred from the early modern period onwards, coincided with the rising power of urban middling groups and was connected to the growth of bourgeois identity and women's property rights in late medieval Ghent, and by extension the Low Countries.

Five legal texts from the city of Ghent and two lengthy charters outline penalties for multiple offences in Land van Waas and Vier Ambachten

80 CAL, OA, no. 1258, fol. 16rv.

(Table 1).[81] The earliest legal texts from Ghent clearly distinguished forceful from consensual abductions. They treat the former as a crime closely connected to rape and sometimes use the terms *rapt* and *rapuere*, which encompassed both violent abduction and forceful intercourse. The 1191 charter by Mathilde van Portugal, countess of Flanders, confirmed the rights and customs of the people of Ghent and addressed the offence of abduction for the first time. While the text focussed particularly on rape, the provisions probably also included forcible abduction. The charter used terms for violent sexual intercourse or *violenter con muliere concubuerit* and stated that if a woman or her parents filed a complaint, the victim would be placed in isolation by the aldermen. Perhaps this was to protect her from external pressure; in Venice, the consistory courts regularly placed women in isolation during a trial to prevent the influence of parents or others on their testimony in court.[82] The 1191 text next related that in court the woman was placed between her parents and her 'rapist/abductor'. If she freely stepped towards the latter, he would be cleared of all charges. If, however, the girl walked toward her parents, the rapist/abductor would be beheaded. This text can be interpreted as not truly protecting the women in question from violence and force, since marriages between rapists and their victims were a common way of resolving that crime in the Middle Ages.[83] This system did protect a man who made an agreement with his victim and her family. However, when the court explicitly placed the woman's parents and the 'attacker' in opposition, the intention may have been to protect a man and woman who had had a sexual relationship and/or intended to marry from false accusations of rape by relatives. In either case, the woman's consent had a crucial impact on the legal outcome. This early law text dealt primarily with physical violence against women, punishing only cases of violent assault.

The 1218 ordinance was promulgated by the aldermen of Ghent rather than by a lord. Written in Latin, this text addressed conflicts over 'property and *rapt'* and includes one article on *raptus* and one on seduction. While this text situated forcible abduction in the category of rape, it included consensual 'abduction' or seduction and marriages not approved by parents or guardians for the first time, albeit locating such incidents in a different category, as a separate and less serious offence. Under *raptus*, the ordinance maintained that 'he who *rapuerit* a woman or a maiden and she screams, will

81 See all references in notes 52–57.

82 Cristellon, *Marriage, the Church, and Its Judges*, 111–12.

83 Brundage, *Sex, Law and Marriage*, 62–75; Laiou, *Consent and Coercion*, 126.

be captured and beheaded', or outlawed if he had escaped.[84] The addition of the woman's outcry indicates that this text targeted forcible abductions. The next article stated that the penalty for anyone seducing a girl into going away with a man, 'which is called *ontscaket*'—the medieval Dutch verb used to describe this act—is the cutting of his or her nose.[85] Here, the abduction is clearly framed as consensual and situated in the category of seduction. In contrast to the 1191 text, however, this text, promulgated by the aldermen of Ghent, who were elected every year from the city's patrician families, punished these consensual 'kidnappings'. The aldermen also punished third parties who arranged and facilitated seductions. This text thus not only targeted physical violence but also tackled what one might describe as moral or socioeconomic violence, that is, the removal of young girls from the control of their families. The lawmaker includes a specific Middle Dutch term to denote this offence, the verb *ontscaken* (noun: schaec).[86]

The same interpretation prevails in the legal texts from Land van Waas (1241) and Vier Ambachten (1242) that were promulgated about fifty years later.[87] The charter from Land van Waas has two clauses on abduction. The first put abduction on the same level as rape, an offence that was one of the six crimes punishable by death. A second clause on consensual abduction or *schaec* stated the following: 'if someone leads away a daughter without the consent of her parents, he shall pay a five-pound fine to the count'. The offender also had to pay a sum to the girl's parents. The Vier Ambachten charter had two provisions on abduction too. Those who *rapuerit* a girl will lose their life and property. Here, again, *rapuerit* probably denoted rape and forcible abduction. On the other hand, those who encouraged a girl to go away with a man, 'which is called *ontscaken*', were to be banished from Flanders.[88] Therefore, third parties who arranged or supported a consensual abduction were penalised even more harshly than the abductor himself. The abductor only had to pay a five-pound fine, while the girl would not be entitled to any of her parents' property for as long as they lived. These districts' *keures* clearly distinguish between violent and consensual abductions, just as the Ghent texts had in the late twelfth and early thirteenth centuries. While they use the same term for rape and coerced abduction,

84 'VII. Ordonnance des échevins', ed. Gheldolf, I, 398–401.

85 Ibid.

86 An analysis of this term can be found in: Delameillieure, 'They Call It Schaec in Flemish'.

87 'De keuren van het Land van Waas, 1241–1454', 344–50; 'De keure van de Vier Ambachten', 89–176.

88 'De keure van de Vier Ambachten', 89–176.

they also use the Middle Dutch term *schaec* (noun) or *ontscaken* (related verb) to talk about consensual abductions.

The 1258 text issued for the city of Ghent by Margaret of Constantinople dates from the same period as the Vier Ambachten and Land van Waas charters. However, it treated consensual abductions more harshly than the texts governing the less urbanized districts. This law no longer makes a terminological distinction between coerced (*rapt*) and consensual abduction (*schaec*), as it labels both as *schaec*. Indeed, focussed explicitly on the abduction of girls in Ghent, this decree no longer used the term *raptus*. Instead, the Latin text stated that those who *abducit, id est 'ontscaket'* a woman must pay sixty pounds and would be banished from Flanders for three years.[89] This new text thus extends the definition of *schaec*, a term that, until this point, has only been used to describe cases of seduction. For the first time, there was a penalty for the abductee. She would lose all of her property and her inheritance rights 'as if she were dead', a penalty that indicates that the real concern behind this new law was the financial interest of the abductee's family and their patrimony. The text did not distinguish between consensual and coerced abductions. However, since it did not present the abductee as victimized but as accountable for her abduction, the text plausibly targeted both. Until this point, only those who had initiated and facilitated a consensual abduction had been penalized. Now, however, Margaret was also punishing the abductees. The banishment and sixty-pound fine demanded in Margaret's text for Ghent sharply contrasts with stipulations in the laws promulgated at the same time in the less urbanized Ghent districts. They 'only' asked for a five-pound fine to be paid by a nonviolent abductor of a girl who was still under her parents' authority.

For the abductee, Margaret's severe law text used the word *domicella*, a term often used for a woman of higher social status, rather than *mulier*, the general term. This suggests that the text was addressing abductions of wealthy, high-status women. Further evidence of this intention comes from the final provision, stating that the law did not apply in cases of a man abducting a poor man's daughter to keep her as a lover without intending to marry her. However, this final provision was likely added later by a compiler.[90] While this text must therefore be considered with caution, its focus seems to have been on irregular marriages of girls belonging to Ghent's upper social groups. In the mid-thirteenth century, Ghent was governed

89 About these legal texts' multilingual character, see Delameillieure, 'They Call It Schaec in Flemish'.

90 See comment by Gheldof in '13 c. Keure ou statut octroyé', ed. Gheldof, I, 405.

by thirty-nine officials from elite families in the city.[91] During Margaret's rule, Flanders' urban elites increasingly gained power.[92] Although Countess Margaret promulgated it, this law text undoubtedly reflects the agenda of this powerful group of men.

In Ghent, Margaret's successors continued to weaken the boundaries between nonconsensual and consensual abduction, producing the ambiguity in the law discussed above. In fact, in the late thirteenth century, the texts remove forcible and consensual abductions from the categories of rape and seduction. Together, the two formed a new, distinct category of crime, namely 'abduction with marital intent' or *schaec*. This evolution decreased the importance of consent as a legal determinant in abduction cases and thus rendered consensual but irregular marriages progressively more illegal, a striking change that occurred only in the early modern period in many other regions in Europe, as will be discussed further below. Although 'consent' was generally still mentioned, the focus gradually shifted from punishing violent abductors and rapists to penalizing abductees.

This shift in focus becomes very clear in the charter promulgated by Count Guy of Flanders in 1297. The year of promulgation is important since it was marked by economic instability and political turmoil. People from the middling groups got increasingly involved in politics as they petitioned the count for more social equality, denouncing the corruption of the patricians.[93] The 1297 text contains three articles on abduction: one on the consensual *schaec* of minors, one on forcible *schaec* followed by marriage, and one on enabling and arranging abductions. This law differentiated between the abduction of adults and minors and included an ambiguous phrase that disinherited a woman if she was abducted against her will but later stayed with her abductor. Like Margaret's text, this stipulation seems to have been aimed especially at wealthy women who had not been married before ('And this has to be understood for elite women who had never been married').[94] In addition to the stipulations on disinheritance analyzed above, this charter used the phrase 'seducing women from the upper social groups' (*van joncvrouwen te ontspaenne*). All those who had induced a woman to go with an abductor were penalized by cutting off their noses or by banishment.

91 Nicholas, *The Van Arteveldes of Ghent*, 3.

92 Boone, 'Een middeleeuwse metropool', 78.

93 Prevenier, 'Utilitas Communis in the Low Countries (Thirteenth–Fifteenth Centuries)', 207; Dumolyn, 'Les "plaints" des villes flamandes', 304–5.

94 'Ende dit es te verstane van joncvrouwen die noint ghehuwet ne waren', in 'XXIII. Grande charte de Gantois', ed. Gheldof, I, 344–50.

Count Guy did not initiate the law himself; the introduction stated that Guy promulgated this text 'à le pryère et requeste dou commun et des boines gens de la ville de Gant' (at the prayers and request of the *commun* and the good people of the city of Ghent).[95] The *boines gens* referred to aldermen of the city, men from patrician families. *Commun* could indicate that this matter was discussed more broadly in a council that also included representatives of the craft guilds. While the craft guilds did not gain access to political participation until the early fourteenth century in Ghent, they had already developed into political units in the late thirteenth century.[96] Although we do not know which group took the initiative in proposing this text, its measures were supported by the traditional elites and the crafts, and the text reveals the concern of Ghent's elite and probably also of its middling families that their property would be dissipated through reckless marriages. The charter acknowledged the right of adult women to choose their own spouses, even though that acknowledgement was imprecise and ambiguous. However, minor girls—this could mean women up to twenty-five years old, as discussed earlier—who married without the consent of their parents or guardians could be mercilessly disinherited and their abductors banished from Flanders.

The 1438 charters represent the pinnacle of the anti-abduction laws. There were two texts: one promulgated by the aldermen of the city, which at this stage included representatives from the city's so-called 'Three Members', consisting of patricians, weavers, and fifty-three smaller guilds, and one from Philip the Good.[97] The content of the texts is virtually identical; the ducal charter was heavily influenced by the urban one. Both justify their existence by referring to the preceding 1297 text and alluding to the recent abduction of a woman identified as the 'widow Doedins', which must have caused much consternation in the city.[98] The more detailed ducal charter stressed that it came into being at the 'humble request of our beloved aldermen of both benches' and justified its severe stipulations with both socioeconomic and emotional arguments, as Walter Prevenier has argued.[99] One can implicitly read the urban families' concern over abduction marriages through which men enriched themselves by seizing away wealthy brides.

95 'LXXI. Peines contre le rapt et le viol', ed. Gheldolf, I, 623–25.

96 Milis, 'De Middeleeuwse Grootstad', 71–72.

97 On the 'Three Members', see Haemers, *De Gentse opstand (1449–1453)*, 19–44; Arnade, 'Crowds, Banners, and the Marketplace'.

98 In Wales too, legislation was sometimes prompted by specific abduction cases, see Youngs, '"A Vice Common in Wales"', 139.

99 Prevenier, 'Les multiples vérités', 958.

On the other hand, the duke himself expressed his worry about violence against women who were being abducted and raped: lately, more and more abductors/rapists were committing these severe crimes, which threatened social peace. 'Everyone, regardless of his status, who takes and abducts, rapes, or takes by force against her will a girl, a woman, a widow, or someone else, will receive the death penalty'.[100] Those who had fled and cannot be arrested would be outlawed. If the victim or her parents and friends did not file a complaint, the mayor of Ghent and the two upper deans from the craft guilds were obligated to file one within fifteen days. If they failed to do so, they would be banished from Flanders for fifty years, and then the bailiff, who was not allowed to settle this crime through a composition, would prosecute. This text repeats the definition of *schaec* put forward in the 1297 text: the forcible or consensual abduction with marital intent of minors and the forcible abduction of adult women. This definition prevails in nearly all Brabantine charters.

While the 1297 text prescribed a banishment of three years for those who took female minors with their consent, the 1438 text adds that the perpetrators of coerced abductions would be decapitated. Abductees' property would be confiscated and inventoried by the duke immediately after the abduction; later, when the circumstances of the crime became precisely clear, all the property would go to the abductee's lawful heirs as if she were dead. While the 1297 charter foresaw a possibility for reconciliation if the abductee married the abductor with the approval of her relatives, these 1438 charters did not. Only if and when the abductor died, through execution or other means, could the abductee recover her property. If she left her abductor and married someone else, she would only recover half of her property. The authorities in Ghent were desperately trying to eliminate marriages forced upon the abductee's family. This intense focus on the abductee and her inheritance did not occur to the same extent in Brabantine legal texts. The probable explanation for this discrepancy is the fact that Ghent families received their daughter's property immediately, while in Brabant, the duke administered the daughter's property for as long as she lived.[101] The Ghent and Brabantine legal texts shared the same emphasis on further condemning and outlawing the abductor, making it very clear that the real motivation of their makers, the upper and middling social groups,

100 'LXXI. Peines contre le rapt et le viol', ed. Gheldolf, I, 623–25.

101 Unfortunately, the practical effects of these different laws cannot be examined and compared due to a lack of sources on actual cases of disinheritance in the legal records of Antwerp and Leuven. Disinheritance in Ghent is discussed in Chapter 4.

was to stop men who hoped to force marriages through which they could enrich themselves.

While the fifteenth-century texts still vaguely distinguished between forcible and consensual abduction of adult women, the later, early-sixteenth-century stipulation by the Ghent legalist Wielant confirms that legal suppression of consensual abductions was still intensifying:

> And they [i.e. abductors] are not excused if it had happened with her consent because the court would not have been very satisfied with it. Still if someone says that there is consent, there is no force. But then custom is to be contradicted, because women are easy to convert.[102]

Although it was common to take the abductee's consent into account, Wielant stated, abductors should always be punished, as it was easy for them to persuade or seduce the abductee to consent. This interpretation of consent is far from the tolerance of consensual abductions and marriages against parental consent, or even the complete absence of this category, in the earlier Ghent legal texts. Increasing severity was by no means limited to the city of Ghent. Although it is more difficult to see the evolution in Leuven, its late-fourteenth-century urban ordinance similarly eliminated 'consent' as an extenuating circumstance in its abovementioned stipulation that from this point forward abductors would always be punished, even if the abductee had declared her consent before the city's aldermen. Moreover, the Brabantine ducal charters targeted the seizure of minors regardless of their consent, just as the Ghent texts did.

Several historians studying marriage and abduction have noted increased suppression of unconventional marriages in the late fifteenth century and mostly during the sixteenth century.[103] This changing attitude has also been witnessed in how societies dealt with prostitution, sodomy, and sex out of wedlock. Scholars have among others referred to the creation of a 'civic identity' or the influence of reform movements to explain this shift.[104] Marriage historians have mainly pointed at the Reformation to explain the increasing importance given to parental authority and familial consent

102 Wielant, *Corte instructie*, ed. Monballyy, cap. 60.

103 Kermode and Walker, *Women, Crime and the Courts*, 26; Farr, *Authority and Sexuality*, 42; Rublack, *The Crimes of Women*, 7–8; Dupont, *Maagdenverleidsters, hoeren en speculanten*, 44–48, 70–80.

104 Dupont, *Maagdenverleidsters, hoeren en speculanten*, 46–47; Greilsammer, 'Rapts de séduction'; Roelens, 'Citizens & Sodomites'; 90–95, 115–16.

as essential preconditions for contracting marriage.[105] In her research on abduction in England, Caroline Dunn situated this evolution in 'a wider move towards patriarchy in late medieval and early modern society'.[106] She thereby connects her work to the studies of Martha Howell and Barbara Hanawalt, who argued that late medieval and early modern families shifted their focus to patrilineal preservation, a pattern that expanded the use of patriarchal marriage strategies.[107] Historians working on France and Italy have connected this 'turn towards severity' on marriage and abduction to growing state power in the late medieval and early modern period or to reform movements.[108] Although some of the same explanations probably also apply to Ghent and the Low Countries, those explanations date the changes from the late fifteenth century onwards. Indeed, in France, for example, the importance of parental consent was only revalued in the early modern period. Consequently, legal texts targeting consensual abductions with marital intent were absent in this region, unlike in the Low Countries, where such texts came into being as early as the thirteenth century.[109] In late medieval Sweden, legal texts mainly targeted violent abductions. Consensual marriages against the will of parents or relatives were not criminalized by lawmakers.[110] In late medieval England, legal texts targeted violent and consensual abductions from the thirteenth century onwards, but they did not criminalize consensual abductions as intensely or explicitly as the Low Countries texts did.[111]

The late medieval criminalization of consensual abductions with marital intent in the Low Countries is striking, especially because historians have repeatedly argued that women enjoyed strong social and legal positions in this region.[112] In Italy, a region with a completely different legal regime, similar law texts can be found. Indeed, several Italian legal texts targeted marriages made without parental consent, issuing penalties for men and the withholding of the dowry for underage daughters (many different ages between fifteen and twenty-five years old are mentioned). Dean pointed to

105 See historiographical analysis made by Caroline Dunn on this matter in Dunn, *Stolen Women*, 118, note 90.

106 Dunn, *Stolen Women*, 118.

107 Howell, *The Marriage Exchange*; Hanawalt, *The Wealth of Wives*.

108 Dean, 'Fathers and Daughters', 96–97; Boxer and Quataert, 'Family and State', 53–63.

109 Haase-Dubosc, *Ravie et enlevée*, 20; Vernhez Rappaz, "Rapt" et "séduction", 87; Garnot, 'Une approche juridique et judicaire du rapt', 165; Diefendorf, *Paris City Councillors*, 156–70.

110 Korpiola, *Between Betrothal and Bedding*, 35–38.

111 Dunn, *Stolen Women*, 30, 38.

112 Bousmar, 'Neither Oppression, nor Radical Equality'; Bardyn, 'Women'.

the fact that Italian daughters were carriers of property through the dowry system and the influence in this region of Roman law, which required parental consent in marriage-making, as key explanations for the emergence of these legal texts.[113] In the Low Countries, the dowry system did not exist, yet equal inheritance laws guaranteed that women would receive property, often in the form of an advance upon their marriages (see earlier). Donahue's suggestion that propertied Low Countries families might therefore have been more concerned over their children's choices of spouse could help explain the occurrence of exceptionally strict legal texts in this region. Each child received a part of the patrimony, and therefore each marriage entailed property shifts and the loss of control over the possessions families gave their to be married children as an advance upon their future inheritance. The Low Countries' inheritance laws, although giving women the guarantee of property, made upper and middling families keener on being involved in their children's choice of spouse.

Dunn and Philips have noted similar developments in anti-rape laws in England. Initially, these laws targeted the violent assault of women. Beginning in the thirteenth century, however, texts increasingly defined rape as a wrong done to the victim's father instead of to the victim herself. To explain this evolution, Phillips points out elite laymen's involvement in law-making beginning in the thirteenth century. These men were concerned about their own daughters being raped or abducted and the effects this would have on their families. Consequently, they adapted the laws to serve their own needs. Philips argued that this evolution made it more difficult for victims of rape to press charges, a claim that has been contradicted by Caroline Dunn. She stated that women who were considered sincere victims of rape could still go to court and charge their attackers successfully in late medieval England. This causation argued for by Philips could apply to the finding that Low Countries' authorities enacted stricter laws as well. The growing independence of cities and urban governors and the emancipation of middling groups of people in the highly urbanized Low Countries can indeed further explain the increasing severity displayed towards clandestine marriage and consensual abduction. These middling groups were propertied and aimed to protect their patrimony and social status. The increasing influence of the elites and these middling groups on the stipulations in abduction laws can be clearly discerned. The emphasis in the Low Countries' anti-abduction laws began to shift in the thirteenth century when those laws started to reflect the concerns of elite families

113 Dean, 'A Regional Cluster', 157–58.

rather than those of the territorial lord.[114] Cities in the Low Countries had their own administrative and judicial bodies, which were relatively independent of their count or duke and could significantly influence policy and determine their own laws. The oldest texts especially focus on assaults: rape and violent abduction. This concern also appears in later texts, in the Land van Waas and Vier Ambachten texts that contain the clause on the *six causes*, felonies punishable by death, and even in the 1438 text that explicitly stated the duke's concern about physical violence against women. The texts also position abduction as a moral and socioeconomic offence. Initially, city rulers came only from patrician families, who used their political power to defend their own interests. By including consensual abductions in anti-abduction laws and slowly expanding the penalties for consensual abductions, these authorities hoped to protect their families from harmful marriages.

The thirteenth-century Ghent texts promulgated by the aldermen of the city and by Countess Margaret reflect this shift. The use of the word *domicella* makes it clear that the concern revolves especially around the abduction of daughters from these elite families. The texts from Vier Ambachten and Land van Waas also have to be situated in this framework, since they too punished consensual abductions, although less severely than their Ghent counterparts had. The increasing severity of the 1297 and particularly the 1438 texts represented the third stage in Ghent's anti-abduction laws, which coincided with the growing involvement of broader social groups in urban politics. This escalating crackdown on consensual abductions fits into a wider process, studied by several historians, of enforcing a stricter moral code in multiple social domains. Older historiography used to connect this enhanced strictness to state formation, thereby framing the change as a top-down process. However, recent research indicates that the growing severity appearing in legal texts and judicial records on various matters was often initiated from below.[115] The middling groups, consisting of guild masters, skilled artisans, petty merchants, and shopkeepers, drove some of the political changes in cities.

There are strong indications that these middling groups were behind the 1438 Ghent text. The ducal text came into being at the explicit request of the aldermen, who had shortly before promulgated a similar legal text.

114 Phillips noted a shift in emphasis in the anti-rape laws; see Phillips, 'Written on the Body'; Dunn, *Stolen Women*, 58–59.

115 Boone and Haemers, 'Bien commun', 121–23; Dumolyn and Haemers, '"Let Each Man Carry On with His Trade"', 170–71.

At this time, the exclusively patrician government of Ghent had long been replaced by the abovementioned Three Members system, which enabled broad 'middle-class' participation from the influential weavers and more than fifty smaller guilds.[116] These working families let their voices be heard in politics in a way that is unique in the Low Countries.[117] Ghent's population included a coherent and self-conscious group of middling people who held a significant grasp on the urban decision-making process in the fourteenth and fifteenth centuries and who were clearly behind the exceptionally severe 1438 law text.[118] Moreover, the 1438 text included a significant provision that underscored these middling groups' concern that they would be affected by harmful marriages. As discussed above, the text stated that if the abductee or her relatives failed to file a complaint after the abduction, the mayor and two deans of the guilds had to perform this task. The selection of these officials further supports the idea that guild families were key in the promulgation and content of this legal text. In these social groups as among the elite, strategic marriages mattered, as Howell and others have emphasised. She referred to the frequent intermarriage among these social and professional groups as 'trade endogamy'.[119]

Legal stipulations against abduction in Ghent, as well as in Leuven and Brabant, originated from the request of influential families, which perhaps explains the carefully phrased differences between the Ghent legal texts and those from the less urbanized areas of Land van Waas and Vier Ambachten. A large group of outspoken city residents were involved in urban politics and pushed for the promulgation of laws that protected their interests.

Conclusion

Laws against abduction began to appear in the Low Countries in the late twelfth century. The conflict between canon and customary views on the need for parental consent for marriage caused the promulgation of severe abduction laws by state and urban authorities. Canon law granted individuals the right to freely choose their spouses, despite several ineffective attempts to make it harder for people to marry in secret or without publicity. The

116 Haemers, *De Gentse opstand (1449–1453)*, 19.

117 Boone, 'Een middeleeuwse metropool', 69.

118 Prevenier and Boone, 'De stadstaat-droom'; Dumolyn and Haemers, '"Let Each Man Carry On with His Trade"'; Buylaert, De Rock, and Van Bruaene, 'City Portrait, Civic Body, and Commercial Printing'.

119 Howell, 'The Social Logic', 194; see also Howell, *The Marriage Exchange*.

contradiction between ecclesiastical and secular views on marriage-making regularly led to conflicts and discussions about consent. One type of such conflict was abduction, in which people took advantage of the opportunity offered by canon law to force a marriage that had not or would not win the agreement of all the parties who would normally be involved.

The Low Countries' legal texts reveal a growing intolerance of abductions and marriages made outside of the family's control between the thirteenth and fifteenth centuries. This trend appears especially in Ghent, a city with a coherent and self-conscious group of middling families who had a significant influence on the urban decision-making process. The trend is also apparent to a lesser extent in Leuven. The Brabantine joyous entry ducal charters also reflected the concerns of city residents rather than impositions by a duke.[120] Most legal texts were issued in dialogue with or even at the request of urban bourgeois families in the late medieval Low Countries, a highly urbanized region where cities had won a remarkable degree of political power. The connection between these families and lay legal control over marriage formation is not surprising, since these social groups held a central position in the city. By carefully selecting spouses and arranging strategic matches, they sought to consolidate and expand their power, influence and patrimony. The household also formed the basis of the economy in the Low Countries, and historians have demonstrated a considerable degree of intermarriage within social and professional groups. Therefore, a 'poor' choice of partner might not only reduce family property and damage its social standing but could also negatively impact the family business. As sons and daughters all inherited a portion of their family's estate, every marriage mattered and had to be made with the participation of the family, at least in propertied families. The legal differences between Ghent urban texts and the two statutes from Land van Waas and Vier Ambachten further confirm the connection between marriage law and upper middling groups in an urban context.

These laws include diverse penalties: from fines or decapitation for abductors to disinheritance for abducted women. In many laws, three features influenced the legal settlement: the abductee's age, her consent, and the consent of her relatives. The abduction/seduction of adult, consenting women was not a crime, since the custom that parents had a say in their children's marriages applied only to minors. However, the age of majority was neither established nor uniform, and some of these texts introduce significant

120 See Valerie Vrancken's work on these joyeus entry charters in Vrancken, *De Blijde Inkomsten*, 22.

ambiguity into these categories. For example, some texts penalized the abduction of an adult woman if the abductor initially took her against her will, even if she afterwards came to terms with the abductor and wanted to marry him. This stipulation might be the result of judges witnessing many women reconciling with their abductors. It also gave judges leeway to punish the abduction of an adult woman who had consented. Relatives who complained that an adult daughter or niece had been violently kidnapped only needed to prove that someone had heard her screaming. Several texts considered the abductee's outcry the most important evidence that she had been taken against her will. From the distinct categories of the early legal texts, the lines between forcible abduction, now closely connected to rape, and consensual seduction blurred in the fourteenth and fifteenth centuries. That evolution reveals a growing social anxiety about the consequences of marriages without parental consent in the Low Countries. It was precisely because women in this region enjoyed inheritance rights that their marriages held great consequences. The importance of marriages combined with the power held by middling group families in the Low Countries' cities under scrutiny entailed a greater degree of control over young men and especially women's life choices.

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2. Abduction's Who, How, and Why

Abstract
Historiography traditionally depicts abduction as either a violent strategy used to force wealthy heiresses into marriage or a romantic elopement used by two people to marry against the wishes of parents and relatives. Chapter 2 explores this dichotomy by looking at 'the abductor' as a collective noun for those who instigated the abduction or were considered to bear some degree of responsibility. By examining the abductors' social and professional background, the motivations attributed to them in the records, the position of the persons they abducted, and the relations between all people involved, this chapter aims for a better understanding of the phenomenon's who, how and why.

Keywords: perpetrators, politicised feuds, intergenerational conflicts, intrafamilial conflicts, impossible marriage

Heylwige Comans appeared in the episcopal court of Liège in 1434. She came there to defend herself against the claim made by Goeswijn sWevers, her alleged husband. Goeswijn stated that he had seduced Heylwige after which they had gotten married. Heylwige's defence gives an interesting account of what had happened, completely contradicting Goeswijn's claim. According to the defence, Heylwige had been abducted violently and some of her relatives had played a very dubious role in what had happened. The record explains that Heylwige lived together with Goeswijn's sister in a house in Kaulille (village in the County of Loon) where she was approached by Goeswijn, Goeswijn's brother, and a third man, who was married to Heylwige's aunt. The men convinced Heylwige to go with them under false pretences and dropped her off at the house of another man, described as 'a blood relative' of Heylwige. The next day, Goeswijn's father visited Heylwige and explained to her that her grandfather urged her to go back to Kaulille if she did not want to suffer 'significant losses', probably a reference to a

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threat of disinheritance.[1] Together with Goeswijn, his father, and his brother, Heylwige returned to Kaulille. There, the group met with, among others, Heylwige's aunt who was married to one of the abductors. The next day, Goeswijn and Heylwige exchanged words of future consent and thus got betrothed. Heylwige had, however, expressed her consent against her will and had only done this because she had been misled by her aunt and some other relatives—at least this is the defence's deposition claim. Goeswijn, on the contrary, describes his relationship with Heylwige as a love affair. His plea states that he had expressed his love to Heylwige and she had allegedly replied 'that she would rather have the aforementioned plaintiff as her husband than someone who would be fifty florens richer'.[2] He added that Heylwige no longer wanted to acknowledge her marriage to him because her relatives who did not agree with the marriage had pressured her to distance herself from him.

While Goeswijn's plea describes the abduction as a consequence of the socioeconomic imbalance between him and Heylwige and the resistance of her relatives, Heylwige's defence paints a much more complex image that challenges the abductor versus abductee narrative through the confusing involvement of some of her relatives in arranging the abduction and facilitating the marriage. Over the last few decades, anthropologists and historians have criticized studies that start from a collective understanding of 'the family' as an organic and concordant entity composed of people all pulling in the same direction to increase and secure the family position and patrimony.[3] Therefore, rather than interpreting intrafamilial conflicts as tension between 'the family' and one rebellious individual who was jeopardizing the family's patrimonial aspirations, historians increasingly attend to the everchanging relations and power dynamics within families. However, research on marriage continues to juxtapose the individual's wish to choose their own partner against the family's interest in a strategic alliance, thus interpreting marriage-making conflicts as tension between 'the family' and one rebellious individual who was threatening the family's patrimonial aspirations.[4] This chapter argues that those abductions that were conflicts about marriage and partner choice were not merely clashes

1 SAL, AD, no. 1, fol. 83r.

2 Ibid.

3 Viazzo and Lynch, 'Anthropology, Family History, and the Concept of Strategy', 427; Aurell, *La parenté déchirée*.

4 In making this division, historians often put the father as head of the household and rational defender of the lineage strategy against the daughter as a sentimental individual pursuing individual interests, see Prevenier, 'Courtship'; Dean, 'Fathers and Daughters'; Titone, 'The Right

between the abductor and abductee, or the abductee and her parents. Instead, many abductions, even ones in which women supposedly consented to go with their abductors, were not generational conflicts. They were struggles between families, or sometimes between different kin groups within the abductee's family, that should be interpreted in the context of the politicized family feuds that were ubiquitous in the late medieval urban Low Countries.

Focussing on 'the abductor', a collective noun for those who instigated the abduction or bore some degree of responsibility for it, will elucidate what motivated people to resort to abduction to contract marriage. The first section will analyze the popular medieval theme of the impossible marriage and its deployment in legal records to explain the abductor's motivation (as it was incorporated into Goeswijn's plea). Linking this theme to the social background of the abductors and abductees in this study shows that abduction did not only touch the lives of aristocratic elites, as some have argued.[5] These sections are followed by an inquiry into the relationships among the group of abductors and between the abductors and the abductee. In short, this chapter will demonstrate that abduction was rarely a pageant featuring one man and one woman sidelining their parents but instead featured conflicting interests and tactics from many different parties in complex social constellations.

The impossible marriage

The records seldom reveal the motives behind an abduction explicitly. If any information is included, it usually refers to love, wealth, or both. This type of information generally appears in pleas, defences, and pardon letters, all of which were records that deployed personal or emotional statements for strategic reasons. Moreover, these inclusions in legal records resemble narratives about love and impossible marriage in late medieval literature.

The idea of a social imbalance between lovers was a popular cultural theme as the numerous works of contemporary literature that deal with

to Consent'; Wieben shows that this clash of interest could also occur between parents and sons in Wieben, 'Unwilling Grooms'.

5 Jeremy Goldberg has argued that abduction marriages were an aristocratic rather than a bourgeois phenomenon, in Goldberg, *Communal Discord*, 175. His remark was echoed by Gwen Seabourne who suggested that English abduction legislation was probably meant to deal with disputes in the higher levels of society. Seabourne, *Imprisoning Medieval Women*, 92.

the topic of elopement and parental opposition illustrate.[6] In the Low Countries, the theme of the impossible marriage between two partners from different social backgrounds was also popular and featured in various types of medieval literature.[7] One story from the *Cent Nouvelles Nouvelles*, a mid-fifteenth-century work of one hundred stories situated in the context of the Burgundian court, tells about the love between *damoiselle* Katherine, a wealthy noble daughter, and Gérard, who came from a poorer noble family. Resisting the relationship between the two, Katherine's parents would not approve of their marriage.[8] The domestic drama *Spiegel der minnen* has a very similar storyline but situates the protagonists in a bourgeois environment rather than a noble one, a choice that supports the argument of Chapter 1 that marriage conflicts in urban middling groups were also on the rise. This work, written by the Southern Low Countries' writer Colijn van Rijssele sometime between 1480 and 1500, treats the dramatic love between a wealthy merchant's son and a poor seamstress. When his parents would not allow the marriage, both aspiring partners eventually died from despair.[9] The piece's unmistakable message to 'love in moderation' (*mint bi mate*) was a widespread theme in late medieval literature, as it warned people about the danger and foolish behaviour that love could bring.[10] Nevertheless, most authors of these stories were sympathetic toward young lovers and showed compassion for their difficult situation.[11] This cluster of texts demonstrates that the idea of impossible marriage was well known to late medieval people and thus also to litigants, witnesses, lawyers, and judges in the Low Countries.

Some legal records connect with quasi-fictional motives by referring to love and the impossible marriage, thereby engraining these literary topoi into the legal narrative. The argument that the perpetrator was 'less rich' than the abducted party reappears many times in several types of sources. For example, one pardon letter explicitly states that the abductor

6 See examples in Ward and Waller, *The Cambridge History of English Literature*; Tarr, 'A Twisted Romance'; Saunders, *Rape and Ravishment*; Gravdal, *Ravishing Maidens*.

7 Duinhoven, *Floris, Gloriant en Walewein*, 141; for a short overview of such works in the medieval Low Countries, see Boone, de Hemptinne, and Prevenier, *Fictie en historische realiteit*, 11–15.

8 'La XXVIe nouvelles', in *Les cent nouvelles nouvelles*, Champion ed., no. 26.

9 On the relationship between this story and late medieval historical reality in the Low Countries, see Boone, de Hemptinne, and Prevenier, *Fictie en historische realiteit*.

10 Pleij, 'Taakverdeling in het huwelijk', 71; Pleij, *De sneeuwpoppen van 1511*, 267–73.

11 For an analysis of the content and message of 'De spiegel der minnen', see van Rijssele and Immink, *De Spiegel Der Minnen door Colijn van Rijssele*, 18–22.

targeted 'a rich widow' whom he wanted as his wife.[12] At first sight, this inclusion might seem bad for the abductor because it revealed his financial interest in the widow. However, the mention of disparity in wealth also framed the abduction as an attempt to contract a marriage between two unequal partners. For the medieval audience, this must have resonated and aroused sympathy and compassion for the abductor, who was pardoned. An extremely exceptional Antwerp case of a woman abducting a man included remarks about both love and money. The couple 'started to love each other and entered into a secret betrothal'.[13] However, faced with resistance from the man's family, the woman abducted him so that they could marry. In reaction, the man's father filed a complaint with the Antwerp bailiff, because, as the record states, he had not been informed about the marriage, and his son's abductor was from a less wealthy family ('since he was richer than the aforementioned lady').[14] In this case, which will be discussed further on, the bailiff allowed a monetary settlement. By describing the event as two lovers running away to escape parental opposition, the bailiff was justifying his decision to settle the case with a composition instead of a court procedure. The record of the abovementioned Goeswijn also included this topos by stating that Heylwige would have declared that she preferred Goeswijn over other men with more money.[15] By stating that Heylwige had consciously chosen him despite his inferior socioeconomic status, Goeswijn tried to proactively contest the claim that he had kidnapped Heylwige for her money, as he also presented himself as a man who fought for love despite the refusal of Heylwige's relatives. The invocation of love was used as a justification for abduction since it was perceived as an intense emotion that caused people to make desperate but foolish decisions.[16]

These legal narratives show a remarkable degree of similarity to the stories about forbidden marriages. Walter Prevenier noted the striking narrative resemblance between Burgundian pardon letters and the *Cent Nouvelles Nouvelles*, as he pointed out the mutual influence the genres must have had on each other's content.[17] The intertwining of legal and cultural narratives about rape and abduction in legal records has been established

12 ADN, B1684, fol. 10r–13r (March 1448).
13 SAB, CC, no. 12902, June 1430–May 1421, fol. 282rv.
14 Ibid.
15 SAL, AD, no. 1, fol. 83r.
16 Pleij, *De sneeuwpoppen van 1511*, 267.
17 Prevenier, 'L'hypothèse d'une transtextualité', 376.

for a long time.[18] By presenting the abduction as a way to force an impossible alliance, those who benefited from it or wanted to avoid a legal procedure, the bailiff or the abductor, constructed a narrative that paralleled popular stories about heroic abductors fighting for love and rescuing their women.[19] Although used strategically, these narratives do represent medieval cultural ideas and conventions and must have sounded plausible to a medieval audience. Therefore, the concept of abduction as a way for lovers to escape parental control might have corresponded to a late medieval reality, but the extent of that correspondence is unknown. Taking this logic one step further, McSheffrey and Pope argued for a strong connection between these narratives and historical reality by maintaining that these cultural and legal narratives were shaped by people's experiences and behaviour but also shaped them. Courtly love literature, an important root of these 'impossible marriages', would thus have represented a social reality.[20]

Although cultural representations of abduction might have affected actual practice, we cannot definitively conclude that these narratives either represented or failed to represent the extensive use of abduction as a method for turning unauthorised courtships into marriages. The bailiff's accounts and aldermen registers often add descriptive information on the background of the abductor and abductee. These implicit indicators of motivation show that the conclusion that abduction was a way to force a match between a high-status woman and a poorer man certainly applies in some cases. In one case, a pardon letter makes it clear that there was a socioeconomic imbalance between abductor and abductee. The abductor was the servant of a squire, while the abductee, Anna Willemsoon, was a wealthy widow, aged approximately sixty, who lived in Hulst in the quarter of Ghent and belonged to the Ghent patriciate.[21] The inclusion of the abductee's age is exceptional and therefore significant. Matches with younger husbands were a standard topos in premodern art and literature. While several examples of unions between young men and older widows can be found in actual practice, such marriages were socially and culturally associated with the idea that only their wealth made these women attractive spouses.[22] In another Antwerp case, Florijs Colibrant's surname connects him to the important

18 Gravdal, *Ravishing Maidens*, 16–73; McSheffrey and Pope, 'Ravishment, Legal Narratives, and Chivalric Culture', 818–19.

19 McSheffrey and Pope, 'Ravishment, Legal Narratives, and Chivalric Culture', 830.

20 Ibid, 819.

21 Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 143–46, 168–71.

22 Carlton, The Widow's Tale', 118–19; Feinstein, 'Longevity and the Loathly Ladies', 24; Archer, 'Rich Old Ladies', 16.

Antwerp Colibrant family, who produced several aldermen in the fifteenth century.[23] However, the record identifies him as an illegitimate son being penalized for abducting *Jonkvrouw* Woutruyt Scoetelmans.[24] Her title and the fact that Antwerp authorities intervened immediately after the offence by confiscating Florijs' property suggests that Woutruyt belonged to a high social group. The act does not tell us if Florijs succeeded in marrying Woutruyt. However, Florijs was possibly trying to force an advantageous marriage to overcome the social and judicial discrimination that came with his illegitimacy.[25] A more subtle socioeconomic imbalance seems to have motivated other abduction marriages. The abduction of Catharina Absoloens by Jan van Ranssem, for example, likely forced horizontal rather than vertical social mobility. Although Catharina, the daughter of the mayor of Leuven, inherited multiple hereditary lands as her parents' sole heir, Jan van Ranssem also belonged to an elite family. He inherited the family estate in Erps (near Brussels) and became lord of Ranssem.[26] While marrying Catharina must have entailed a climb up the social scale for Jan—she came with a considerable amount of property—Jan had a different profile from that of the squire who married Anna Willemszoon in Ghent.

Although these cases confirm the argument that abduction was used to force an impossible marriage between socioeconomically unequal partners, the records reflect more diverse motivations. A wide range of social groups beyond the patrician elites knew about and used abduction. Records explicitly label 114 abductors as poor. The Vier Ambachten account of 1420 describes Pierre filz Michiel as a *pauvre compaignon*.[27] The Ghent accounts label Coolbrecht de Huic and his accomplices as *pauvres compaingons labourans as camps*.[28] The Leuven accounts portrayed Willem Herdewale as a poor man who 'did not have anything more than what he earned with his craft' (*niet meer hebbende dan hij met zijnre ambachte mochten*).[29] It might initially appear that these men tried to escape poverty with an advantageous marriage. However, these descriptions were intended to justify the favour that the bailiff had given to the abductor by not initiating legal proceedings. Pointing out the suspected offender's poverty could have been

23 Stockmans, *Het geslacht Colibrant*.

24 Tahon, 'De schepenbank van Antwerpen'.

25 On illegitimacy in the fifteenth-century Low Countries, see Carlier, *Kinderen van de minne?*, 273–75.

26 SAB, CC, no. 12656, June–December 1453, fol. 228v, 263rv; De Troostembergh, 'Absolons'.

27 SAB, CC, no. 14111, 1420, fol. 216r.

28 SAB, CC, no. 14113, May–September 1430, fol. 6r.

29 SAB, CC, no. 12657, July–December 1464, fol. 108v–109r.

a strategy to arouse pity for the perpetrator and sympathetic agreement with the bailiff's choice to settle out of court via composition.[30] The fact that the bailiff allowed some of these 'poor' abductors to pay the composition in installments indicates that some did come from lower socioeconomic groups. For example, after Pierre Martin and his two accomplices abducted Mergrite Ysmans in Vier Ambachten around 1409, the bailiff allowed these 'poor men' to pay the composition over two terms.[31]

Other records do not describe the men as poor but give their occupations, which suggests their social status. A few abductors were *oudekleerkopers*, who bought used clothes, mended them, and sold them again.[32] The Antwerp aldermen sentenced two *legwerkers*, workers who weaved figures into textiles and carpets, for abduction in 1491.[33] Twenty-five years later the aldermen sentenced the abductor Adriaen Van Ranssem, who was a *droogscheerder* which meant he was involved in the production of cloth.[34] Jan de Ketelbuetere, who abducted Margriete Vandersmissen, was an 'old shoemaker'. He bought and fixed old shoes to resell them.[35] Leuven citizen Jan Vanden Poele came from a powerful shoemaker family, of which several men were members of city government representing the shoemaker craft guild.[36] He abducted Gertrude Utenhove, the daughter of Jan Utenhove, who belonged to one of Leuven's patrician families.[37] In Ghent, the aldermen punished a linen weaver for guiding a young boy into a marriage against the will of his relatives.[38] Another man worked as a master artisan in an unspecified craft.[39] The widow Katherina vander Hulst was abducted by Gielijs de Drijvere, a goldsmith, around 1454 in Leuven. All of these men thus had membership in the crafts guilds and belonged to the middling or upper social groups of the city. Needless to say, a lot of social differentiation existed within the craft guilds. While the *oudekleerkopers* did not belong to the city's richest groups, the goldsmiths certainly belonged to the high

30 Baatsen and De Meyer, 'Forging or Reflecting Multiple Identities?', 36, 38; Verreycken, '"En nous humblement requerant"', 12. See the detailed analysis of the bailiffs' actions in Chapter 4.

31 SAB, CC, no. 14109, January–May 1410, fol. 290r.

32 CAG, S 212, no. 1, fol. 220v (31 April 1426); CAA, V, no. 234, fol. 150r (18 March 1485).

33 CAA, V, no. 234, fol. 141v (11 August 1491).

34 CAA, V, no. 234, fol. 176r (15 April 1507).

35 CAL, OA, no. 7306, fol. 172v (27 September 1407).

36 CAL, OA, no. 7752, fol. 332v (2 June 1458); Crombecq, *Stadsbestuurders van Leuven*, 235–236.

37 Crombecq, 150–151.

38 CAG, S 212, no. 1, fol. 3r (23 June 1473).

39 SAB, CC, no. 12655, December 1433-July 1434, 209r, fol. 223v. 'Clementeynboeck', ed. Van den Branden, 26, 103v.

middling strata since this was an extremely capital-intensive craft.[40] In addition to cases specifying occupation, the records contain abductors who belonged to well-known families from the upper levels of urban society. In Ghent, the names Vilain, Van Formelis, and Borluut pop up, while in Leuven Pynnock and Uten Liemingen occur, all people from well-known patrician families.[41] While a well-known surname or a certain occupation is insufficient to support a definite statement about a person's socioeconomic status, the records do show that abductors came not just from the patriciate but diverse social groups, from 'poor' men who worked in the fields to wealthy men from ruling families.

Unfortunately, details about the abducted women's social background are even more challenging to find. Generally, the clerks only listed their names; a few cases lack even that. The Ghent sentence book states that Heinkin van Erloo was banished from Flanders in September 1484 because he had brutally abducted 'a female person'.[42] However, some women can be traced to a specific socioeconomic context. Of the 308 abductions listed in the relevant bailiff's accounts and sentence books, the clerks addressed only fourteen abductees as *Jonkvrouw*, a title given to women, wives, and widows that indicates their noble descent or marriage to a nobleman.[43] In 1517, when *jonkvrouw* Margriet Coolmans, the widow of Lord Jaques de Stovere, was abducted in Ghent by someone named Clais Vulsteke, the bailiff went to the abductor's house in Ghent accompanied by twelve soldiers on horseback and forty-eight soldiers on foot, an indication of this widow's important position.[44] After the abduction of another anonymous noblewoman around 1481, the Ghent aldermen banished the perpetrator from Flanders for fifty years. He had sought her out at night, taken her, and placed her in his wagon. In addition to the victim filing a complaint, her neighbours complained about such an evil deed happening during the night. The case caused much gossip

40 Van Uytven, *Stadsfinanciën*, 421–422, 479–486; Muylaert, 'The Accessibility of the Late Medieval Goldsmith Guild', 49.

41 Buylaert, *Repertorium van de Vlaamse adel*, 229, 716; Buylaert, *Eeuwen van ambitie*, 287–296; Van Uytven, *Stadsfinanciën*, 598, 601–607, 691; Crombecq, *Stadsbestuurders van Leuven*, 174–178.

42 CAG, 212, no. 1, fol. 76r (4 September 1484).

43 Of all consent declarations in the Leuven aldermen registers, only one was made by a 'my lady' (*mijn vrouw*) Lijsbeth Vanden Vaerenberghe, see CAL, OA, no. 8127, fol. 165v, (13 January 1456) and one was made by Katerine, *Vrouwe* (lady) of Helmont, indicating their noble status, see CAL, OA, no. 7726, fol. 110r (1432). In other types of records, however, the percentage of noblewomen is higher. For example, most records in the Ghent aldermen's registers concerned 'my lady' abductees, but this is not surprising. Most of these acts dealt with the abductee's disinheritance, a rare event that especially occurred among the elites (see Chapter 4).

44 SAB, CC, no. 14111, January–May 1517, fol. 117r.

and turmoil in the neighbourhood, a common reaction to the abductions of high-status women.[45] Although families in the highest social strata probably had their own ways of settling disputes, the small number of noblewomen (about five percent) in these records nevertheless indicates that most of the abductees came from other social groups.

Several records contain brief notes on the abductee's background. Just as was the case with the abductors, many abductees could be traced back to well-known families. Several women belonged to guild families; one was the widow of an unspecified master artisan,[46] another belonged to a butcher's family,[47] while the guardian of a third abductee was a draper.[48] In Leuven, the record about the abduction of Lijsken van Ophem identified her as the daughter of Willem, a baker.[49] In Antwerp, the daughter of Jan de Bye had been abducted. He was possibly the master cloth manufacturer who was active in the Antwerp city government in the 1470s and '80s. The mention of a servant maid of the de Bye household being involved in this abduction could indicate that Lijksen was part of this master artisan's family.[50] Also in Antwerp, Machtelijse De Vriese, a clothmaker, abducted Lijnken Vanden Berghe, daughter of late Willem Vanden Berge. Several 1470s records in the Antwerp aldermen registers refer to two different Willem Vanden Berges, who had passed away at the time of her abduction in 1476. One was a tanner, the other one was a *cuyper*, someone who manufactures tubs and barrels. One of these men was possibly Lijnken's father.[51]

Several women were beguines or young girls living in a beguinage.[52] While some women in the beguinages belonged to elite or wealthy middling groups, other women of lower status lived there as servants.[53] Since beguines, who

45 CAG, S 212, no. 1, fol. 52v (7 May 1481).

46 Machtelde Truydens, widow of master Jordaen Claus in SAB, CC, no. 12658, July–December 1473, fol. 75r and December 1473–July 1474, fol. 75rv, 98v–99r, 106r–108v.

47 Katharina Meulenpas stemmed from the butcher's milieu and was abducted by Dirk van Langenrode, who stemmed from a merchant family in Leuven, see ADN, B1698, 80r–81r (November 1476). See study of this case in Prevenier, 'Huwelijk en clientele'.

48 Josine Merschares alias Wevers probably belonged to a family of merchants and was abducted by a brewer, see ADN, B1709, fol. 76 v–78 v (July 1498).

49 SAB, CC, no. 12655, December 1438–June 1439, fol. 336v, 375r.

50 Everaerts, *Macht in de metropool*, 38.

51 SAB, CC, no. 12904, 21 May 1487, fol. 131r; CAA, SR, no. 90, fol. 222r (4 November 1476).

52 Kateline Hollands lived in the *Groot Begijnhof* beguinage in Leuven from where she was abducted, see SAB, CC, no. 12659, July 1486–July 1487, fol. 172r. Ghertruyd Papen, 'a young virgin' who lived in the beguinage of Leuven, was abducted around 1458, see SAB, CC, no. 12656, June–December 1458, fol. 436r.

53 Simons, *Cities of Ladies*, 51, 91–117.

could possess substantial property, did not take permanent religious vows and were free to leave, they made attractive potential spouses.[54] Although there were other women from lower social groups, their cases are all in the 'possible abduction' category, which means that the record does not specify the form of sexual or physical violence suffered by the woman. These could be cases of abduction, but the records do not allow definitive interpretations. Several women described as prostitutes were taken away by men, but the acts strongly suggest that these men did not intend marriage. These were probably cases of assault and abuse. Jehan Van de Hove, for example, had followed, *pris et efforchie* Margriet, the daughter of Guillaume, who was a *femme commune*.[55] Yet, here too, care is needed because bailiff accounts and pardon letters sometimes tend to discredit victims of assault by calling them prostitutes or their behaviour dishonourable, all of which helped the perpetrator to escape a court procedure.[56] Beyond the minority whose backgrounds are listed, the majority of the abductees cannot be identified or traced to well-known families, trades, or guilds. Information is limited, but the diversity amongst the abductees' profiles offers more support for the conclusion that abductions were not occurring only among the highest social groups.

In their analysis of life cycle stages, historians have emphasized that abductees were mainly daughters and widows. This also holds true for the Low Countries, where most of the abductees in this study were single women (Figure 1). Wives were twenty-five percent of the recorded abductees in Antwerp (where I only found a few abduction cases), fourteen percent in the city of Ghent, thirteen percent in the rest of the Ghent quarter, and five percent in Leuven. Women identified as brides, daughters, widows, and 'unknown' were probably single (unmarried). The 'unknown' women (between twenty-three and fifty-eight percent) were not identified as daughters, wives, or widows. As the records only give their names, it is likely but not certain that they were single women who had not been married before.

Women identified as daughters were the largest life cycle group of the abductees in the bailiff's records and sentence books.[57] Moreover, a significant proportion of these daughters were orphans. Roughly half of the consent declarations in the Leuven aldermen's registers of voluntary jurisdiction

54 On beguines in the late medieval Low Countries, see Simons, *Cities of Ladies*; Overlaet, 'Replacing the Family?'; Overlaet, 'Vrome vrouwen'.

55 SAB, CC, no. 14111, May–September 1416, fol. 4r.

56 Kelleher, *Later Medieval Law*, 142–43.

57 When including the aldermen registers in all three cities, the abductees were almost exclusively unmarried daughters.

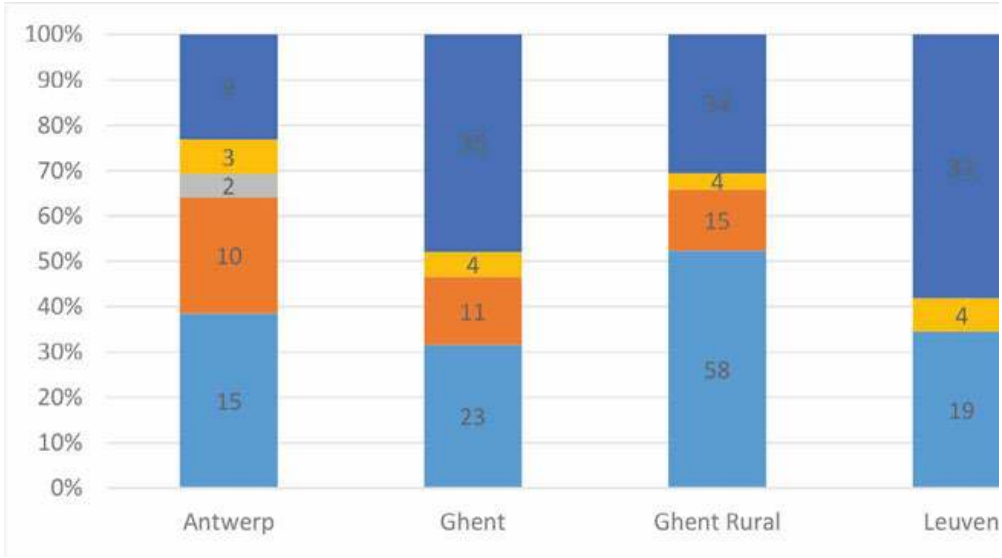

Figure 1: Abductees and their life cycle stages in the bailiff's accounts and sentence books (15th c.)

describe the abductee as 'daughter of [her father's name]'. In half of these cases, the clerk added *wilen* or 'late', an indication that these women were half or full orphans. On this point, there are significant details in the civil lawsuits brought before the Ghent aldermen by relatives denouncing the abduction of a daughter or niece. Of the fourteen abduction cases in the *Keure* registers, six abductees still had two parents while eight abductees were half or full orphans. Orphaned women were attractive targets for abductors because abductors knew exactly how much property these women would bring into the marriage. After the death of her parent(s), the orphan's guardian surveyed her estate. It was the guardian's task to make sure that the orphan would receive this entire estate when she married or reached adulthood. The inheritance of a girl whose parents were still alive could still increase or decrease.[58]

In Antwerp, two abductees were brides who were about to get married. In her study of medieval Istria, Marija Mogorović Crljenko pointed out that strong competition between suitors sometimes resulted in abduction.[59] Competition might explain why these abductors seized brides right before their marriages. In one of these cases, two men, Janne Meertens and Jacop Meertens, took the woman because, according to the record, she had previously promised to marry Jan Meertens.[60] This act shows that an abductor might resort to abduction to fulfil a betrothal and prevent the

58 Danneel, 'Orphanhood and Marriage', 143–44.
59 Mogorović Crljenko, 'The Abduction of Women'.
60 SAB, CC, no. 12903, 1461, fol. 195v.

woman's marriage to another.[61] In the ecclesiastical registers, the majority of cases were abductions of women who were already betrothed to another man. For example, the Brussels registers contain ninety-six abductions of which fifty were cases that involved two marital relationships among three people. On 11 July 1449, an ecclesiastical official punished Stefaan Aversmans and Elisabeth Eggherycx for running away via abduction and marrying clandestinely even though Elisabeth had already concluded a publicly celebrated betrothal with Simon Peerman.[62] Canon law explains the prevalence of these cases in consistory courts because canon law objected to consensual abduction marriages if the abductee was already betrothed or married.[63] Not only was the abduction problematic, but also the fact that the abductee had engaged in marital relations with two different men.

In addition to young and single women, the criminal records identify widows and married women. There are only a few widows in each city, which is a striking contrast to the extensive attention paid to the abduction of wealthy widows in historiography.[64] Widows were possibly more able to negotiate their marriages without interference.[65] In the Low Countries, particularly, customary law granted widows a considerable portion of the couples' property when their husbands died. Widows might thus have had financial independence and maturity to make their own life choices.[66] The pardon letters analyzed by Walter Prevenier reveal a higher proportion of abducted widows (they are not included in Figure 1), most of them from the highest elites.[67] At this level of wealth and power, women probably had less agency to make decisions without interference, and more dependence on their families, which made their remarriages open to debate.

The records also contain a significant number of abducted married women. The clerks always presented these cases in the same way: a man abducts someone else's wife and also takes his property. Since the records never include contextual information on wife abductions, interpreting and

61 In late medieval Sweden, legal texts reveal a particular concern for the abduction of brides during the 'bridal procession', when the woman was brought to her husband and passed from one household to another, see Ekholst, *A Punishment for Each Criminal*, 198–201.

62 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 74, 129–30; see discussion of these records on pages 192–93.

63 Donahue, *Law, Marriage and Society*, 171, n. 80.

64 Dunn, *Stolen Women*, 89; Cesco, 'Rape and Raptus', 695.

65 Still, historians have shown that relatives were often involved in a widow's remarriage and that her freedom to choose her own partner was often relative. See Danneel, *Weduwen en wezen*, 321–22; Schmidt, *Overleven na de dood*, 221–22.

66 See Chapter 1, page 53.

67 Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 121–71.

explaining them is extremely challenging. In 1460, for example, Adrian vander Gouwene was punished for abducting the wife of his neighbour. Since she stayed with him willingly, however, the Antwerp bailiff let Adrian off for a small sum of redemption money.[68] Twenty years later, also in Antwerp, Jan Papaert had to pay a composition for taking a woman who left her husband and took all her property with her.[69] These acts seem to have been cases of adultery, with the betrayed husbands charging their wives' lovers as abductors rather than exposing the adultery directly and suffering shame and loss of face.[70] Pardon letters, which tell the story from the viewpoint of the 'abductor', confirm this interpretation. In 1438, Ywain Voet received a pardon for killing a man referred to as 'Master Jan'. Ywain, a messenger for the ducal equerry, lived in Nieuwpoort. The letter tells of his 'love, acquaintance, and great affection' for Jan, whom he respected and trusted as if he were his brother. However, this changed when Jan got involved with Ywain's wife. Jan 'abducted Ywain's wife and took her away, taking much of her movable goods'.[71] About a year later, Ywain accidentally encountered Jan and inflicted a wound that caused Jan's death. The letter describes the anger Ywain felt due to 'the great disloyalty, shame, reproach, damage, and dishonour that Master Jan, turning good into bad, did towards him'.[72]

In short, the records show significant variation in the social and economic background of both abductors and abductees. Several factors, such as the presence of many orphans among the abductees, show the importance of financial interests. In addition, there are individual cases of impoverished men luring daughters of wealthy families into marriage. Nevertheless, the records suggest that the image of abduction as predominantly a tool of adventurers targeting the highest levels of society does not match reality. Although there is evidence of socioeconomic imbalance between partners from elite families, the sources support a more varied reality. Abduction was not limited to the highest social groups in the Southern Low Countries. There were abductors and abductees from the middling groups, which is not surprising because these groups were partially responsible for the strict legal texts promulgated in the late medieval Low Countries. The pattern of mixed social backgrounds conflicts with recent arguments that strategic

68 SAB, CC, no. 12903, July–December 1460, fol.178r.

69 SAB, CC, no. 12904, December 1481–July 1482, fol. 31v.

70 Naessens, 'Judicial Authorities' views', 67–69; Brundage, *Law, Sex, and Christian Society*, 365.

71 ADN, B1682, fol. 34r (December 1438).

72 Ibid.

marriages only happened at the highest social level.[73] Nevertheless, there are indications in this section of the importance of socioeconomic motives to those who instigated abductions. This does not mean that other motives could not have played a role, as emotional and personal incentives are more difficult to detect in legal records than financial ones. Since often socioeconomic factors and feelings were undoubtedly intertwined, distinguishing between them is impossible and undesirable.

A gendered offense?

The depiction of abduction as a highly gendered offence, in which a rich woman is kidnapped for her fortune by a man of lower descent or in which a wealthy woman runs off with her poorer boyfriend willingly, dominates the historiography.[74] This section analyzes the two protagonists, the abductor and the abductee, and the gendered binary perception of abduction as an offence committed by an active man on a passive woman. I argue that the records reveal more diversity in gender as well as in the actual people involved in abductions.

Although most abductees were women, on several occasions, men and/or women abducted boys to marry them off against their parents' wishes. On 23 June 1473, for example, the Ghent aldermen punished the abovementioned Jan Springoen for abducting a young boy and marrying him off against the will of his relatives.[75] The bailiff's accounts and sentence books from the three cities include records of 31 female abductors out of the total of 625 and at least 7 male abductees from the total of 308. The sex of 4 abductees is not specified. It is important to note that not all the 31 women were trying to conclude marriages for themselves, nor were all male abductees taken by women. Most of the women accompanied male offenders or encouraged women to cooperate in their abductions. For example, the aldermen of Antwerp punished a woman called Kateline, whose last name is not mentioned, on 1 March 1435. She had to make a pilgrimage to Cologne and stay there for three years because she had talked the daughter of Jan Vander Rijt into agreeing to leave with an abductor ('she advised for abduction').[76] In another case from Vier Ambachten, Grielken Kuenync paid a composition

73 De Moor and Van Zanden, 'Girl Power', 4–7.

74 See, for example, Youngs, '"She Hym Fresshely Followed and Pursued"', 77–78.

75 CAG, S 212, no. 1, fol. 3r (23 June 1473).

76 CAA, V, no. 234, fol. 57v (1 March 1435).

to the bailiff for encouraging a girl to go away with Cornelis Hout to marry him.[77]

It is extremely rare but the records do sometimes record an abduction with a woman as the main perpetrator and a man as the 'victim'. There are only two cases, both in the Antwerp bailiff's accounts, of women abducting men for marriage. Around 1419, Johanna Van Lymborgh abducted Joes Vanden Scriecke. Together with some accomplices, she pulled Joes onto her wagon one evening and carried him off to the house of someone called Geert van Tichelt. Before the bailiff could figure out exactly what had happened, the account states, Joes and Johanna were already married. He had not screamed, nor did he want to file a complaint, so the case was not taken to court.[78] Around 1420, also in Antwerp, Liesbeth Recmast abducted Jan Peters in the case briefly discussed above. The two met for the first time at the fair and 'started to love each other and secretly got engaged', according to the account. Liesbeth's friends and relatives went to discuss the marriage with Jan's father, who was very surprised by this visit since he had not been informed about his son's upcoming marriage. He refused to allow the marriage since 'he was richer than' Liesbeth.[79] Faced with this refusal, Liesbeth decided to take control. The record states that one evening she took her wagon, lined up the support of some anonymous men, and abducted Jan. Jan's father complained, but because the couple had already married and Jan was of age and had consented, the case was settled with a composition.[80]

These cases are remarkable because they completely contradict the way that clerks usually described abductions and, by extension, medieval gendered perceptions of courtship, marriage, and sexuality. It is no coincidence that both cases were recorded in two successive accounts from the Antwerp bailiff; the stories are remarkably similar. Both women abducted a man at night using a wagon with the help of accomplices. The striking similarity suggests that the clerk wrote a stereotypical description that connected the abduction to the well-known topos of young love hindered by parental resistance. In Liesbeth's case, the clerk defined the woman as the actor because Jan's father had initiated the legal action that presented his son and himself as the damaged parties and Liesbeth as the party responsible for the damage. Perhaps Liesbeth and Johanna formed premarital relationships with Jan and Joes that were ended by the men's forthcoming marriages to

77 SAB, CC, no. 14112, May–September 1423, fol. 10v.

78 SAB, CC, no. 12902, November 1419–June 1420, fol. 263v–264r.

79 SAB, CC, no. 12902, June 1430–May 1421, fol. 282rv.

80 Ibid.

suitable spouses.[81] Women did not always accept their roles as temporary girlfriends, as a Bologna case shows. A woman accused her lover of rape and neglecting his promise to marry her. He answered that he had only promised to take her as his girlfriend, not his wife.[82] It is possible that Johanna and Liesbeth found themselves in similar situations and, faced with the prospect of their partners' marriage to other women, decided to take control and defeat their boyfriends' families. Low Countries consistory court records contain lots of examples of women bringing breach of promise cases to court, claiming that men had promised marriage and then backed out. These cases were rarely ever successful, although these alleged husbands often had to give these women money to compensate them for their loss of virginity.[83] In any case, reverse abductions were extremely rare. The vast majority of the cases involved a male abductor and a female abductee, at least according to the records.

Abduction language nearly always identifies the abductor as the active party and the abductee as the passive one, an indication that this terminology is highly gendered. This gendered language matched descriptions of sexuality that were deeply engrained in late medieval culture. Ruth Mazo Karras argued that medieval people saw acts of sexuality as being perpetrated by an active and a passive partner, namely as something a man did to a woman. In the process of courtship, too, it was a man's role to take the initiative and court a woman. Gwen Seabourne has identified this pattern in English abduction cases as well. To support her contention that abductions were elopements in disguise, she pointed out the passive language used to describe the women's involvement. Although clerks describe some abductions as consensual, they rarely suggested that the abduction was a joint endeavour; he abducts her 'by her will and consent'. Because it is still the abductor who is described as perpetrating the act and thus the one who abducted the abductee, there is an unequal balance of power. Even in cases that use the language of seduction and consent, it is the man who seduces and the woman who 'accepts' the seduction.

While gendered formulations dominate, some records do describe the woman as an active subject of the abduction verb. Some records literally state that the woman 'went away with' her abductor, thus that she went to him by herself. In Vier Ambachten, Anthone le Wint paid a fine for abducting Callekin Crels. However, the record states that it was Calleken herself who went away

81 Karras, *Sexuality in Medieval Europe*, 127–28; Fernández Pérez, 'Ni buenas, ni malas', 371–74.

82 Lansing, 'Concubines, Lovers, Prostitutes', 93–95.

83 Vleeschouwers-Van Melkebeek, 'Self-Divorce', 96–97.

with Anthone to mary him.[84] The Leuven aldermen's registers contain many brief statements by women officially declaring that they had chosen to follow the abductors that also use 'to go away with'. The clerks reported that these women stated that they 'went away' with their abductors. The church court records of the Low Countries also tended to portray the woman as an active partner. In these records, the clerks often added that a woman 'went away with' (*abivit cum*) a man.[85] Moreover, these registers featured significant formulations that completely reversed other linguistic constructions that were usually gendered. The records of the Brussels church court often state that the abductee 'allowed herself to be abducted' (*se abduci permittendo*) and, even more striking, that the man and woman 'abducted each other mutually' (*mutuo abduxerunt*).[86] This terminology deviates from the common medieval way of describing sexual acts between a man and a woman as involving an active male and a passive female. By framing these cases as mutual abductions, these records situated men and women on the same level of activity or passivity and attributed to them an equal degree of initiative and responsibility. Such inclusions suggest that medieval views on consent were not uniform, and several visions coexisted at the same time. Therefore, seduction and/or elopement, the category that historians have applied to these 'consensual' cases, encompasses multiple descriptions of different shades of consent, some active and enthusiastic and others passive and submissive. The language of consent in these records reflected medieval ideas about sex, chief among them the portrayal of men as active partners and women as passive ones. Besides this dominant perception, however, some records do attribute a more active role to abductees, thus challenging stereotypical abduction narratives.

Moreover, several of the above examples feature abductions carried out by a group of people rather than a single abductor. The bailiff's accounts and sentence books document 308 clear cases of abduction perpetrated by at least 625 abductors (Figure 2). There were more than 625 people involved since some records state that there were accomplices without specifying how many there were. For example, the abovementioned Jan van Ranssem, who abducted the daughter of the Leuven mayor, had to pay an additional composition to the bailiff for an unquantified group of people who had helped him.[87] When Margriet vanden Bossche declared her consent to the

84 SAB, CC, no. 14113, January–May 1428, fol. 7v.

85 See for example: SAL, AD, no. 1, fol. 124r; Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 790, 884.

86 See for example: Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 509, 515, 520.

87 SAB, CC, no. 12656, June–December 1453, fol. 263rv.

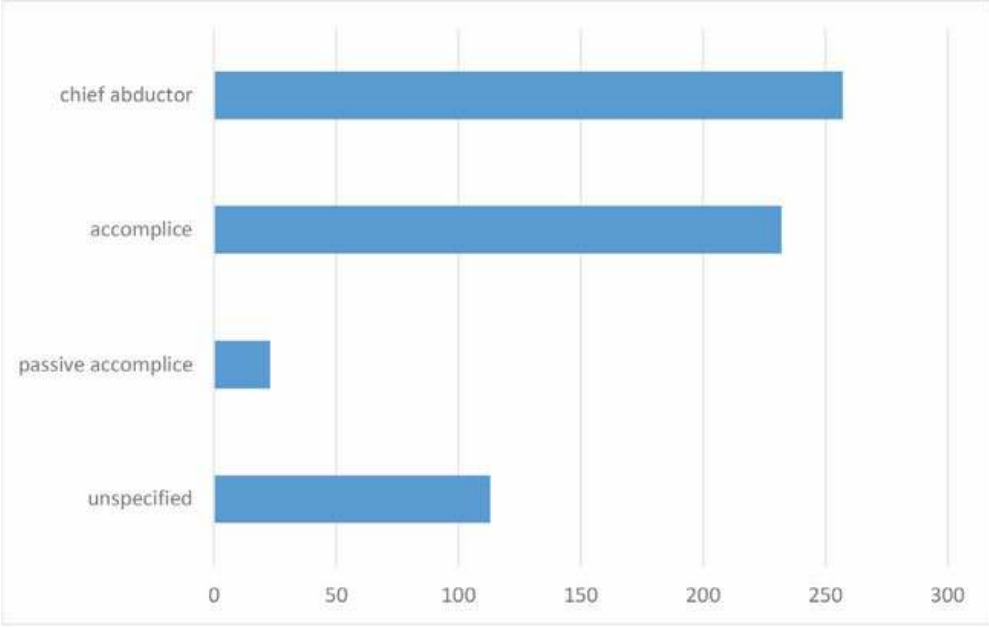

Figure 2: The role of 625 perpetrators involved in 308 abduction cases included in the sentence books and bailiff's accounts of Antwerp, Leuven and Ghent (city and districts).

aldermen of Leuven on 28 September 1437, she said that she had gone with Henricke de Welde freely and that 'what the aforementioned Henricke and his accomplices had done to her, had happened with her consent'.[88] The declaration does not give any further information about these accomplices, such as their names or their number. Most records merely distinguish between the abductor and his helpers, referring to the former as the *principael* (chief offender) and the latter as the *medeplegers* or *hulperen* (accomplices or helpers).[89]

The *principael* was generally the one who intended to marry the abductee, although in a few cases, a girl was abducted by a group of people who wanted to marry her off to someone else who was not involved in her actual removal. Some records do not specify the different abductors' roles (see 'unspecified' in Figure 2). Of the 308 abduction cases in the bailiff's accounts and sentence books, a group of people definitely perpetrated 151 abductions. The actual percentage of group abductions was higher because the records indicate that some of the people involved might have been punished at a different time or in a different court. Other records simply did not mention all of the

88 CAL, OA, no. 7332, fol. 101v (28 September 1437).

89 Of the eighty-six deeds with declarations of consent found in the Leuven aldermen registers between 1389 and 1461, sixteen mention that the reported consensual abduction was executed by multiple perpetrators. These records are discussed in Chapter 3.

people involved. For example, the Leuven bailiff's accounts contain an act about the punishment of an accomplice to an abduction perpetrated in the County of Loon. Since he was a citizen of Leuven, he was sentenced there instead of in Loon.[90] This report suggests that some abductions thought to be the work of one individual based on the existing records might have involved multiple perpetrators. Pardon letters, consistory court records, and aldermen's registers (not included in Figure 2) similarly reveal that many abductors were supported by helpers. There could be between one and five people assisting the main perpetrator in an abduction. In some extreme cases, there were over ten men abducting one woman.[91]

These abduction adventures were collective for two reasons. The first and most obvious was a practical consideration: kidnapping a woman could be a difficult and risky operation that required planning and collaboration. If an abduction happened, it was in the best interest of the abductee's relatives to act promptly, pursue the abductor and abductee, and retrieve the abductee before any damage had been done, that is, a marriage had been contracted and word of the abduction had spread throughout the community. Several 'abductors' were punished after unsuccessful attempts to abduct women. For example, Willem De Smet had tried to abduct Lijsbet Winters, daughter of Jan, with the help of four accomplices in Kortrijk-Dutsel east of Leuven. However, Lijsbet was accompanied by a woman named Lijsbet vanden Meysene, 'who was with her and helped her'. When the women resisted, the abductors had to let Lijsbet Winters go.[92] In other cases, the abductee's family immediately pursued the abductor and managed to bring the abductee back home. The Leuven bailiff punished Symoen Sraets for trying to abduct Lijsbeth Goerts in 1472. Carrying a basket on her head, Lijsbeth was on her way to her father. The abductor took her basket and tried to take away Lijsbeth as she strenuously resisted. Lijsbeth's father intervened and fought the abductor. Although he was hurt, he reportedly managed to liberate his daughter.[93] These cases were all attempts rather than actual cases of abduction. The damage these attempts caused to the abductees' honour was probably negligible since these women had not spent any time alone with the abductor and thus clearly had avoided intercourse and/or the exchange of vows.[94]

90 SAB, CC, no. 12654, December 1418–June 1419, fol. 190v.

91 See for example ADN, B1688, fol. 29v–30r (December 1458).

92 SAB, CC, no. 12653, July–December 1405, fol. 68v.

93 SAB, CC, no. 12658, July 1472–December 1473, fol. 50v.

94 About young women and notions of privacy and honour, see Chapter 3, page 133.

In anticipating protective reactions by the woman's relatives, abductors often went out heavily armed. For example, Adriaen de Metser and Aert van Rosendale abducted a woman at night. Armed with steel crossbows, they took her to an inn outside of the 'red gate' in Antwerp.[95] By stressing the fact that these perpetrators were armed, the clerks were discrediting them further since carrying weapons was strictly forbidden in late medieval cities.[96] When the abductor targeted a young woman from a high social group, her relatives would be keeping an especially close eye on her to protect her from aggressive suitors. This was the case for Jozijnken Gheldofs. Together with her father, Jan Gheldofs, she attended a wedding in *Heilige Kerst*, a parish in Ghent. As they were returning home, Mathijs Vandermeere abducted the girl while his accomplices restrained her father to prevent him from going after his daughter.[97] The Brussels consistory court records include the abduction of Katherina Vander Linden by Jan Vander Berct and an unspecified number of armed accomplices.[98] Abductions usually entailed a violent clash between two groups: those who broke into a family's domestic sphere to take the woman away and those belonging to that domestic sphere, who were trying to prevent this rupture of the household. Weapons and accomplices stacked the odds in the abductor's favour.

Sylvie Joye points out a second reason for the presence of accomplices in abductions during the Central Middle Ages in Western Europe: the presence of accomplices was a prestigious sign of the abductor's power.[99] Joye connected having accomplices to the customs of noble marriage in the early and central medieval periods. A nobleman took his squires with him when he made a *demande de marriage,* to impress the woman and her relatives and appear powerful. Refusing his request entailed an assault on his reputation as a noble. He could then react with violence and perhaps abduct the woman.[100] Laura Gowing states that in early modern England, too, it was custom for men to be accompanied by their friends when initiating courtship and conducting 'talks of marriage' with their possible future in-laws. This collective endeavour culminated, she argues, in abduction cases.[101] In her study of the use of obscenity in

95 CAA, V, no. 234, fol. 182v (2 March 1510).

96 Glaudemans, *Om die wrake wille*, 112–14; Crombie, *Archery and Crossbow Guilds*, 146; Vrancken, *De Blijde Inkomsten*, 137–38.

97 SAB, CC, no. 14118, May–September 1483, fol. 16rv.

98 Vleeschouwers and Van Melkebeek, *Liber sentenciarum*, no. 1335, 835 (7 July 1458).

99 Joye, *La femme ravie*, 114–20.

100 Ibid., 114–15.

101 Gowing, *Domestic Dangers*, 151.

late medieval English texts, Carissa Harris highlights the importance of having a male audience (imagined or real) for men when interacting with women sexually as it reinforced homosocial relations and helped them in acquiring masculine status.[102] In current historiography, there is little discussion of the methods of initiating marriages, making proposals, and convincing the other party that people employed during the late Middle Ages.[103] Nevertheless, the records suggest that honour and prestige were behind at least some of the cases here. Janne Vandermotten was accused of abducting Lijsken Bollaerts after he had approached her, accompanied by several other men, and spoken to her. According to the act in the bailiff's accounts, he said: 'You have to come with me; I have followed you for a long time'. He took her in his arms, to which she replied: 'Take your hands off me; I do not want to be touched by you. If you put your hand on me again, you will regret it'.[104] Lijsken's determined answer might have been embarrassing for Janne, and it is not clear whether he actually abducted Lijsken. Because she did not want to file a complaint, the case was settled by payment of a composition. The case does suggest that when men went to ask for contact or even marriage, they might have taken their supporters with them, as they did during abductions.

According to the pardon letters, some abductions took place in fiefs ruled by local lords, not in the city. These abductions featured an almost ridiculous number of abductors. Walter Prevenier has already pointed out that political rivalries between alliances of powerful families were mirrored in the phenomenon of abduction in the late medieval urban Low Countries. Many of his case studies based on the pardon letters highlight the appearance of groups of abductors who are charged with violence against their enemies. These groups used abduction as a political tool to bind themselves to certain influential families and force their way into networks that would benefit them politically.[105] Family feuds, still frequent in fifteenth-century cities, provide the context for understanding the collective nature of abductions.

Not all accomplices were armed and actively involved in carrying out the abduction.[106] The sources reveal that some were punished for facilitating the abduction in a more passive manner. I refer to them as 'passive accomplices'

102 Harris, *Obscene Pedagogies*, 40.

103 Boeles Rowland, 'Material Mnemonics', 63.

104 SAB, CC, no. 12654, June 1417–December 1418, fol. 178rv.

105 See especially his case study of an abduction in fifteenth-century Leuven: Prevenier, 'Huwelijk en clientele', 85–88.

106 About degrees of culpability in Flemish medieval law, see Van Caenegem, *Geschiedenis van het strafrecht*, 38–42.

(Figure 2). They generally assisted in two ways. The first method of helping punished was to influence the future abductee. These accomplices, often but not always women, encouraged the future abductee to participate in the abduction. Above, there are examples of female accomplices punished for this form of complicity, but men were also punished for the same reasons. Pieter Blarinc had to pay a composition to the bailiff for encouraging an anonymous woman *qu'elle s'en alast avec ung compaigne* without the consent of her friends, for example.[107]

In addition, the role of an accomplice is labelled 'passive' if they gave shelter to or hid abductors from the authorities but did not help perpetrate the abduction. Around 1438, Claes de Kersmakere was charged with providing shelter to Hennen Bailge after he had abducted Lijsken Van Ophem.[108] Another act from the Leuven bailiff's accounts shows that a passive accomplice could in fact be victimized by the abductor. In 1473, the Leuven bailiff reached an amicable settlement with Willem Vandenkerkhove. According to the record, Willem and his wife arrived home from the market in the evening to find a woman and a man they did not know.[109] Willem was too afraid to send the abductor and his accomplices away 'because of the cruelty and anger' they displayed. Therefore, the act continues, Willem let the abductors and the abducted woman spend the night in his house, 'even though it was against his will and consent'.[110] The bailiff presented Willem as a victim, but Willem had to pay a composition because he had facilitated the abduction. Another woman was banished for three years for opening a window to admit eight abductors intent on abducting a young girl.[111] The convicted woman probably lived with the abducted girl or worked in her entourage so that she was able to help the men intrude into the girl's domestic environment. The Ghent bailiff even punished a man named Joosse Maes for knowing that Jehan Mappe was planning to abduct a woman but failing to report this to the authorities. Joosse had to pay a settlement of twelve-pound *parisis* for neglecting his civic duty.[112] A similar harsh punishment was inflicted on Cornelis Clais because he had stood by passively as a woman, identified as *jonkvrouw*, was abducted

107 SAB, CC, no. 14114, May 1438–January 1439, fol. 15v.

108 SAB, CC, no. 12655, December 1438–June 1439, 336v, fol. 375r.

109 SAB, CC, no. 12658, June–December 1473, fol. 75rv: 'binnen zijnen huysse sittene eene vrouwe ende bij huer eenen knecht die welke hij niet en kende'.

110 SAB, CC, no. 12658, June–December 1473, fol. 75rv.

111 SAB, CC, no. 14114, June 1437–May 1438, fol. 14v.

112 SAB, CC, no. 14117, September–October 1478, fol. 189v; Caenegem, *Geschiedenis van het strafrecht*, 41.

from a citizen's house. Cornelis was banished for fifty years from Flanders because he did not call the aldermen.[113]

Those convicted in abduction cases thus played different roles that contributed to the success of the venture. These examples show that the authorities considered abduction a serious offence and all those involved responsible, no matter how small their role. In addition, the collective nature of many abductions, even those labelled as consensual, calls into question the image of abduction as a tool for young people to freely go away together because they wanted a free choice of a spouse. Abduction was not an affair between one man and one woman. Multiple people were usually involved because abductions were complex phenomena entailing property, honour, power and status, sex, and gender. Moreover, it is important to note that there were female abductors and male abductees. These cases indicate that women could also desire 'impossible marriages' and men might also be attractive spouses.

A family affair

The fact that groups of people frequently executed abductions becomes even more significant when considering the relationships between the people involved. Some clues reveal a pattern of abduction by groups of relatives of the abductor and, more surprisingly, of the abductee as well. This pattern can be detected in Heylwige's deposition discussed at the beginning of this chapter: Goeswijn was assisted by his brother and his father was involved, while Heylwige's aunt and some other relatives also played a part.

Many group abductions were perpetrated by men with the same surname, suggesting they were related. For participation in the same abductions, the authorities punished two men called 'Vanderheyden',[114] three men named 'Van Melle',[115] two men named 'Van Gheele' together with two men named Vanderdijle,[116] three men named 'De Vorster',[117] and so on. Other acts specify the precise relationship between these men. For example, when Pierre de Bode abducted and married Katheline Pauwels in Land van Waas, he received help from his brother and father.[118] When Peter de

113 CAG, S 212, no. 1, fol. 52v (12 May 1481).
114 SAB, CC, no. 12904, 1500, fol. 270rv.
115 CAG, S 212, no. 1, fol. 113r (18 April 1494).
116 SAB, CC, no. 12653, December 1405–April 1406, fol. 87v–88rv.
117 SAB, CC, no. 12655, June–December 1433, fol. 194r.
118 SAB, CC, no. 14112, May–September 1425, fol. 18v.

Necker abducted a woman in Antwerp, his brothers and his nephew assisted him.[119] The bailiff's accounts of Vier Ambachten contain a case of a man receiving assistance even from his father and mother to marry a young girl called Zoektin against the will of her guardians: 'About Perceval, son of Willem, and Katheline, his wife, who have been charged because they have helped their son Willekin in marrying Zoetkin [...] against the will of her guardians'.[120] Even cases reported as consensual abductions were often perpetrated by family members. Around 1460, Henneken Camerlinck, his uncle Art Van Tudekem, and two other men, Henneken van Tudekem and Woytte Poelmans, 'found' Lijsken van Tongerloe in a field near Tildonk (north of Leuven, now 'Haacht') and asked her where she was heading. According to the act, Lijsken responded 'I am going home' (*ic ga thuisweert*) and intended to use a specific path. The related men proposed she take a path 'more beautiful than the one she wanted to take' and accompanied her to a tavern in Tildonk. There, Lijsken declared her consent to two aldermen and she and Henneken Camerlinck exchanged marital consent.

The sheer number of cases in which relatives were among the perpetrators indicates that abduction was a strategy used by some families to secure beneficial marriages. Because these cases represent conflicts between two families, they must be situated within the context of family feuds in the late medieval city.[121] The abductor and his family used abduction as a tactic to conclude an advantageous marriage and, by doing so, thwarted the patrimonial strategy of the abductee's family. Some historians have noted this pattern, but current abduction research does not give it enough attention.[122] The high degree of group abductions by relatives is significant because it calls into question the idea that abductions were elopements of couples trying to circumvent parental control over partner choice.

However, not all abductions were conflicts between two families or the result of friction between 'the family' and a rebellious individual. Some abductions happened due to quarrels within the family about the abductee's choice of spouse, as is suggested here:

> Lijsbette Broucx has been taken secretly in a subtle manner without the knowledge and consent of her aforementioned guardian and friends and relatives. Neither this guardian nor the friends and relatives were aware

119 SAB, CC, no. 12904, December 1482–June 1483, fol. 46r.

120 SAB, CC, no. 14113, May–September 1426, fol. 13v.

121 Buylaert, 'Familiekwesties'.

122 Prevenier, 'Huwelijk en clientele', 83; Joye, *La femme ravie*; Gowing, *Domestic Dangers*, 151.

> of this and did not help to execute it in any way. It was and is a case of a very evil example.[123]

This quote comes from a plea made by the relatives of an orphan girl, Lijsbette Broucx, to the aldermen of Ghent in 1453. As the plaintiffs announced that their niece had been abducted and asked that she be disinherited, they reported that none of Lijsbette's friends or relatives had been involved in her abduction. The explicit clarification that Lijsbette was taken by a stranger might indicate that the reverse, the involvement of one or more of her friends or relatives, likely occurred as well. In fact, the records reveal a type of abduction in which relatives of the abductee appear on both the side of the abductor and the side of the abductee.[124]

This pattern of intrafamilial conflicts ending in abduction appears often in Ghent and usually involved half or full orphans, who had lost one or both of their parents. As Chapter 1 explains, choosing a spouse for an orphan normally involved several relatives. The extensive scholarship on orphanhood and guardianship in medieval Ghent makes it easier to find records on this topic here than in other cities.[125] Moreover, urban control of orphanhood and guardianship was more institutionalised in Ghent than in Leuven and Antwerp, where specific institutions charged with the care of orphans and control over their guardians only emerged in the sixteenth century. Since the Ghent aldermen of the *Gedele* were already serving as supervising guardians in the late Middle Ages, their court dealt with incidents regarding guardianship and orphans. Consequently, more of these events were registered in late medieval Ghent and still survive today.

The 1297 charter by Count Guy of Flanders ordered that women, both those 'who had a father or a mother' and orphans, who were abducted 'with their consent' but without the consent of their father and mother, or close

123 CAG, S 301, no. 42, fol. 36v (13 January 1453): 'Lijsbette Broucx in subtylheden buten dancke, wetene, wille ende consente van haren voorscreven vooght ende vriende ende magen heymelic ontvremt ende ontleet was ende dat andere zelven vooght vriend noch maghen gheene beter kenesse van oetmoede bijden wech leeden sinen hulpen noch mennen van haerder weghe ghedaen hadde. Gheenin twelke was ende es eene zake van hele quaden exemple'.

124 This is slightly reminiscent of the wardship system in late medieval England. Individuals could buy, sell, or bequeath a wardship, which could be very profitable. It entailed the right of guardianship over a minor heir(ess) or feudal lender and their property. The person who possessed this wardship received the profits of the wards' lands and had the right to select a spouse for him or her. Many were therefore interested in buying the wardship, intending to marry the ward off to one of their relatives, see Walker, 'Widow and Ward'; Walker, 'Punishing Convicted Ravishers'; Walker, '"Strange Kind of Stealing"', 73.

125 Danneel, 'Orphanhood and Marriage'; Danneel, *Weduwen en wezen*.

relatives if one or both parents were deceased, would be disinherited.[126] Ghent custom held that both parents, father and mother, had the right to be involved in their child's choice of spouse. In case either parent died, however, the deceased's family required a guarantee that the material interests of their side of the family would be considered in the selection of a spouse. Therefore, the surviving parent could not exercise the parental right alone. Instead, they had to share parental authority over the child with members of the deceased parent's family. Both the paternal and maternal sides of the orphan's family had to be involved in decisions about marriage since both had material interests. When the orphan was a girl, her future spouse would manage the household, the community property and the woman's *propres*. Both wanted a voice to ensure that the future spouse would manage the property from both sides of the family well.[127]

The strong feelings of people in late medieval Ghent about this principle are reflected in the rule of the aldermen of the *Gedele* that guardians had to swear officially to consult relatives from both sides of the family and the aldermen, as supervising guardians, on the choice of spouse for the orphan.[128] The records abound with cases that expose intense discussions within the family preceding the orphan's actual marriage. The involvement of both male and female relatives in these discussions contradicts the traditional view that these affairs were exclusively male.[129] Relatives of orphans sometimes travelled for days to attend these discussions, which the aldermen of the *Gedele* sometimes attended as well, to keep an eye on potential conflicts. During these meetings, all parties had to reach a consensus on the choice of spouse and the precise conditions for the marriage. If an impasse occurred, the aldermen stepped in to mediate, sometimes asking for the orphan girl or boy's opinion.[130]

It is not surprising that disagreements and conflicts arose frequently during this process. A dissatisfied relative might then opt out of negotiating a solution and choose instead to take control and secretly marry the orphan to their candidate, thereby circumventing the other relatives' right to consent in violation of customary law and the 1297 charter on abduction. Some records show the orphan's surviving parent being punished for this offence. One example is the abduction of Amelkin Jacops by Laureys Claes in 1466. The

126 *Coutumes de la ville de Gand*, Gheldof, II, 450–51.
127 Danneel, *Weduwen en wezen*, 129.
128 Ibid., 129, 166–84.
129 Ibid., 178.
130 Ibid., 178–80.

Ghent aldermen not only penalized Laureys for abducting Amelkin, but also banished Amelkin's mother from Flanders for fifty years for co-arranging her daughter's abduction on 18 November 1466.[131] Amelkin's paternal relatives took this case to court because this abduction and marriage happened behind their backs.[132] In 1486, Wouter de Bot picked up his son after school and secretly married him to someone without consulting the relatives of his late wife. Wouter was similarly banished from Flanders for fifty years.[133] In 1462, Pauwel de Groot paid the bailiff of Vier Ambachten a composition for marrying off his daughter without consulting her guardians and relatives.[134] Other relatives were charged and/or convicted by the authorities for setting up a quick marriage for the orphan to impose their own choice of spouse. In Vier Ambachten in or around 1414, Margriete Huughs, daughter of the late Gillis Huughs, was abducted by a mob of five men, including Roegin dele Velde who wanted to marry her. In the group of abductors convicted by the bailiff was Guilleme Huughs, Margriete's uncle and guardian, who had 'encouraged' her to marry Roegin.[135] In another case from around 1400, two men were banished for *emmener* Trudekin Bruirs, an orphan living in Ghent. The men, Henry Bruirs and Joosse Schoorkin, identified as Trudekin's guardians, wanted to marry her to a man named Guille de le More, the brother of Henry Bruirs' wife. Trudekin's sisters did not agree to this marriage and complained to the bailiff.[136] Another Ghent case, the abduction of Margareta Van Hulle, ended up before the court of the aldermen of the *Keure*. Margareta's father was deceased. Her paternal relatives complained that Margareta's uncle, Jan van Hulle, had taken her from them because he married her off to someone called Willem Van Delync.[137] These cases make it clear that in Ghent 'abduction' included the arrangement of a marriage by a family member who had bypassed the requirement of approval by an orphan's other guardians and relatives.

Although it is tempting to describe abduction as a two-dimensional conflict between an actor and a victim, these examples teach us the importance of situating the event in its social and financial context. While the records mostly name only a few players, much could lie behind the surface, as the following example from Ghent illustrates. The accounts of the

131 CAG, S 301, no. 49, fol. 46r (18 November 1466).
132 Vleeschouwers-Van Melkebeek, 'Mortificata est'.
133 CAG, S 212, no. 1, fol. 87v (13 July 1486).
134 SAB, CC, no. 14116, May–September 1462, fol. 216r.
135 SAB, CC, no. 14112, May–September 1414, fol. 14rv.
136 SAB, CC, no. 14108, May–September 1401, fol. 79rv.
137 CAG, S 261bis, no. 14, fol. 27rv (5 December 1487) and 30r (7 December 1487).

episcopal court of Tournai, the diocese to which Ghent belonged, contain a short act on the clandestine marriage of Barbara Keykins and Lieven van den Bossche. The court fined the couple for contracting a clandestine union while Barbara was already betrothed to Hendrik Fierins in a public contract.[138] The records from the Low Countries' ecclesiastical courts contain many similar cases of a person entering into two marital alliances, often one public betrothal and one clandestine marriage. Sometimes these records explicitly mention that an abduction led to the second alliance. It has been suggested that these cases were the result of tensions between individuals and their families over the choice of spouse. The first betrothal might have been arranged by relatives of the individual, who then 'escaped' from this first marriage by contracting a second clandestine marriage that annulled the betrothal.[139] In Barbara's case, there is additional information in the Ghent aldermen's registers. As Marianne Danneel noted, the case revolved around a conflict among kin about the choice of spouse for the orphan girl Barbara Keykins.[140] In December 1470, her paternal guardians complained to the aldermen that they had not agreed to the betrothal of Barbara to Hendrik, which the maternal relatives had secretly arranged. Now involved in working out a solution, the aldermen took Barbara away from her relatives and put her in the care of an impartial couple charged with watching over her. Although the precise course of events is unclear, the source states that relatives of Barbara's deceased mother again pushed forward their candidate, a man named Lieven van den Bossche. This time, however, Barbara was not betrothed to him but married, and the marriage was consummated, meaning that it was valid and could not be undone. Barbara was not refusing to marry Hendrik, who had been chosen by her family; she was being pulled back and forth between relatives on her father's side and those on her mother's side, who did not agree on a spouse for her to marry. Even if Barbara married Lieven Vandenbossche willingly, which she did, according to the Tournai account, this clandestine marriage cannot be reduced to a generational conflict between Barbara and her family.

Although the pattern is especially visible in Ghent, cases from other cities also show abduction used as a tool in intrafamilial quarrels. Historians have

138 Vleeschouwers-Van Melkebeek ed., *Compotus sigiliferi*, no. 8670: 'Livinus Vanden Bossche et Barbara Keykins quia matrimonium carnali copula consummarunt non obstante quod ipsa Barbara perprius in manu presbiteri affidaverat Henricum Fierins, solverunt: 40 lb.'.

139 Donahue, *Law, Marriage, and Society*, 481, 493, 519.

140 Danneel, *Weduwen en wezen*, 125–27.

noticed a special interest in orphan girls' marriages and the involvement of different relatives in arrangements. In Bologna, urban authorities showed particular concern when orphan girls were abducted, while in the northern Low Countries, there were also many orphans among the abductees.[141] Benveniste observed that orphans' relatives in late medieval Paris were often involved in abducting them.[142] For the Southern Low Countries, records from cities other than Ghent contain examples of intrafamilial abduction as well. On 21 May 1487, the Antwerp aldermen punished three people for abducting the half-orphan Lijnken vanden Berge, daughter of the late Willem vanden Berghe, who was 'below her years', which meant she was a minor.[143] Jan de Vriese was identified as the chief perpetrator. According to the record, his father Machtelijse de Vriese, categorized as a 'passive accomplice', had advised his son to abduct the girl and marry her without the consent of her guardians and relatives. The third accomplice was Marie vanden Bogaerde, Lijnken's mother. She had taken her young daughter away to be married to Jan to circumvent the girl's paternal relatives. Marie had to make a pilgrimage to s-Hertogenbosch and pay fines to the duke and the city of Antwerp.

The Leuven aldermen adjudicated a remarkable lawsuit against a woman called Johanna Pypenpoys, a case that also involves discontent among relatives about the choice of spouse for an orphan. *Jonkvrouw* Johanna Pypenpoys, identified in the act as the wife of Robbrecht van Asse, knight, had been arrested in Merchtem (north of Brussels) for abduction, but she was tried in Leuven because she was a citizen of that town. On behalf of the duke of Brabant, the Leuven bailiff accused her of abducting the son of the late Jan van Bossuyt, an underaged child, and taking him out of Brabant against the will of three of his four groups of relatives.[144] The plea stated that Johanna should be decapitated by the sword since she had violated the ducal charter against abduction. However, it continued, 'because she is a female person', the death penalty should be converted into six consecutive

141 Dean, 'Fathers and Daughters'; Berents, *Het werk van de vos*, 37–40.

142 Benveniste, 'Les enlèvements', 19–20.

143 SAB, CC, no. 12904, fol. 131r; CAA, V, no. 234, fol. 153v (21 May 1487).

144 CAL, OA, no. 7726, fol. 145rv (9 December 1432). In other Leuven acts, it was sometimes stated that someone had to marry with the approval of two friends of the maternal family and two friends of the paternal family, thus representing the four grandparents' families, which is presumably how these 'four groups' of relatives here should be understood. See for example CAL, OA, no. 7352, fol. 212rv (15 March 1458). In late medieval Drenthe, a collection of medieval parishes in the prince-bishopric of Utrecht, two relatives of the mother's side and two of the father's side represented the wider kin network in marriage negotiations, see Hoppenbrouwers, *Village Community and Conflict*, 285.

pilgrimages, two to Cyprus, two to Rome, and two to Santiago de Compostela. The duke should confiscate her property. Johanna defended herself by claiming that the bailiff could not prove that she had taken the boy out of Brabant. Furthermore, her actions did not amount to abduction because all of his relatives supported this marriage, a claim that suggests she was a relative as well. The act states that Johanna defended herself 'with a lot of other reasons and words'.[145] In the end, the city council decided in favour of Johanna, finding that she did not perpetrate an abduction. Although this bailiff's plea was unsuccessful, it suggests that intrafamilial arguments over an orphan's marriage could also lead to abduction in Leuven.

The consistory court registers, which include cases from many other Low Countries cities and villages, also confirm that relatives were sometimes involved in abductions. Among the small number of abduction cases in the consistory court records of Liège, there are two cases of the abductee's relatives partnering with the abductor, attested in both the pleas and defences. One case is the alleged abduction of the aforementioned Heylwige Comans, in which her aunt was involved, discussed at the start of this chapter. In the second case, Joost Claesszoon abducted Katrien Huysman and took her to the house of her relative Nikolaas Wijssen in Liège.[146] Another fascinating case in the records of the consistory court of Cambrai reveals a conflict about the choice of spouse between a woman's father and her aunt. Jean Cornut who lived somewhere in the Cambrai diocese made an unsuccessful attempt to raise an impediment that would stand in the way of his daughter's marriage. His daughter Jeanne planned to marry Pierre Thurin. Disagreeing with this choice, Jean filed a claim against Marie Carlier, his sister-in-law and Jeanne's aunt, charging that she forced the marriage on her niece. He also shouted out that he would give his soul to the devil before he agreed to this marriage for his daughter. The judge found that the impediment was false and punished Jean on 30 January 1443 for trying to break up the marriage between his daughter and Pierre Thurin and for acting disrespectfully.[147] These examples show that the abductee's relatives often appear as accomplices of the abductor and that the choice of spouse could give rise to competition and conflict within families.

145 CAL, OA, no. 7726, fol. 145rv (9 December 1432).

146 SAL, AD, no. 1, fol. 4v–6v. (19 July 1434). This case will be analysed in detail in the next chapter.

147 He reportedly said: 'Demisielle, taisiez-vous ent car j'ay donné mon ame au dyable en cas que me fille l'ait a mariage', in Vleeschouwers and Van Melkebeek, *Registres de sentences*, no. 420, 224–25, (30 January 1443).

Conclusion

Since much of the scholarship on abduction and rape emerged from scholars' interest in past relationships between men and women, they have generally portrayed abduction as an interaction between a male abductor and a female abductee.[148] This image persists in late medieval cultural and legal representations as well. Literary and legal narratives frequently repeated the topos of a man kidnapping a woman because he loves her, a narrative often embedded in the popular theme of the impossible marriage.

Records from the late medieval Low Countries do indeed feature such descriptions, but they also reveal an image of abduction that is much more complex and multi-layered. In its most compact form, abduction was an act between two people. However, by gradually widening the perspective, this chapter has shown that abduction involved multiple people with conflicting interests. Roughly speaking, there were two types. The most prevalent type of abduction was a conflict between two families because one family was trying to give itself access to the other family's prestige and property by forcing a marriage. However, in the second type, some of the abductee's relatives used abduction as a tool to arrange her (or sometimes his) marriage without first obtaining the approval of other relatives with the customary right to be involved in the decision. In both cases, the abduction was a strategy to gain wealth, and the abductee was the gateway. 'The abductor' could be a kin group wanting to push through an advantageous marriage, a man from a middling group, such as a goldsmith, who had a respectable position in society, or a nobleman helped by his political allies. The abductor might even be the target's mother, who wanted to choose her daughter's spouse without having to consult her late husband's relatives. In short, 'the abductor' could be anyone, individual or group, man or woman, chief perpetrator or accomplice, the person who married the abductee or the person who actually moved the abductee from one place to another.

This chapter does not claim that love or desire for free choice of partner never played a role in abduction. After all, the image of the impossible marriage between lovers from different social backgrounds occurs in late medieval cultural and legal narratives and did impact society. However, the danger in adopting this image is that it juxtaposes a rational (male) abductor(s), who used the abduction as a strategy to contract a good marriage, with an emotional (female) abductee, who chose love and personal choice over financial and social stability. These descriptions that arose from

148 Phillips, 'Written on the Body', 125.

deeply rooted medieval gender concepts should not be uncritically passed on by historians. Men could also fall prey to love and parental coercion, while it was just as important for women to make good strategic marriages as it was for men. The standard representation of abduction might have corresponded to some people's experiences since there was more social pressure on women to select a good spouse. However, it certainly did not account for many other medieval men and women. Even the late medieval records sometimes challenge the highly gendered representation of the man as the aggressor and the woman as the subject by naming women among the abductors and men among the abductees or by using language that assigns an equal degree of responsibility for the abduction marriage to man and woman.

Late medieval society was characterized by networks, dense webs of social ties, and negotiations and family feuds over power and influence. Medieval abductions should not be ripped from their societal context. In place of the binary opposition of men to women, or the individual to the family, it is paramount to acknowledge that many abductions were more complex phenomena often involving many actors, although they are not always immediately visible in the sources.

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3. Consent In and Out of the Courtroom

Abstract
Whether the abductee could have been actively involved in planning and organising the envisioned marriage is subjected to intense scholarly debate. This chapter examines what the abductee's consent entailed, how it was defined legally and what her options were to use or deal with an abduction. The main argument is that the abductee's consent mattered and could impact the legal outcome. Although abductees clearly acted as legal agents, however, they generally had little room to manoeuvre as they experienced intense pressure from perpetrators, relatives and because of social views on honour and sex.

Keywords: consent, female agency, coercion, victimhood, legal strategy

After her abduction, Aleyde Vyssenaecks, daughter of the late Goerd Vyssenaecks, made the following statement before the Leuven aldermen: 'She went with Andries Hellinck, son of Steven Hellinck, by choice and willingly to enter into matrimony with him. All what Andries had done to her happened with her free and unprompted consent'.[1] Immediately following the declaration, there is an additional record, namely a financial contract between Aleyde and Andries. It states that the latter owed the former one hundred *rijders*, a significant sum of money. If Andries married Aleyde, the debt would be cancelled, but if he failed to do so, he had to pay her the entire sum.[2] While the statement seems to indicate that Aleyde eloped with Andries, the financial contract adds significant information revealing the difficult position of Aleyde. Although there is no further evidence, it is likely that in return for declaring her consent, which gave Andries a great legal

1 CAL, OA, no. 7752, fol. 79r (16 October 1458).

2 CAL, OA, no. 7752, fol. 79r (16 October 1458): 'Item dictus Andreas recognovit se debere predicte Aleyde centum rijders monete etcetera. Ad monicionem persolvendos tamquam assecutum eisdem. Cum conditione […]"; similar contracts can be found in CAL, OA, no. 7752, fol. 131v, 125v, 173v.

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benefit as will be discussed in this chapter, Aleyde needed a guarantee that she would be married to her abductor. Scholarship has already shown that if an abduction did not result in marriage, there was a risk of the woman's honour being tarnished and her virginity disputed. Therefore, women sometimes agreed to marry their abductors, even if they did not consent to go with them initially.[3] Through this financial arrangement, Aleyde protected herself from this possible, unfavourable outcome. If Andries failed to take Aleyde as his wife, she would receive a significant amount of money which might serve as compensation for the loss of her virginity. Andries probably never had to pay the sum, because another unrelated contract from 1470 indicates that Andries and Aleyde did marry after the abduction and still lived together as husband and wife twelve years later.[4]

This fascinating case raises questions about the meaning and value of abducted women's consent. While marital and sexual consent have been studied extensively, consent in abduction cases has received less scrutiny. The canon law version of consent, that is, marital consent, is very clear; some pressure is allowed as long as it would not sway a 'constant man or woman'.[5] Canon law used this stock phrase to delineate consent from coercion. The presence of marital consent was shown through speaking words of consent. The definition of sexual consent is not the same; it was presumed to exist if the woman did not demonstrably resist. The physical evidence of violence that showed that she had resisted the sexual act determined whether contemporaries viewed the event as coerced sex.[6] When studying abductions, the distinctions among consenting to marry someone, consenting to be abducted, and consenting to have sex with someone have not been sufficiently considered. Historians have often equated consent in abduction cases to sexual consent. In her discussion of elopement, for example, Gwen Seabourne pointed out the medieval idea that pregnancy was evidence of female consent to show how medieval notions of consent differed from modern ones.[7] Others tend to slip between marital consent and 'abduction consent', for lack of a better word.[8] Abduction scholarship has thus lumped together different legal notions of consent.

3 Cesco, 'Female Abduction'.

4 This act is about the administration of Andries' estate and identifies Aleyde as Andries' widow, in CAL, Oa, no. 7363, fol. 247v (12 April 1470).

5 Brundage, *Medieval Canon Law*, 165–67.

6 Karras, *Sexuality*, 156–57.

7 Seabourne, *Imprisoning Medieval Women*, 153.

8 Greilsammer, 'Rapts de séduction'.

Rather than attempting to uncover the 'reality' of individual cases and trying to label each abduction as coerced or consensual, this chapter will first study how arguments on consent and coercion were constructed in legal records by parties involved and what their impact was. Afterwards, it examines how consent surrounding abduction was understood and what this teaches us about abductees' ability to play an active role in their abduction and marriage. This chapter ends with a brief reflection on a few cases that shed light on life after abduction. It argues that, while the presence or absence of consent was crucial in legal practice and abducted women clearly could act as legal agents, evidence suggests that abductees nevertheless operated in very difficult circumstances.

Communicating consent and coercion

Late medieval legal texts on abduction tend to put forward three legal parameters: the woman's age, her consent, and her relatives' consent. As Chapter 1 shows, although twelfth-century laws still treated nonconsensual and consensual abductions as two separate offences, lawmakers increasingly conflated them in the more severe fourteenth- and fifteenth-century texts. These late medieval laws distinguished between the abduction of minors and the abduction of adults. Taking away minors against their parents' or guardians' wishes for marriage was always illegal, regardless of the minor's consent. The abduction of adult consenting women, on the other hand, was not punishable since these women no longer fell under their family's authority. As indicated already, most customary legal texts set the age of majority at twenty-five. For adult women, the matter of consent was thus key. Lawmakers specified two elements of proof to determine whether the abduction was coerced or consensual. Most texts consider the victim's cry for help as proof of the abduction's coerced character, an element also put forward in law texts against rape. One legal text, the 1396 Leuven charter, also mentions a second element, the consent declaration by the abducted woman before local officials.[9] This element is more in line with canon law perceptions of marital consent being expressed by saying the correct words. These laws shaped the frame within which litigants constructed their arguments, while the judges referred to those elements when explaining their sentences.

9 See Chapter 1, page 63.

She said

The abductee's involvement is especially visible in one particular type of source, records of her declaration of consent. A large number of these deeds are preserved in the aldermen's registers of voluntary jurisdiction in Leuven. These acts are registrations of the declarations made by abducted women who stated before the aldermen of Leuven that they had gone with the abductor by choice, like the one made by Aleyde Vyssenaecks in 1458. The 1455 register contains another example: on 2 January of that year, Beatrijs Peters appeared before the aldermen. She told them 'that she went away with Wouter Waultiers with her will and consent and that she was not forced by any words or deeds'.[10] She continued that she went with Wouter 'to marry him as her husband and that all things he had done to her had happened with her free and personal will and consent and if she had to do it again, she would'.[11]

Such acts provide us with a remarkable perspective on abduction. A search through the Leuven registers yields a total of eighty-six similarly constructed consent declarations by female abductees between 1381 and 1461.[12] These abductees went to the aldermen to make this statement and, in return for a small fee, they received a legally valid charter confirming their declaration. The original charters are lost, so we only have access to the standardized copies made by the aldermen. These records raise central questions on the importance of consent and the perspective of the abductee. Because the aforementioned 1396 Leuven law text refers to these consent declarations, the registration of these statements was probably an engrained practice in this city's jurisdiction. According to this text, abductors were to be punished by a pilgrimage to Cyprus. After explaining the penalty, an additional clause states that nobody shall escape punishment, 'even if the woman or lady after she was abducted, declared before the aldermen that the abduction had happened with her consent'.[13] Despite this clause, however,

10 CAL, OA, no. 7748, fol. 16or (2 January 1455).

11 Ibid.

12 There were indubitably more than eighty-six such declarations as the fifteenth-century aldermen registers are extremely bulky and impossible to scan through completely. I found these eighty-six records via the Leuven City Archives ongoing digitization and transcription project, called *Itinera Nova*, https://www.itineranova.be/, (last consultation on 28 August 2022). One register of which all the records have been transcribed contains five declarations by different women. This register runs from 24 June 1458 to 23 June 1489, see CAL, OA, Aldermen registers, no. 7752, 6v (3 June 1458), 79r (16 October 1458), 183v (22 January 1459), 332v (2 June 1459), 347v (19 June 1459).

13 CAL, OA, no. 1258, fol. 28r: '[…] al wert oec dat dat wijf ocht die vrouwe ocht joffrouwe nae dat sij otscaect waere, kende end belide dvoer scepenen dat hairs danx ende hairs willen waere'.

consent declarations continue to appear after its promulgation, indicating, as will be argued further on, that these declarations were successfully used to avoid the punishment of abductors in Leuven.

The practice of declaring one's consent was not restricted to Leuven. Although large quantities of these declarations have only survived in Leuven, records suggest that this practice was common in many cities and villages in the Low Countries. There are regular references to this practice in bailiff's accounts, court records and even consistory court records and pardon letters. In the Ghent bailiff's accounts, for example, a record states that a young woman appeared before the aldermen to say *que ce qui en estoit fait avoit esté fait du bon gré d'elle et de sa volenté*.[14] Records referring to marriages by abduction in the register of the diocese of Liège show that consent declarations were also made outside of the three cities of this study. In his plea, abductor Rutger Bacheleur from Maastricht told the court that he had taken Yda Slickbaert with her consent two years ago. In his account of events, he brought Yda to the village of Heerle, in the north of Brabant, where she was questioned in the presence of a priest, the bailiff, and two aldermen of Heerle. She declared to them that she had not been forced but had followed Rutger by choice to marry him.[15]

These consent declarations show that the actors involved were aware of the law and its requirements. At this early stage, right after the removal of the woman from one place to another or her separation from her family, it is not likely that attorneys or legal counsellors were involved. At least, no traces of such legal assistance can be found in the records, yet these statements were formulaic, which strongly suggests local notaries knew what the wording needed to be. According to the pleas by abductors to the consistory court of Liège, such as the abovementioned plea of Rutger Bacheleur, the abductee had given the consent declaration immediately after the abduction but before the exchange of marriage vows. In the Leuven registers too, most abductees state that they went with their abductor because they intended to marry him. Some declarations state that the marriage ceremony had already taken place. For example, Kateline Vander Straten said that she followed Janne Herdans by choice, 'to marry him and take him as her husband before the holy Church *which she, as she had said, has done*'.[16] Most acts, however, don't

14 SAB, CC, no. 14116, January–March 1449, fol. 129r.

15 SAL, AD, no. 1, fol. 37rv (7 October 1434): dicte ville de Heerle, interrogata an ibi sua spontanea voluntate venisset animo et intentione sponsalia et matrimonium cum dicto Rutghero proponente contrahendi.

16 CAL, OA, no. 7752, fol. 183v (22 January 1458).

include this last phrase, which suggests that the actors preferred to make these declarations before the official exchange of vows.

The fact that marriage enforcement pleas before the consistory court of Liège regularly offer consent declarations before secular officials as evidence shows that the plaintiffs/abductors considered them proof of the sincerity of the abductees' consent to the marriage. More generally, these declarations show that the couple knew that abduction could have consequences and expected backlash or resistance. By declaring that their actions were consensual, the couple were asserting that they did not want the authorities to intervene. To avoid an accusation of rape or violent abduction, or at least to defend themselves against it, as well as to legitimise their marriage, the parties knew that consent had to be acknowledged publicly. Then the couple had legally valid proof that they could refer to in case the abduction came to court or the marriage's validity was questioned. The legal value of these charters is made explicit in the declarations of Margriete Pasteels in 1452 in Leuven and Liesbette Ruesen in 1481 in Ghent. Margriete's statement ends with an atypical and nonformulaic inclusion, showing some agency on the part of the individuals: '[she was] praying that the aldermen were willing to testify, carry, and seal this information about her [i.e. her consent declaration].[17] Liesbette reportedly said the following when declaring her consent to the Ghent aldermen of the *Keure*: 'and those who have accused him of violent abduction or rape or intend to do it may absolve him completely now and for eternity'.[18] Through the public acts of these declarations, these women's consent was ratified and authorised by the aldermen who were responsible for voluntary jurisdiction in their district.[19]

Apart from these statements of consent, many women, on the contrary, state that coercion had been involved. Several women filed a complaint against their abductors, which might seem like a more trustworthy indication of these women's agency than the challenging declarations of consent. In her investigation of pleas made by abducted women, Deborah Youngs concluded that these women's agency shows especially in their decision to prosecute and in the way in which they constructed their narratives in court.[20] Nonconsensual abduction was a serious offence, and late medieval people knew it could have unpleasant legal consequences. At the same time,

17 CAL, OA, no. 7746, fol. 241r (7 April 1452).

18 CAG, S 301, no. 56, fol. 13v (10 September 1481).

19 In Ghent, men who served as aldermen during the registration of certain acts, statements, and contracts could be called in if a conflict arose later, see Danneel, *Weduwen en wezen*, 173, n. 215.

20 Youngs, '"She Hym Fresshely Folowed and Pursued"'.

by framing the episode as a violent and coerced event, the abductee made it clear that there was no marriage between her and the abductor since the premise of consent was not fulfilled. The Leuven bailiff's records and sentence books sometimes state who had initiated legal action after the abduction. The scribes noted in only 12 of the 308 recorded abductions for marriage that the abducted woman herself was the one to press charges. This low rate of abducted plaintiffs conforms to the conclusion of other historians that few abductees went to court.[21] Unfortunately, as far as I am aware, no actual pleas by abductees have been preserved in the Low Countries, making it is impossible to ascertain how they communicated the wrong done to them in court.

Nevertheless, many of these pleas were successful and ended in severe punishment for the perpetrator. For example, in 1418, an anonymous woman from Zoutleeuw was abducted by Wouter Vliege, who was assisted by his father Jan in his endeavour to force a marriage that would be to his advantage. After her escape, the abductee went to the lord of Duras, who held jurisdiction in Zoutleeuw, and showed the scratches on her legs from being dragged through hedges and bushes. Wouter was sentenced by the lord of Duras, but there is no record of his punishment. However, Jan, Wouter's father, was punished by the aldermen of Leuven because he was a citizen of Leuven. He was sent on a triple pilgrimage to Cyprus, Santiago de Compostela, and Rocamadour, a frequent penalty discussed in the following chapter.[22] When addressing the authorities, the woman showed her physical injuries to prove her lack of consent and resistance, a strategy also followed by rape victims. In addition to showing injuries, the records regularly include references to the abductee's cries for help while she was being taken.

While some women communicated their consent by making statements before officials, preferably shortly after the abduction, others expressed their lack of consent by screaming during the attack and later by initiating a legal procedure. Although these statements may seem trustworthy, women might have filed complaints not on their initiative but under pressure or influence from their relatives, who rejected the marriage, for example. Many abductors defended themselves against such claims of violent abduction

21 Ibid; Ormrod, *Women and Parliament*; Butler, '"I Will Never Consent to Be Wedded". Carol Lansing, on the contrary, found a high rate of female plaintiffs in rape cases in thirteenth-century Bologna, arguing that poorer women did press charges as they were less restricted by prescriptive views on honour and reputation than their more propertied counterparts, in Lansing, 'Opportunities to Charge Rape'.

22 SAB, CC, no. 12654, December 1418–June 1419, fol. 190v.

by arguing that the women had been pressured by their families to leave the abductor and initiate a legal procedure.

He said/she said or they said/they said?

While some abductors and abducted women appear side-by-side to convince others that it was a consensual abduction and marriage, others appear perpendicular to each other as legal adversaries in the courtroom. Several women distanced themselves from their abductors and filed a complaint with the authorities. In such cases, the abductor defended himself by charging that the woman had wanted the abduction and only changed her mind afterwards. This is the strategy Laureys Jacops followed when his abduction marriage to Amelkin Jacops was called into question. This fascinating but complex case was fought at several secular and ecclesiastical courts. Monique Vleeschouwers-Van Melkebeek's decade-long research into the Ghent aldermen registers unearthed a complete body of records about the abduction of the half-orphan girl Amelkin Jacops, who was approximately twelve years old at the time of her abduction marriage.[23]

This case offers remarkable insight into the abductor's strategy of portraying the abduction as consensual. In short, after her abduction by Laureys, the aldermen of Ghent disinherited Amelkin and banished Laureys from Flanders at the request of some of Amelkin's paternal relatives. Because Amelkin's mother was an accomplice in the abduction, an indication of intrafamilial conflict, a pattern discussed in the previous chapter, the aldermen banished her from Flanders for fifty years.[24] However, Amelkin declared her consent to the aldermen and was placed first with an alderman of the *Gedele* and later with her paternal aunt and uncle, pending the decision of the episcopal judge of Tournai regarding Laureys and Amelkin's alleged marriage. After Laureys returned from exile early after being pardoned by the duke, Amelkin and he were questioned about their marriage. By now, Amelkin had withdrawn her earlier consent declaration before the aldermen, which, as she argued, was made under pressure: 'because the aforementioned Amelkin was at a very young age and still under guardianship, she was placed in the house of Willem vander Camere, the main alderman of the aldermen of the *Gedele*, the upper guardians of underage orphans, and after an investigation of about eight or ten days […], the aforementioned Amelkin said that the matter had happened against her consent and will and that

23 Vleeschouwers-Van Melkebeek, 'Mortificata est'.

24 See the discussion of the abduction as an intrafamilial conflict in Chapter 2.

she was seduced to go by her mother'.[25] She then refused to acknowledge Laureys as her husband.

Seeing that his plan to marry Amelkin without consulting her paternal relatives was about to fail, Laureys had two legal goals, to be achieved in different courts: avoid a conviction for violent abduction and validate his clandestine marriage to Amelkin. Both Amelkin and Laureys were questioned in the ecclesiastical investigation of their marriage. We do not know what they said, but we do know that at this time Laureys asked the Ghent aldermen for a written attestation of Amelkin's initial consent declaration, probably to present it as evidence in the ecclesiastical investigation. The consistory court judged that Laureys and Amelkin were married and had to celebrate the union within forty days. This was a victory for Laureys, but the case was not over yet. After this defeat, Amelkin changed strategy; together with her paternal uncle and aunt, she went to the Council of Flanders and later to the Great Council of Mechelen, the highest court in the Burgundian Low Countries, to accuse Laureys of rape and violent abduction.[26] Laureys' defence was built up entirely around Amelkin's consent, which he said was visible in several ways; Amelkin was happy and sang various songs while he was taking her from Ghent to Oosterzele. During the whole journey, she was joyful and cried only when Laureys left her side. She moreover declared this consent before the aldermen, and he argued that she withdrew her declaration only because she was pressured by her uncle and aunt. The court found for Laureys, and he was freed of all charges.[27]

When trying to convince a judge to label the case as a consensual abduction, other abductors constructed their arguments in the same way that Laureys Claes had, by pointing to the demonstrable expressions of the woman's consent during the abduction and the influence of her relatives. The 1434–35 register of Liège contains three pleas by abductors who asked for the judge to acknowledge the abductees as their wives because these women, just like

25 CAG, S 301; no. 49, fol. 77v (6 April 1468). See edition in Vleeschouwers-Van Melkebeek, 'Mortificata est', 396–97: 'Dat deselve Amelberghe zeere jonc was van jaren ende noch in voochdien, zo was ghestelt in 't huus van Willemme vander Cameren doe voorscepene van Ghedeele zijnde als uppervoochden van ombeiaerden weesen al waer zoe binnen acht of tien daghen daer naer bij eeneghen ghedeputeerden van denzelven voorsaten gheexamineert was al in 't langhe van haren wechgane ende ter selver tijt, zo zeyde deselve Amelberghe dat al 't guent dat ghesciet was in haer wechgaen metten voors. Lauwereins was ghesciet ende ghedaen jeghen haren danc ende wille ende was daertoe verleedt bij harer moeder'.

26 For comparison, see *raptus* pleas by women in English parliament after failures in lower courts: Ormrod, *Women and Parliament*, 95–114, spec. 98.

27 See edition of this record (CAG, S 301, no. 51, fol. 100rv (4 May 1471)) in Vleeschouwers-Van Melkebeek, 'Mortificata es', 408–9.

Amelkin, refused to honour their alleged marriages. Two of these three pleas are accompanied by the abductee's defence. A comparison of the pleas and the matching defences reveals the highly strategic nature of these records. The abductor and abductee offer completely different stories, as becomes apparent from the following example of Joost Claeszoon and Katrien Huysman, both from Bergen op Zoom (Duchy of Brabant).[28] Joost initiated a case before the consistory court of Liège, asking the judge to acknowledge and validate his alleged marriage to Katrien, who had by then clandestinely married another man, Jan Hambroek. In his plea, Joost emphasised canon legal requirements for making marriage: the exchange of words of consent and sexual intercourse. In her reply, Katrien asked the judge to annul her marriage to her abductor Joost on the grounds of force and fear and acknowledge her clandestine marriage to Jan Hambroek. Historians have encountered many of these *he said/she said* disputes in which both parties offered contradicting stories.[29] A closer look at Joost and Katrien's reported statements illustrates this.

Using a stereotypical scenario, the abductor's plea asserts that on Sunday, December 19, Joost and Katrien planned their elopement after telling each other how much they loved one another in the presence of many honourable witnesses. The couple agreed that Joost would come for Katrien later to marry her. Two days later, Joost's plea says, he went to Katrien's mother's house and the two secretly left. But Katrien's defence maintains that a mob of armed men came to her mother's house on Sunday; 'the aforementioned Joost, plaintiff, together with Wouter, brother of the plaintiff, Geert Willemszoen, and Hendrik Moerincx came with big and long knives to the house that belonged to her mother'.[30] At the house, where 'she had the task to milk the cows', these men threatened her and forced her to obey them.[31] She cried out loud and resisted as hard as she could. The abductors—Joost was accompanied by helpers according to the defence—even had to lift Katrien from the ground by her arms and cover her mouth to prevent her from screaming. Both stories state that Joost took Katrien to the house of her relative, Nicolaas Wijssen, in a nearby village. In Joost's plea, this relative asked Katrien whether she had come there by choice, to which she responded affirmatively. Katrien's story does not include this consent declaration.

After these contradictory accounts of the abduction, both parties continued to highlight consent or force in their descriptions of events. First, the

28 SAL, AD, no. 1, fol. 4v–6v (17 July 1434).

29 See for example Bennett, 'Writing Fornication', 147.

30 SAL, AD, no. 1, fol. 5r–v (17 July 1434).

31 Ibid.

plea explains that the marriage vows were exchanged in the presence of several witnesses. Interestingly, these vows were recorded in the vernacular, while the rest of the text is in Latin. In Katrien's relative's house, Joost and Katrien brought their right hands together, a symbol of their consent.[32] Several honest and honourable people could testify to the veracity of what had happened there, the plea states. Joost said: '*Lijne*, I hereby give you my Christian faith, which I received upon the baptismal font, and I promise you upon that faith that I will take you and no one else as my lawful wife'.[33] Katrien answered: '*Joes*, I in return give you my Christian faith, received upon the baptismal font, and I also promise you that I will take you and no one else, and I take you as my lawful husband'.[34] There were several witnesses. In Katrien's version of events, the exchanged words of consent were less intimate and emotional, however. After Nicolaas Wijssen had put her and Joost's hands together, she merely repeated what her abductors had told her to say. If she disobeyed, she feared that the men would 'bring her abroad to throw her in the water' or even murder her. After Joost had said 'yes, I do', and Nicolaas had asked Katrien: 'And, Katelijne, do you also give your faith to Joost?', she replied: 'Yes, I give it too'.[35]

Both plea and defence narrate that a meal and a party followed the ceremony. Katrien made sure that the judge would know that she did not enjoy herself at all, since she did not eat or drink but only thought about escaping. Afterwards, the couple spent the night together. Joost states that he and Katrien spent about six hours together, during which they consummated the marriage twice. Before this, Willem vanden Driessche, the brother of Katrien's stepfather, came together with two companions into the bedroom and asked for information on the abduction and marriage. After Katrien had confirmed that she had married Joost willingly, the men joined the feast. Katrien's defence, however, does not mention this intervention and adds that she initially shared the room with her niece, Nicolaas Wijssens' daughter. Joost only joined her after her niece was called away unexpectedly. Although

32 About this gesture, see Reynolds, *How Marriage Became One of the Sacraments*, 89–93.

33 SAL, AD, no. 1, fol. 4v–6v (17 July 1434): 'Lijne, hier gheve ick u mijn kerstelijck trouwe die ick in der heyligher voenten ontfanghen hebbe ende ghelove u bij der selver dat ick u ende nyemant anders nemen en sal ende ick neeme u tot eenen witteghen wijve'.

34 Ibid: 'Joess, ick gheve u wederomme mijn kerstelijke trouwe die ick in der heyligher voenten ontfanghen hebbe ende bij der selve ghelove ic u dat ick u ende nyemant anders nemen en sal ende ick neeme u tot eenen witteghen manne'.

35 Ibid: '[…] Joest, ghij gheeft hier Lijnken u trouwe?', dicto Judoco super hoc dicente quod ita, theutonice: Ja ick. […] 'Ende Lijnken, ghij gheeft hier oeck Joessen u trouwe?' Que Catharina […] respondit in simili ydeomate in hunc modum: 'Ja ick. Ick gheeffe hem weder'.

they were together in the room, for about a quarter of an hour, Joost did not push her to have sexual intercourse but instead promised her that he would leave her in peace. He did not even try to kiss her, the record states.

According to the plea, Katrien's stepfather, Jan vanden Driessche, barged in after the sexual intercourse. He asked her whether she had willingly joined Joost in matrimony and whether she had had sex with him, which she confirmed. Afterwards, he pulled out his dagger and dragged her out of bed. Katrien describes the intervention of her stepfather too, but in a more positive light: it was something that made her very happy and restored her freedom. A couple of days later, she married another man clandestinely through words of future consent in the diocese of Utrecht and the pair had sexual intercourse.[36] Up until today, she argued, they had lived together as lawful spouses. Joost, however, said that Katrien was pressured to marry Jan van Hambroeck by her mother and her stepfather. Joost asked for the judge to acknowledge Katrien as his wife or at least as his fiancé despite her illegal marriage to Jan. Also, she should pay his legal costs. Katrien, on the other hand, asked the judge to validate her marriage to Jan despite the 'light-minded' demands of Joost, who should pay all the costs she incurred for this trial.[37] The verdict has not been preserved, but based on similar cases and the low success rates of similar marriage enforcement pleas by alleged abductors in the Low Countries, the court probably judged in favour of Katrien.

Both plea and defence are cleverly constructed, on two levels. First, they are both shaped by key legal points of marriage law. The plea argues that a marriage had been made by highlighting consent and sexual intercourse, while the defence asserts the opposite by emphasizing the impediment of force and fear and the lack of sexual intercourse. On the second level, both litigants sought to elicit sympathy and compassion by presenting themselves as honest and honourable, while discrediting the other. Joost did this by insistently emphasizing that Katrien and he had joined in the abduction marriage as a shared undertaking, and she had consented every step of the way. He portrayed himself as an honest, nonviolent person who was moved by love. In addition, he emphasised that all the instances in which the abducted woman had expressed her consent were witnessed by several bystanders, an essential feature for the marriage to be validated.[38] Katrien's defence reveals a twofold strategy that is representative of abduction victims'

36 This tactic of entering into a second alliance will be discussed in Chapter 4.

37 SAL, AD, no. 1, fol. 4v-6v (17 July 1434).

38 McSheffrey, *Marriage, Sex, and Civic Culture*, 25–32; see also the importance of trustworthy men in local communities for consistory courts, in Forrest, *Trustworthy Men*.

legal narratives. She emphasised her passivity and presented herself as an honourable daughter.[39] Passivity appears in several elements in her defence; she was carried by the abductor and his accomplices, her mouth was covered, and she did not eat or drink during the party. Her righteousness is bolstered by her inclusion that milking the cows was her task in her mother's household and her portrayal of the wedding night—no sexual intercourse had occurred when she was accidentally alone with Joost.[40] The mention of her alone time with Joost is remarkable and can be explained by medieval views on privacy for young women; daughters had to be supervised to prevent them from getting caught up in marriage vows.[41] By emphasizing that she had been alone with her abductor accidentally and only for a moment, Katrien alluded to those views and again tried to make clear that she was an honourable woman. Moreover, according to Katrien's defence, the abductor left her in peace during the wedding night, a striking contrast to his violent behaviour during the abduction. Denying sexual intercourse not only served to protect Katrien's reputation. It also increased the possibility that the ecclesiastical judge would annul the alleged marriage since sexual intercourse was a crucial component of forming a marriage in the Low Countries.[42] A similar defence in the Liège register made this very explicit. The defence states that, although the abductee and her abductor spent two nights together, 'no sexual intercourse occurred between them, although the plaintiff had tried and insisted on having sex with her'.[43] It continues that 'the plaintiff never entered the defendant's vagina, nor did he manage to make his penis erect, at least as far as she had been aware'. In addition to denying that sexual consummation had occurred, this remarkable defence suggests the abductor's impotence, which would affect his reputation and could serve as another reason for annulment.[44]

39 Goldberg, *Communal Discord*, 34; Youngs, '"She Hym Fresshely Folowed and Pursued"', 81.

40 Historians have remarked that abduction victims regularly stated that they were doing domestic activities or attending mass in order to show that they did not provoke the sexual violence in any way. Milking cows was a typically female activity in late medieval domestic industry, and by referring to it, the defence presents Katrien as a good, dutiful daughter. See Chaytor, 'Husband(ry)'; Beattie, 'Servantes femmes et veuves', 15, 17–19; Goldberg labels the abductee's argument that no sexual intercourse between her and the abductor had occured as 'legal fiction' to maintain her honour in an English case Goldberg, *Communal Discord*, 170.

41 Gowing, *Domestic Dangers*, 147.

42 However, in England sexual intercourse also took up a central place in legal arguments regarding marriage since sex was viewed as a sign of commitment, see Gowing, *Domestic Dangers*, 143.

43 SAL, AD, no. 1, 83v (8 January 1435).

44 Karras, *Sexuality in Medieval Europe*, 71–72; Murray, 'Impotence'. On explicit descriptions of nudity and sexuality in consistory court records, see Goldberg, 'Voyeurism and "Pornography"'.

Several assertions in Joost's plea and Katrien's defence show how they tried to discredit one another. For example, the difference in the words of marital consent between the plea and defence is striking. Many acts in the Liège register contain the literal vows the people in question spoke to each other; each time the language then switches from Latin to the vernacular. The vows are written in medieval Dutch or French, according to the language spoken by the litigants. These vernacular phrases are always different, which indicates that the scribes did not use standard formulae. These records probably give partial voice to the words of the litigants themselves.[45] The Liège act shows that the words were also highly strategic, which suggests that these litigants had been coached on what to say.[46] According to Katrien, her 'words of consent' were passively affirmative; she merely said 'Yes, I give it too'. Joost, on the other hand, tried to discredit Katrien by framing her marriage vow as active and in contrast to her subsequent actions: she did marry someone else although she had promised that she would only have Joost as her husband. Moreover, the plea claims that the words Katrien spoke expressed both future and present consent (that I *will take* you and *take* you) to make the idea of the marriage bond between them even more compelling and Katrien's second marriage even more aggravating. The defence's descriptions of Joost's violent behaviour served to convince the judge that the impediment of force and fear applied. However, they were also meant to sharpen the contrast between her honour and passivity and his active aggression and criminal behaviour.

Although the cases above seem at first glance to be a struggle between two people, especially in the consistory court records, a close reading reveals that many more parties were involved. Amelkin Jacops' abduction was co-arranged by her own mother, while her paternal uncle and aunt later joined her in charging her abductor with rape. In the Liège register, Joost took Katrien from her mother's house to the house of a relative, Nicolaas Wijssen. Joost accused Katrien's mother and stepfather of pressuring Katrien into marrying Jan Hambroeck. Moreover, Katrien's defence often refers to Joost *and his accomplices*. Indeed, most men did not perpetrate an abduction on their own but were instead assisted by one or more helpers. Labelling these court cases 'they said/they said' rather than 'he said/she said' disputes

45 Goldberg, 'Echoes, Whispers, Ventroliquisms', 34–35; Kane, 'Women, Memory and Agency', 50; Stretton, 'Women, Legal Records, and the Problem of the Lawyer's Hand', 694–96.

46 Pedersen argued against the idea of witness coaching, but more recently other scholars argued oppositely: Pedersen, 'Did the Medieval Laity Know?'; Butler, *The Language of Abuse*, 136, 142; Goldberg, 'Echoes, Whispers, Ventroliquisms', 36–37.

might thus be more appropriate. Although the plaintiff/defendant format of the consistory court records presents these conflicts as occurring between two adversarial individuals, other actors undoubtedly influenced these two people.[47]

In some cases, it was not the abducted victim but her relatives who initiated legal action. After all, the Low Countries' legal texts reserved a place for relatives in determining the judicial outcome of their daughters' or nieces' abductions. When his daughter was taken away by Nijsken Van Herent, Roelof van Hodersuge filed a complaint which ended in the aldermen of Leuven sentencing the abductor to a pilgrimage to Rome.[48] Examples such as this may only concern underage women since secular law declared that their marriages required the consent of their parents or guardians, rather than their own consent. If the abducted woman was an adult, she had to take the case to court herself, as the record on the abduction of Kateline Van Zoert in Leuven suggests. Kateline was abducted by Marck Van Cockelberghe and his accomplices and while her father wanted her to bring the case to court, she did not do it; 'the father of the aforementioned Kateline heard about this and to get punishment for the men, he had wanted that Kateline, his daughter, would file a complaint against these aforementioned men, which she never did or wanted to'.[49] The bailiff, therefore, settled the case out of court, and Marck paid a composition. These cases indicate that the abductee's relatives could go to court to denounce her abduction since their parental rights had then been violated, at least if she were a minor still under their authority.

If the abductee was an adult, her relatives would have to claim that she was violently abducted to be able to take the case to court, a strategy followed by the relatives of the adult woman, Johanna Van Saemslacht, who filed a complaint on 31 January 1483.[50] After hearing both parties' arguments, the aldermen decided in favour of Johanna's relatives, the plaintiffs, and disinherited Johanna 'as if she were dead'. The plaintiffs presented what had happened as a violent assault and argued that Johanna stayed 'conversing with the perpetrators in public' after the abduction. Under the 1297 privilege of Guy, Count of Flanders and the 1438 legal text, she should be disinherited, they claimed. Johanna, on the contrary, claimed that the abduction had been consensual from the start, thereby hoping to maintain possession of

47 Pedersen also made this remark in 'Did the Medieval Laity Know?', 151.

48 SAB, CC, no. 12654, December 1424–June 1425, fol. 414v.

49 SAB, CC, no. 12657, June–December 1471, fol. 362v–363r.

50 CAG, S 301, no. 57, fol. 174v (28 April 1484).

her property. The final verdict connected to the specific requirements of the legal texts by repeating that Johanna had been abducted 'with force and while crying for help' but then stayed with the main perpetrator afterwards. Favouring the relatives, the aldermen adopted the plaintiffs' characterization of the offence as nonconsensual. These examples all show how decisive consent was in the legal handling of abduction, causing many involved parties to try to bend the consent narrative for it to fit their purposes.

Judging consent and coercion

How did these legal arguments on consent impact the final verdict? The example of Elisabeth Leydens shows that consent could lead to the acquittal of the abductor. Elisabeth Leydens appeared before the Leuven aldermen on 22 January 1408 to declare that she went with her abductor, Jan Uter Helcht, by choice.[51] Besides this record in the aldermen's registers, there is a reference to this case in the Leuven bailiff's accounts. This second report informs us that, after the abduction, the bailiff of Herent, a subordinate of the bailiff of Leuven, seized Elisabeth's property, while Jan and his accomplices were arrested by the bailiff of Leuven. After the latter failed to find witnesses who had heard Elisabeth scream, important legal proof of a violent abduction, the bailiff was instructed by the aldermen of the city to release the abductor and his men.[52] There was no trial because no infraction of the law had been committed. Elisabeth's consent declaration thus directly led to the abductor's release.

Did consent declarations regularly lead to the acquittal of abductors in secular courts? Although very rare, examples of acquittals exist in all three cities. Similar to the Leuven example of Elisabeth Leydens, the Ghent aldermen's registers contain a case that ended in the abductor's acquittal. On 15 June 1489, Pieter de Grave, Jan Scapen, and other unspecified friends and relatives of *Jonkvrouw* de Grave, the widow of Joos Lauwaert, filed a complaint with the aldermen of Ghent. While innocently walking home after attending mass, they argued, the widow was violently abducted by Symoen de Caluwe and his four accomplices. The plaintiffs asked the aldermen to locate the widow and bring her back home. They also wanted the abductors to be punished. However, the aldermen acquitted the abductors since 'the aforementioned matter had happened with the will and consent of the

51 CAL, OA, no. 7306, fol. 241r (22 February 1408).

52 SAB, CC, no. 12653, June–December 1410, fol. 317rv.

aforementioned woman'.[53] In Antwerp consent could lead to acquittal as well. A record in the bailiff's account on the abduction of a widow named Lijsbet by Dijrijc Jan Dierijcszone and his accomplice Merten Heynen states that the abduction had been adjudicated by an unspecified authority in a village outside of Antwerp, where the abductors had taken Lijsbet. Since she had declared her consent and had not been raped, the judges set the abductors free. Disagreeing with this sentence, the Antwerp bailiff argued that, since the abduction had happened in his district, he should have been involved in the legal settlement. Rather than charging the abductors again, the bailiff allowed both men to pay a composition after listening to the pleas of their friends.[54] Even though I found only a couple of references to cases in which legal consent led to an acquittal, they probably represent the tip of the iceberg. The vast majority of the over eighty declarations of consent in the aldermen's registers of Leuven cannot be matched with corresponding records in the Leuven bailiff's accounts or in the sentence book that recorded actual punishments for offences. The absence of settlement records on these abductions may indicate that cases legally considered consensual simply were not punished. Since the vast majority of consent declarations have no further legal documentation, registering declarations of consent seems to even have been a way to avoid a legal case at all. Even in the case of Elisabeth Leydens, which does have a matching record in the bailiff accounts, the bailiff recommends dropping the case.

In bailiff's accounts and pardon letters, officials had to justify their decisions to allow an out-of-court financial settlement or issue a pardon. To do this, the bailiff's accounts often state that the abductee did not want to file a complaint, that she had married the abductor in the meantime, or that she had been friends with him for a long time. By adding this information, the bailiff labelled what had happened as a consensual, nonviolent event and therefore the abductor did not deserve a court trial. By describing the abductee's actions as consensual during the abduction, pardon letters often include these implicit references as well. These records are particularly suspect since they are based on letters from convicted abductors seeking pardon from their lords, and so reflect the perspective of the abductors attempting to justify their behaviour. For example, Gheerkin van Nieuwenhove, a 23-year-old beer brewer, was granted a pardon for abduction in 1498. The letter narrates the story of how he, together with several accomplices, abducted Josine Merschares, alias sWevers, a sixteen-year-old girl, whose

53 CAG, S 301, no. 60, fol. 142r (25 and 29 June 1489).

54 SAB, CC, no. 12903, December 1453–June 1454, fol. 64v, 74v–75r.

guardian was a draper. Gheerkin had discussed several times his future marriage to the girl with some of Josine's maternal relatives. Afraid that her paternal relatives, who lived in Ghent, would not agree, he decided to abduct her. En route, Gheerkin, his accomplices, and Josine spend the night in an inn, all together in one room. Gheerkin and Josine lay in the same bed, with her complete consent. According to the letter, 'she did everything with a happy face, and she was still happy the day after that night'.[55] In the end, the relatives gave their consent to the marriage, which provided the reason to justify the duke's pardon. These attestations of consent are neither casual nor ingenuous; they are strategic moves deployed to achieve the goal of a pardon. As this case indicates, expressions of the abductee's consent were designed to arouse sympathy for the perpetrator and convince the lord to pardon him.

Although the abducted woman's age and consent and the consent of her relatives impacted the legal outcome, records reveal that authorities sometimes struggled with respecting these legal parameters. In one example, the bailiff of Leuven, for reasons that are not clear, circumvented the consent declaration of Machtelde Ellemoens by putting great effort into finding people who were willing to testify that she had screamed during the abduction. Abducted by Gielken Gersse, Machtelde declared her consent and then the couple married. Nevertheless, the bailiff of Leuven arrested the couple and began an investigation designed to prove that the abduction had been coerced. Unable to find a witness, he asked the sub-bailiff of a nearby village, where the offence had taken place, for help. The sub-bailiff investigated and succeeded in finding two men who could testify to Machtelde's cries for help. As a result, the aldermen of Leuven were able to sentence the abductors to a triple pilgrimage to Cyprus, Santiago de Compostela, and Rocamadour.[56] On the one hand, the need for additional evidence of violence attests to the legal value of Machtelde's declarations. Without these witnesses, there could be no trial; the perpetrator would have been acquitted, just as the abovementioned Jan Uter Helcht and his accomplices were. On the other hand, this case shows the authorities' flexible approach to consent. In several cases, the legal criterion of consent does not seem to have affected the final sentence at all. Authorities judging most cases thus had a flexible approach to these legal abduction categories. This flexibility accounts especially for the bailiff, whose ambiguous role is discussed in Chapter 4.

55 ADN, B1709, fol. 76v–78v (June 1498).

56 SAB, CC, no. 12653, December 1405–June 1406, fol. 87v–88v.

Explaining and understanding consent and coercion

The legal narratives of the abductee, the abductor, and her relatives reveal the legal importance of the former's consent. According to most of the legal statutes and ordinances, coerced and consensual abduction were two judicial categories with different legal consequence. Different expressions were used to indicate consent or a lack of consent. Table 2 displays the information the final sentences in the bailiff's accounts and sentence books contain about the abducted woman's consent. Roughly half of the final verdicts on abduction cases in bailiff's accounts and sentence books contain specific evidence about the abductee's consent. These records show that authorities explicitly labelled many abductions as either consensual or coerced by the formulas *haers dancks ende wille* ('with her will and consent') or *jeghen haers dancks ende wille* ('against her will and consent'). In other cases, the clerks described the abduction as coerced or consensual more implicitly, by emphasizing the violent nature of the assault or using the words 'seduce' or 'going away together'. Table 2 tallies all abductions labelled as coerced or violent in the records by these explicit and implicit indications. While the aldermen and bailiffs portrayed twenty-one percent of the abductions as consensual, they designated thirty percent nonconsensual.[57]

Table 2 Abduction labels in the bailiff's accounts and sentence books (15th c.)

	Antwerp (N)		Leuven (N)		Ghent (N)		Q Ghent (N)		Total (%)	
	abduction	possible	abduction	possible	abduction	possible	abduction	possible	abduction	possible
consensual	11	3	14	1	10	0	31	3	21%	6%
coerced	6	1	22	6	29	13	35	12	30%	29%
ambiguous	2	2	9	1	4	3	6	3	7%	8%
unknown	21	4	20	1	34	31	54	28	42%	57%
total	40	10	65	9	77	47	126	46	100%	100%

57 The Leuven aldermen registers contain over eighty abductions known through declarations of consent. Needless to say, these abductions are all framed as consensual. The pardon letters include much more mixed descriptions of the abductee's consent. This is unsurprising given these letters defend the perpetrator. Inclusions that hint at the abductee's consent being present despite her outcries or attempts to escape served to exonerate the abductor and lay some of the blame on the abductee.

The records that implicitly convey the abducted woman's consent or lack thereof include subtle or associated indicators of force and consent.[58] Consent is regularly described as a behavioural communication of willingness; the woman's joy and enthusiasm show in the way she acts. Indeed, the clerks record visible and direct expressions of the abductee's willingness throughout the abduction: her joyful attitude, the fact that she visited the abductor several times and took the initiative to go to him when they went away together to be married, or even that she went with him out of love. Consent declarations also feature descriptions of this active form of consent. For example, when she declared her consent in front of the Leuven board of aldermen, Heylwijgh, the daughter of Claes Vander Lynden, stated that she went with the abductor 'with her own free will, without force of any kind, out of love'.[59] The combination of the individual character of Heylwijgh's 'free will' and the fact that she acted out of 'love' and was not pressured or influenced in any way shows an interpretation of consent as a feeling of willingness.[60] For some abductions labelled as forceful, the sentence books and the bailiff's records describe the violence committed by the perpetrator and the reaction to this violence by the abductee: her cries for help and attempts to escape. The clerks repeated several times that the abductee was subjected to threats and even physical violence. In 1498, Lieven Roothoofd brutally attacked a citizen of Ghent in her own house in an attempt to make her come with him. She cried for help while running to the house of a neighbour, whom Lievin also attacked.[61] Thirteen years later, the Ghent aldermen punished Michiel de Lu for forcing a young girl to go with him by threatening her with a knife.[62] Another woman was threatened by men with knives in a forcible abduction.[63] In another case, the abductee was treated so badly 'with threatening words and pushing' that she died five days after her abduction[64].

58 SAB, CC, no. 12653, June–December 1404, fol. 35r–36v, 37v; Vleeschouwers-Van Melkebeek, 'Mortificata est, 408–9.

59 CAL, OA, no. 7753, fol. 8r (30 June 1453).

60 Historians disagree about whether love and passion were considered an essential part of marriage in the late Middle Ages. See for example Otis-Cour, 'Mariage d'amour' and Charageat, 'Couples et amour'; Bousmar, 'Des alliances liées à la procréation', 12, 40–51. Hickman and Muehlenhard distinguish between the feeling of willingness and the expression of that feeling as to what constitutes consent, in Hickman and Muehlenhard, '"By the Semi-mystical Appearance of a Condom"'.

61 CAG, S 212, no. 1, fol. 133v (7 September 1498).

62 CAG, S 212, no. 1, fol. 161v (12 May 1511).

63 CAG, S 212, no. 1, fol. 162v, (11 August 1511).

64 SAB, CC, no. 12659, December 1491–December 1492, fol. 276rv.

In all these cases, the records portray the event as very consensual or very violent. Consent here seems to equate to an affirmative, positive, and enthusiastic form of choice. A lack of consent is shown through the presence of physical violence. The consent language used in some of the final sentences recorded by the consistory court in Brussels also conveys the idea of the abducted woman's active involvement. As stated earlier, these sources contain a significant number of so-called 'mutual abductions', described as two people who 'abducted each other mutually' (*se mutuo abduxerunt*) or as a woman who 'had allowed herself to be abducted by him' (*ab eo abduci permisit*). Some secular records explicitly state that the woman 'went away with' her abductor, thus that she went to him by herself. For example, the women who declared their consent before local officials generally stated that they 'had gone with' their abductor by choice. This terminology attributes a significant degree of agency to abductees, who are being held just as responsible as the abductors are. At first sight, such examples provide a powerful argument for the idea of abduction as elopement since they explicitly describe the abductee as an instigator of the abduction. 'Mutual abductions' are particularly striking since that description blurs the line between perpetrator and victim completely. They suggest that medieval people perceived consent as active, or that they at least understood the concept of free choice and attached it to the legal determinant of consent. These examples explicitly show that the abductee could be a co-perpetrator in the minds of medieval people.[65]

It is very tempting to interpret this recurrent language of love, free choice, and individual will as evidence for elopement. Still, there are several reasons why the linkage of consent with love and choice in litigation proceedings, statements, and sentences does not represent a social reality. To begin with, the expression of consent as free and individual in the abovementioned examples strongly resembled marital consent in canon law, a version of consent that was clearer and better known to lay people than secular laws on consent and coercion in abduction. People of all levels of society regularly witnessed wedding ceremonies in which consent was exchanged and heard stories about consent, love, and marriage.[66] Although abductions seem to have been common as well, people undoubtedly knew and learned more about marriage than abduction. Furthermore, consent declarations, pleas, and defences are not neutral records but were created for a reason, namely to convince a judge and win a certain legal outcome. The best way

65 Menuge, 'Female Wards and Marriage', 154–55.

66 Lipton, 'Marriage and the Legal Culture of Witnessing'.

to obtain these goals was to exaggerate and create a gripping, absorbing story. Since judges listened to these embellished accounts of abduction, it is not surprising that some final sentences convey abduction as a simple binary: extremely consensual or extremely violent. However, scholarship has shown that narrations of certain events in court laid more emphasis on blame than if they were told elsewhere.[67] Moreover, authorities themselves produced many records that were not neutral. Bailiff's accounts and pardon letters were clever constructions meant to evoke compassion for abductors rather than to present truthful accounts of events. Although many abductions probably fell somewhere between extremely violent and romantically consensual, the legal records rarely shed light on this grey zone.

To assess the 'grey zone' between violent abduction and romantic elopement, it is important to elaborate further on the language of consent used by scribes. The records employ a wide range of words to describe what I and other historians refer to as 'consent'. The sources in medieval Dutch use the words *consente*, *wille* and *danck* as seemingly interchangeable terms, while the French records include the terms *par son gré*, *volonté*, and *consentement*. These words are often used together in the same sentence. For example, many women were abducted with their *danck* and *wille* or *par son gré et consentement*. This could mean that they were used as synonyms, but they could just as well have had slightly different meanings at the time. Since those who study consent today also struggle with defining the term and distinguishing it from related concepts, historical dictionaries do not offer any help in precisely discerning the meaningsof these different words in the medieval context.[68] At other times, the abductee's victimhood is inherently present in the terminology used. Apart from the remarkable 'mutual abductions' in the Brussels ecclesiastical records and the women who 'went away with' their abductor discussed earlier, this also features in most descriptions of abduction cases.[69] The language of consent in these records reflected medieval ideas about sex, chief among them the portrayal of men as active partners and women as passive ones.

Moreover, consent was seen and defined differently in different courts. Legally, 'abduction consent' fell somewhere between marital and sexual

67 See the incorporation of references to scholarship on speech analysis in Walker, 'Rereading Rape', 4.

68 Beres, '"Spontaneous" Sexual Consent'; Seabourne also found several medieval words for consent and stated that 'possible shades of different meaning can no longer be ascertained', since the 'meaning of these terms is nowhere made explicit'. Seabourne, *Imprisoning Medieval Women*, 153.

69 Seabourne, 158.

consent. Because secular law did not define the consent of abducted women clearly, in contrast to canon law's sharp distinctions, consent was often an issue in secular courts. Secular laws did not explain what degree of consent sufficed to label an abduction case as consensual. Instead, the only clue about consent most legal texts offered was the fact that the abductee's cry for help was evidence of her lack of consent. One Leuven text puts forward the abductee's declaration of consent as yardstick, thus defining consent more in line with how canon law defined marital consent.[70] In addition, consent by abducted minors had completely different meanings in church and secular courts. For example, in 1486 Wouter de Bot was banished from Flanders for fifty years by the aldermen of Ghent for picking up from school his son, who was approximately fourteen, and escorting him to a marriage ceremony without the consent of his 'guardians, relatives, and friends'.[71] Modern commentators cannot view the boy's consent to go away secretly and enter into marriage as the willingness or agreement of a free individual. From the perspective of medieval canon law, however, he was old enough to consent. As long as his father had only used an acceptable degree of pressure that 'would not sway a constant man'—a standard open to interpretation of course—the boy's consent was valid and the marriage binding. According to the secular judge, however, Wouter's son was not old enough to consent to an abduction since he was a minor. Linking invalid consent to women's (and men's) legal incapability did not stem from a desire to protect children. Instead, it guaranteed the family full control over their property by protecting them from undesirable marriages. It was the consent of Wouter's paternal and maternal relatives that mattered, not the consent of his son, which led the aldermen to punish Wouter severely.[72] The secular court was following long-established custom; valid consent required the person to be of age or to have the permission of his or her parents or guardians.

Although some cases are clearly labelled consensual or coerced, many cases are more complex because there are ambiguous or mixed indicators of the abducted woman's consent (Table 2). These cases with mixed indicators reveal the grey area between consensual and nonconsensual abduction in legal records. Law identified two legal categories, with consent marking the difference, but many legal records show that these categories alone were insufficient, and the case had to be judged in court or by the bailiff. There were 129 abduction records without any contextual information on the

70 CAL, OA, no. 1258, fol. 16rv.

71 CAG, S 212, no. 1, fol. 87v.

72 CAG, S 212, no. 1, fol. 87v (13 July 1486).

abductee's consent. In fifty-four of these cases, the act states that the abduction was against the will of the woman's relatives. In forty of these fifty-four cases, unmarried women were abducted, but in fourteen cases a married woman was abducted against her husband's will. In the remaining cases, the brief summations of the settlement give no evidence, but they were likely judged as either consensual or violent. In addition, there are a few abduction descriptions, nine in Leuven, ten in Ghent and its surrounding districts and two in Antwerp, that explicitly feature contradictory information on the woman's consent. These ambiguous descriptions render it impossible for the historian to determine whether the case was coerced or consensual abduction, although these cases do offer an interesting perspective on the legal understanding of consent.

This ambiguity is especially apparent when the authorities explicitly labelled the abduction as an 'in-between' case that was neither entirely violent nor entirely consensual. Liesbet Van Zelle's abduction by the bastard Loete van Keets in Antwerp illustrates this very well.[73] A record on this case in the 1428 bailiff's account explains that Loete had been showing interest in Liesbet for a long time. Eventually, Loete's father promised Liesbet he would give his son a wedding gift if she married him, which was a common way for parents to make their child more attractive as a spouse.[74] Encouraged by his father's negotiations with Liesbet, Loete went to her house where he waited for her to come away with him, but she began to have second thoughts. Loete reacted to Liesbet's indecisiveness by using slight force and the help of a few accomplices to take her away; he 'led her with him *partly with and partly against* her will' after which he intended to marry her.[75] However, when it also became clear that Loete's father no longer wanted to endow the couple upon their marriage, Liesbet's hesitation turned into active refusal. Since her future father-in-law did not respect the terms that they had agreed upon earlier, Liesbeth no longer wanted to take Loete as her husband. Afraid of prosecution, Loete and his accomplices fled the Duchy of Brabant and asked the duke for a pardon, which was granted. The men also settled with the bailiff and paid him a sum of money. Similar terminology appears in other records as well. Balten Ravens was punished in 1418 Antwerp for taking a girl with him 'partly against her will' (*half tegen haren danck*).[76] Other cases use the phrase *assez contre son gré* or 'somewhat against her will'. In 1459

73 SAB, CC, no. 12902, July–October 1428, fol. 391rv.

74 Danneel, *Weduwen en wezen*, 171–72.

75 CAG, S 212, no. 1, fol. 87v (13 July 1486).

76 SAB, CC, no. 12904, December 1418–December 1419, fol. 483v.

Ghent, the bailiff imposed a composition on several men for abducting Tanne Sermans, daughter of Gilles Sermans, *assez contre son gré*.[77] The language used in such records might again indicate that late medieval people were aware that different degrees of consent were possible.

I propose three complementary explanations for the mixed indicators of abducted women's consent in many legal records. To begin with, the inconsistency and confusion in some final verdicts might have been an effect of the different legal narratives on which the judges and bailiffs based their sentences. As the previous sections have demonstrated, the strategic construction of narratives by several of the parties involved could even lead to the juxtaposition of completely different versions of events. It is not only historians who are unable to disentangle fact from fiction in these accounts. This was also an extremely difficult task for late medieval judges (as it still is today), who had to connect the case presented before them to the legal categories of abduction. It is therefore important to consider what might lie beneath the surface of the final sentences in the aldermen's registers and the bailiff's accounts, as the example of Margriet Wijngarders illustrates. She was a widow who was abducted by Jan Vlasselair in 1457 in Leuven. This case figures in two records in separate series of sources. In the aldermen's registers, Margriet's consent declaration states that on 28 June 1457, she went with Jan Vlasselair by choice and 'that the things he had done to her had happened with her own, free will and she would not hesitate to do the same again'.[78] The abduction is also mentioned in the Leuven bailiff's accounts, but it does not refer to Margriet's consent. On the contrary, the account describes the abduction as violent and forced. The clerk specifies that the assessment of the abduction as violent is based on testimonies of people who witnessed the abduction. Because Margriet refused to take Jan as her husband, the men 'put her back where they had found her'.[79] This contradictory information on Margriet's abduction shows the danger in making assumptions solely based on short, individual acts. Sentences generally stated one version of events and remained silent on the others.

A second explanation originates from the evidence on the influence relatives and abductors exerted upon abductees. External influence probably explains the abovementioned Amelkin Jacop's initial consent to an

77 SAB, CC, no. 14116, May 1459–May 1460, fol. 152r, 178r.

78 CAL, OA, no. 7351, fol. 2r (28 June 1457): 'dat zij huers goets moetswillen met Janne van Vlaslair gegaen is ende wes hij met huer begaen ende bestaen heeft dat dat is gesciet met hueren vryen ende eygenen wille ende hadde zijt noch te doene dat zijt alnoch doen soude'.

79 SAB, CC, no. 12656, May–December 1457, fol. 386rv.

abduction her mother had arranged. Indeed, the abductee's consent often did not reflect a decision made purely by the individual. These individual women existed in a society with certain values that shaped their social behaviour and influenced their decisions.[80] Important life decisions, such as the decision to consent to an abduction and subsequent marriage, not only affected the abductee but also her family, along with the abductor and his family. Some abductees were undoubtedly pushed to consent by the abductor and his accomplices, who might include relatives of the abductee. Sometimes abductees were not merely encouraged to consent but even severely pressured. This possibility is suggested by the defences of abductees included in the Liège consistory court register. These statements show some abductees admitted having declared their consent. However, they were now declaring that they only did this because they were severely threatened by the abductor.[81] An act in the Leuven bailiff's accounts further supports this. The act states that when abducting an anonymous woman, the abductor brought her to the Leuven aldermen to 'make her proclaim' that she had gone with him by her own consent.[82] Gillis Vander Gracht was charged in Ghent for abducting a woman and exerting pressure on her to marry his father, showing that abduction was a family affair as the previous chapter argues.[83] Although this charge was unsuccessful, it does prove that people knew of the canon law position that force or pressure was an impediment to consent and used this argument in secular courts too.[84]

Such retractions and threats undermine the idea that these women were agents actively arranging their own marriages. Although the abducted women did have to appear before officials to express their consent, it is therefore uncertain that all these records in the aldermen's registers were their authentic statements. When examining rape narratives in late medieval England, Barbara Hanawalt raised the question of whose stories these were, claiming that pleas by rape victims were by no means 'clear,

80 Gurevič, *The Origins of European Individualism*, 89; Winer, *Women, Wealth, and Community*, 4.

81 SAL, AD, no. 1, fol. 4v–6v (19 July 1435).

82 SAB, CC, no. 12656, June–December 1458, fol. 436r: 'Ende huer doen verkoemen dat zij huers dancxs metter voirscreven Quinten hueren vrienden ontgaen was'.

83 CAG, S 301, no. 50 fol. 41rv (27 September 1469); Vleeschouwers-Van Melkebeek, 'Mortificata Est', 363.

84 In the case of the abduction of Machtelde Ellemoeden, the abductor and abductee were both locked up in seperate cells after the abduction. However, both before and after the imprisonment, the bailiff in charge states that Machtelde declared her consent which confirms that authorities knew these women could be pressured by their abductors to make a consent statement, in SAB, CC, no. 12653, December 1405–Easter 1406, fol. 87v–88rv.

unambiguous women's narratives'.[85] The same question should be asked when looking at the consent declarations by abductees discussed at the beginning of this chapter. Although these records seem to give a unique perspective on the abductee's involvement in a specific event, several factors urge us to problematize them. These acts do seem to stem directly from the abductees' mouths, which makes it tempting to interpret them as arguments for female involvement and the prevalence of elopement. However, even though abducted women did go to court to make these declarations, these statements do not per se inform us about their consent. The Leuven acts are highly standardized declarations in the third person, always constructed in a similar manner; the woman appeared before the aldermen, she went with the abductor willingly, she wanted everything he had done to her, and she would make the same choices again. Maybe the abductee merely responded affirmatively to the questions, perhaps posed by officials, about her consent to the abduction. Perhaps the abductor or someone else had given her instructions on what to say. In short, they were strategic legal statements, not personal, emotional expressions, which is already an important indication that it is dangerous to make claims about the abductee's consent based on these seemingly empowering statements.

Indeed, the abducted women might have been pressured and instructed by the abductor, as the examples above suggest.[86] After all, it was mainly the abductor who benefited from this consent declaration that sheltered him from the legal storm; the abducted woman was denying that she was a victim of rape or abduction and that he was a rapist or abductor. In several other cases in which the abductee's relatives had arranged the marriage by abduction together, distinguishing between the actions to which the abductee consented and the ones to which her relatives had led her is difficult or wholly impossible. Some consent declarations state the abductee declared that she went 'with her own free will, without being forced in any way'. This could be interpreted as evidence for the opposite scenario. Their descriptions of their free and individual consent suggest that they knew canon law rules on consent and force.[87] However, even in canon law, consent did not denote individual consent as we would define that today, since an adequate degree of pressure was accepted. It is even more important to

85 Hanawalt asked the same question when examining rape narratives in late medieval England, see Hanawalt, *Of Good and Ill Repute*, 124.

86 In late medieval England too, there is evidence of abductors and rapists using their influence to impact the trial. See Ormrod, *Women in Parliament*, 98.

87 Pedersen found evidence for at least a basic understanding of canon law on marriage formation amongst laity in medieval England, Pedersen, 'Did the Medieval Laity Know?'

distinguish between the idea of free and individual consent and the degree of 'consent' that was needed to label the case as a consensual abduction in the secular courts. Nevertheless, the abovementioned examples reveal a consciousness that a woman's consent might actually be coerced, as well as highlighting how narrow the gap between consent and coercion could be.

The last and third explanation for the cases with mixed consent indicators is that the abducted woman's consent was not static. If we think of consent as agreeing to, rather than being willing to, and acknowledge that consent could evolve over the course of the abduction, the records with contradictory information make more sense. Considering abduction as a process, which involved planning, the actual removal of a woman, sexual intercourse, the exchange of marriage vows, and negotiations and assessments between and within families afterwards, portrays abduction as a chain of choices rather than an entirely consensual or violent event. For example, although Colen Vander Varent abducted Heilwijch Toelen initially against her will in Leuven, she was already content with her (forced) suitor the day after the abduction. She did not want to press charges, declared her consent before the aldermen, and married him.[88] Many other abductions described as initially violent and coerced ended in marriage, often even with the agreement of the abductee's relatives. Two abductions from the Brussels consistory court records illuminate abduction as a process and reveal the difference between the abductee's removal from friends and relatives and marital consent. The official of this court judged the abduction of Katherina tsBincken on 7 July 1458. He labelled this abduction as *renitens* which could be translated as 'struggling'. Michael Betten and several accomplices had taken Katherina to the county of Hainaut. Although he had abducted Katherina *noluntariam et renitentem*, she wanted to marry him afterwards (*postmodum spontanea voluntate et libero suo consensu*). On 27 October 1458, the official of Brussels judged a case in which he acknowledged the clandestine marriage of Hendrik Sceers and Katherina Vander Meeren, even though she had been abducted *tali quali dissensu*. As they demonstrate the evolution of consent throughout the abduction process, these examples indicate that an unwanted abduction could result in a valid marriage to which the abductee consented, even in records from consistory courts which are often described as enabling women to make their own choices.[89] This consent was an agreement to the marriage. That does not entail in any way that the woman was marrying a

88 SAB, CC, no. 12659, December 1491–December 1492, fol. 277v.

89 For a brief synthesis of the discussion on women and consistory courts, see Beaulande-Barraud and Charageat, *Les officialités dans l'Europe médiévale et moderne*, 19–21.

man she had freely chosen or that she truly wanted as her husband. Secular law enabled urban courts to punish these abductions in which the abductee stayed with her abductor even though she had been taken against her will, but the bailiff's accounts often show that the bailiff saw no use in awarding punishment. When dealing with the abduction of Lijsbet Vandamme, the Leuven bailiff's account states that Liesbet eventually declared her consent and married Laureys, even after he and an accomplice had violently abducted her and her relatives had rescued her from them. The bailiff decided to accept payment of a composition rather than take the case to court because it was a 'silly' (*onnoezel*) offence.[90]

The root of the multifaceted nature of abduction consent lies in people changing their minds, forgetting and rethinking things, and so on, but it also can be explained by reconciliation and concern for property. Extensive evidence demonstrates that reconciliation between the abductor and the abductee and her relatives led many women to grant, affirm, or change their consent. Historians have frequently stressed the significance of honour and having a good reputation in late medieval society. For women, a good reputation was intrinsically dependent on their sexual behaviour, as detailed in Chapter 1.[91] Legal records in general often minimized violence against women by emphasizing their sexual transgressive behaviour; they were described as prostitutes who frequented taverns and inns.[92] Abduction cases recorded in bailiff's accounts and pardon letters will occasionally cite the abductee's previous sexual relations with the abductor, or charge that she had been with many different men, to justify pardons and acquittals.[93] For married women, honour depended on being a good wife and mother, while young unmarried women were especially judged on their virginity. Moreover, women's sexual behaviour not only affected their position in society; it also impugned their family's honour. Having a daughter, sister, or wife with a bad reputation was to be avoided at all costs, which led many families to agree to a marriage with the abductor in the end.[94] Medieval people associated abduction with sexual intercourse, since rape was often involved and consummation was an essential element in clandestine marriages *per*

90 SAB, CC, no. 12658, June–December 1472, fol. 26v–27rv.

91 Gauvard, 'Honneur de femme', 162.

92 Harris, '"A Drunken Cunt Hath No Porter"'.

93 The bailiff of Land van Waas allowed Jehan de Voe to make a financial settlement for having *ravy outre son gré* Sandrine Maes, because she did not file a complaint and because he *paravant avoit eu coignoissance charnelle*, SAB, CC, no. 14111, January–May 1418, fol. 119v.

94 Danneel, *Weduwen en wezen*, 171–72; Cesco, 'Rape and raptus', 694–96; Dean, 'A Regional Cluster?', 149; Prevenier, 'The Notions of Honor'; Joye, *La femme ravie*, 147.

verba de futuro, which often followed the abduction. The records contain evidence of violent abductions ending in matrimony in the Low Countries, mirroring the conclusions drawn by Valentina Cesco in her study of early modern Istria.[95] Cesco has argued that there was an opportunity for women in how society dealt with honour: women engaging in elopements took advantage of the fact that marriage was a widely accepted way to deal with the humiliation and shame caused by the elopement. However, an abduction brought shame to abductees as well and in several of the cases discussed above, it was the abductor and his relatives who exploited this mechanism, which limited the abductee's ability to act after being seized away. The result was that many abductees were 'content' (*wel tevreden*) after their initial resistance.

A second reason for the complex nature of abduction consent is that property, not consent, was at the root of most disputes. Late medieval legal texts on abduction were primarily established to protect patrimonies and the social networks of wealthy families. Some discussions in secular records, although they are ostensibly concerned primarily with consent, approach it in a confused and convoluted manner, suggesting that the abducted woman's consent was not the primary issue. Legally, consent was especially significant in consistory courts when they had to decide if the marriage of the abductor and the abducted woman was valid. In secular courts, litigants hoping to avoid punishment often deployed consent as an argument. Although these attempts could be successful, the legal texts regulating such lawsuits were fundamentally inspired by the desire to protect parental rights and family property, not an individual's right to consent. Although abduction legislation in the Low countries differentiated between coerced and consensual abduction, at least concerning adult women, authorities seem to have been 'more concerned about patrimony than matrimony', as was the case in late medieval England.[96]

Life after abduction

Having the abduction labeled as being consensual mainly benefited the abductor, who risked heavy penalties when accused of rape or coerced abduction. However, the introductory case, as well as the changing consent narratives in some of the cases discussed earlier, show that the abductee,

95 Cesco, 'Female Abduction', 362.

96 Dunn, *Stolen Women*, 97.

even when she did not initially or wholeheartedly want the abductor as her husband, could also prefer the legal category of consensual over coerced abduction. A quick marriage to the abductor could be a better option than facing the community's disapproving gestures and looks, the fate bestowed upon Cornelijcken Barinagen, whose story was told in Chapter 1.

After an abduction had occurred, the abductee and her family had to consider which option was the least pernicious: a marriage to the abductor, who was possibly of lower status, or having a daughter with a blemished reputation, which might make it difficult to attract another spouse? A typical strategy of the abductor's relatives to obtain the goodwill of the abductee's parents was to portray their son or nephew as an attractive husband who would bring much property into the marriage. In 1433, Simon van Formelis followed this strategy to convince Jan van Oostkerke, the father of Gertrude, whom his son Jan had abducted, to reconcile with his daughter and her abductor-husband.[97] The van Formelis and van Oostkerke families both belonged to the higher social levels. The van Formelis family was part of Ghent's social and political elite, while the van Oostkerkes were a noble family from the Duchy of Brabant. There are several records in the Ghent aldermen's registers concerning the abduction's aftermath. One deed reveals that Simon and Jan met together immediately after finding out what their children had gotten themselves into. Accompanied by other relatives, they both travelled to the village of Voorde, which lies halfway between Ghent and Oostkerke, the residences of the two fathers. It was up to Simon, the abductor's father, to do everything he could to convince Jan not to press charges or disinherit Gertrude. Remarkably, the record states that neither Simon nor Jan were happy about the abduction perpetrated by their children. Simon van Formelis reportedly said that 'he was not aware of his son's plans and that neither he nor his wife gave Jan permission for his undertaking'.[98] Whether or not this was true, Simon presented the abduction as a surprise to him also and tried to distance himself from his son's foolish action. He 'apologised for the act's violence because it had caused him heartfelt grief and had happened without his consent, however now that it had happened he prayed for a friendly day to come and for looking ahead with honour'.[99] Simon then promised to give his son a substantial gift upon his marriage

97 All records on this case have been published in Haemers and Delameillieure, 'Het herteleet van Simon van Formelis', 55–88.

98 See edition of CAG, S 301, no. 41, fol. 59r (12 November 1450) in Haemers and Delameillieure, 'Het Herteleet van Simon van Formelis', 83: *dat hij uwer dochter wech leede sonder uwen danc*; and edition of CAG, S 301, no. 32, fol. 152v (1 July 1433) in Haemers and Delameillieure, 73.

99 Ibid.

to Gertrude: 'I gave my son more than you gave your daughter [...] and I did this for my honour because of the discourtesy that my son has done to you.'[100] By pledging a large amount of money or property to the marriage, the abductor's relatives were trying to propitiate the abductee's relatives and prove that, despite the abduction, their son would make an excellent husband. Simon's strategy was successful: the two parties reconciled, and Jan and Gertrude married officially.

Most abduction cases studied did not end in severe penalties. Historians have pointed out that apart from formal legal settlements, which will be discussed in the next chapter, another method of conflict settlement was quite common in the late medieval Low Countries: reconciliation (referred to as *pays* or 'peace' in the records). People mostly made peace settlements privately, but sometimes these were negotiated more formally under the supervision or through the mediation of the aldermen or another city official.[101] These reconciliatory settlements were meant to restore peace, avoid vengeance, and reinstate the damaged party's honour. The records generally refer to this practice of reconciliation indirectly. The bailiff's accounts, for example, note a reconciliation or 'peace being made' between the abductor and the abductee's friends and family when providing reasons for settlement through composition. Jehan Mussche had to pay a composition for abducting Ysabel Swalschen in Vier Ambachten. The case did not go to court because the parties had reconciled (*vue que pais en estoit*), and no one had pressed charges.[102] After Baten Brunen was abducted by Hennen Weterlinc, the Leuven bailiff allowed the man to pay a composition 'because she did not scream, he took her as his wife, and made peace with the friends'.[103] Zoeten Raeyghers and her relatives had made peace with her abductors (*vue qu'ilz avoient paix*), and the settlement led to the conversion of the sentence pronouncing them outlaws to a composition.[104] After the abduction of Lisbette Van Der Vinen by three men, *le pais entre les parties* was made. Consequently, the case was not tried in court, and the perpetrators paid

100 Edition of CAG, S 301, no. 41, fol. 59v (12 November 1450) in Haemers and Delameillieure, 'Het Herteleet van Simon van Formelis', 83.

101 For this practice in Antwerp and Leuven, see Van Bael, 'Op peisbreke ende zoenbreke'; for Ghent, see Pylyser, 'De activiteit van de Gentse "paysierders"'; Nicholas, 'Crime and punishment in fourteenth-century Ghent (first part)'; Nicholas, 'Crime and punishment in fourteenth-century Ghent (second part)'; Van Hamme, 'Stedelijk particularisme versus vorstelijke centralisatie'.

102 SAB, CC, no. 14112, September 1422–January 1423, fol. 7v.

103 SAB, CC, no. 12654, December 1418–January 1419, fol. 240r: 'Want si niet en kreet, hi truwe se tenen wive ende hadde peys metten vrienden'.

104 SAB, CC, no. 14113, September 1431–January 1432, fol. 3v.

a composition.[105] In the Ghent aldermen's registers, a brief deed similarly indicates that abductions were amicably negotiated; Willem den Vildren and his daughter's abductor and later husband Jacop de Wiest had made a 'peace of abduction' (*pais van wechleedene*).[106] Although they are terse, the inclusion of these phrases shows that there were local customs for dealing with such matters and that private settlements were common.[107]

In many of these cases, the abductor and abductee got married, as Jan van Formelis and Geertrude van Oostkerke did, but this was not the only possible outcome, as a remarkable case of reconciliation made publicly under the watchful eye of the Antwerp city officials shows. One Antwerp register contains the *zoendinc*, the Middle Dutch word for a formal reconciliation, between Jan Gheerts, his wife, and their daughter Liesbeth as one party and Jan van der Gouwe as the other. They met in a Dominican house in the presence of the Antwerp bailiff and two aldermen because 'a conflict was hanging between them because the same Liesbeth had gone away with the aforementioned Jan'.[108] First, Jan swore that neither he nor any of his accomplices had contracted with Liesbeth and he 'had not done any more impurities with her than he had done with his own mother or sister', a theatrical way of saying that he and Liesbeth had not had any sexual relations.[109] Liesbeth affirmed this and stated that she had followed Jan freely and would do it again if she had to. These oaths were made publicly in the presence of friends and relatives of both parties, city officials, and many bystanders.[110] The perpetrator confirmed that nothing had happened that could damage Liesbeth's reputation, whereas Liesbeth's statements contradicted any suspicion of rape or violent abduction, serious offences that were considered by law to be unfit for these formal settlements.[111] The record further informs us that Liesbeth's father had taken his daughter back home after her getaway with Jan, and two men from each party's side were

105 SAB, CC, no. 14112, May–September 1423, fol. 4rv.

106 CAG, S 261bis, no. 9, fol. 19r (25 September 1470).

107 Citizens had the right to make amicable settlements in the Low Countries, mostly after the intervention of third parties, but without the involvement of city government. It is in this respect that these amicable settlements differed from the composition mechanism, which was an agreement between a citizen and an official, namely the bailiff; see Van Caenegem, *Geschiedenis van het strafrecht*, 280–311.

108 SAB, CC, no. 12654, December 1418–January 1419, fol. 240r.

109 Ibid.

110 These reconciliations were often very public events; see Buylaert, 'Familiekwesties', 12; Van Caenegem, *Geschiedenis van het strafrecht*, 283.

111 In practice exceptions can be found; see Van Caenegem, *Geschiedenis van het strafrecht*, 292, n. 4.

appointed to check if any injuries were inflicted on Liesbeth or her parents during the event. Based on their findings, they probably negotiated a sum that Jan would have to pay Liesbeth and her family to achieve reconciliation. This sum was called the *zoengeld* or 'reconciliation money'. Liesbeth and her parents committed themselves not to press charges. If they broke that promise, they agreed to pay a penalty. This public reconciliation was thus an agreement between two parties, in which each party received certain guarantees from the other.

Based on his case studies of abductions among the urban elites in the Low Countries, Walter Prevenier concluded that abduction marriages seem not to have created obstacles that prevented couples from living their lives as 'honourable citizens'.[112] Couples who married through abduction continued to play important roles in urban life, investing in property, giving to charity, and occupying high positions in city government and ducal administration, according to the cases in this study and studies by other scholars.[113] This ability to live unimpeded was a result of the way conflicts were resolved in the Middle Ages. After a pardon had been granted, a composition had been paid, a sentence had been carried out, or a reconciliatory settlement had been executed, the balance was restored, and both parties agreed not to talk or raise any more trouble about the abduction. This essential feature was built into the design of conflict management strategies because their goal was to avoid cycles of vengeance and violence. Although the post-abduction situation could be tense, abductions do not seem to have caused any long-term conflicts or difficulties for the protagonists, who were able to reclaim their places in society. A plain contract dealing with family assets in which Alleyde Vyssenaecks and Andries Hellinck appear as a normal married couple, discussed in this chapter's introduction, does not reveal in any way that twelve years earlier their relationship started with an abduction, the registration of a consent declaration, and a financial contract in which Alleyde's distrust of her abductor/future husband shimmered through.

Nevertheless, problems could occur years after the abduction. Some women turned away from their abductor-husbands after betrothal or marriage. Although a woman's actions might be described as compliant and indulgent at first, as she expressed her consent to the aldermen and agreed to marry her abductor, she still might later decide to protest and undo the consequences of her abduction. Later acts involving the abductors and

112 Prevenier, 'Huwelijk en clientele', 88.

113 Prevenier, 'Huwelijk en clientele'; Prevenier, *Marriage and Social Mobility*; Vleeschouwers-Van Melkebeek, 'Mortificata est'; Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, passim.

abductees, beyond the initial acts that were drawn up immediately after the abduction, make clear that abductees could still choose to distance themselves from the abductors after exchanging consent and agreeing to marry. One example is the abduction betrothal of Pieter van Steneren and Elisabeth Bollens in the Brussels episcopal records. The promotor of the Brussels consistory court pressed charges against this couple, asking the judge for the remission of their betrothal because of the incompatibility of their characters. The official granted remission of the betrothal, citing the negative consequences of marriage between a man and wife who 'hated' each other.[114] The official granted Pieter the right to marry someone else and advised Elisabeth to consult with a priest about her conscience. The couple had to pay fines and the case's legal costs for 'abducting each other' without their relatives' knowledge.[115] The abovementioned Gertrude van Oostkerke and Jan van Formelis, who married after an abduction in 1434, separated from 'bed and board' six years later, though they eventually got back together.[116] We do not know the reason for the separation, because the only record is an act dividing their joint property in the registers of the aldermen. A separation had to be approved and pronounced by the episcopal court, but there is no surviving verdict on Jan and Gertrude's separation.[117] The same happened to Jan van Seclijn and Tanne van Buderwaen, who had married after abduction in 1447.[118] The couple married and reconciled with their families. Just a few months later, Tanne and Jan separated on the grounds of Jan's adultery with another woman.[119] Did Tanne uncover her husband's betrayal to escape a life shared with her abductor? It is tempting to speculate that obtaining a separation, which allowed the couple to live separately, might have been an option for abducted women who had reluctantly agreed to marry their abductors. People could change their minds, and changing circumstances might lead people to revise the choices they had made earlier.

Changing circumstances might have enabled people to act and change the situation agreed upon directly after the abduction. This is clear in the

114 In Cambrai it was forbidden to break off a betrothal without permission of the bishop; see Chapter 1, page 55.

115 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 507, 377–78. Donahue analysed this case in Donahue, *Law, Marriage, and Society*, 155.

116 Haemers & Delameillieure, 'Het *herteleet* van Simon van Formelis', 1–25.

117 For studies on separation in the late Middle Ages, see Butler, *Divorce in Medieval England*; Butler, 'Breaking Vows'; Vleeschouwers-Van Melkebeek, 'Marital Breakdown'; Falzone, 'Aspects judiciaires de la séparation de corps'.

118 CAG, S 301, no. 39, fol. 14v (23 September 1447) and 90v (23 January 1448); Vleeschouwers-Van Melkebeek, *Compotus sigilliferi, no. 4169, 302.*

119 Vleeschouwers-Van Melkebeek, *Compotus sigilliferi, no. 4063, 295.*

interesting strategy used by Amelkin Jacops, whose fascinating abduction case has popped up several times in this study. After withdrawing her initial consent declaration, Amelkin fought for over ten years against her marriage to her abductor, refusing to accept the episcopal judge's decision that it was a valid, consensual union. Amelkin was even imprisoned twice for refusing to live with her husband and acknowledge him as such. Eventually, Amelkin's luck turned. After countless unsuccessful attempts to get rid of her abductor, a tired Amelkin finally joined him in the conjugal home. However, while living there, she must have heard the servants' gossip, as she found out that her abductor-husband and her mother, who was now dead but had earlier helped organise the abduction and was sentenced for her complicity by the Ghent aldermen, had been lovers. Amelkin successfully raised the impediment of affinity by illicit intercourse, and the episcopal judge of Tournai annulled her marriage to her abductor. After this dramatic episode in her life, which lasted over a decade, Amelkin married another man, and together with him, she regained the right to her inheritance, which she had lost after being abducted as a young girl.[120] While we do not know all the factors involved in cases like this, people had the power to navigate as they coped with a situation, and changing circumstances could lead to new opportunities.

Conclusion

Abducted women were certainly not mere pawns, since their consent could make a difference; they acted as legal agents, defending themselves against their abductors and relatives, and negotiated marriages. Nevertheless, the records show a very complex understanding of abducted women's consent in the Middle Ages. She could decide whether an abduction was consensual by saying the words *haers dancks ender haers wille*. However, the records also suggest that the reasons many women made that statement were often family pressure and social expectations regarding honour and property. This is a problem that makes it very difficult to assess the abductee's consent, which was more a passive form of agreement than an expression of free choice or personal will. This chapter has shown that an abducted woman's statement that she either did or did not consent could conceal massive pressure and changes of mind. The statement was often the result of multiple

120 Monique Vleeschouwers-Van Melkebeek has edited all the records on this case in Vleeschouwers-Van Melkebeek, 'Mortificata est'.

considerations, negotiations, and discussions between and within families. Historians must not forget to distinguish between the legal categories of abduction and the litigation stories produced to fit these categories, on the one hand, and the social reality on the other. The complex consent descriptions and interpretations suggest a medieval awareness of a spectrum of consent. Although connecting marriage-making with ideas of free will and active choice, the records reveal that abductions legally labelled as consensual could concern far more passive interpretations of consent. Consent did not equal choice.

This chapter has exposed the dangers of making strong statements about agency, victimhood, and family relations based on brief legal records made in the aftermath of an abduction. Immediately after the abduction, it might be reported and/or recorded as violent or coerced, an abductee might be disinherited by her guardians, or the abductee might formally declare her consent. However, the evidence shows that victims of coerced abductions nevertheless married the perpetrator, that an abductee could restore the rights to her inheritance as Amelkin did, or that an abduction initially registered as consensual could nevertheless end in years of legal battle, or even in annulment or separation. Since an extremely wide range of societal areas, from marriage and sex to honour and property, intersect at abduction, and many individuals and groups of people were involved actively or passively, abductions could be particularly challenging to handle. Abductions and their aftermaths were not isolated singular events, but rather processes with variable outcomes and vulnerable periods of negotiation. The small proportion of cases discussed at the end of this chapter reveals the complexity of the post-abduction situation, most often dealt with behind closed doors. Even when the authorities punished the abductor, he had often already married the abductee clandestinely. An abduction thus had consequences that a court case could not efface, which led many families to feel that they had no choice other than to accept the abductor and abductee's marriage. The only thing they could do to reverse the effect of the disadvantageous marriage contracted by their daughter or niece was to disinherit her 'as if she were dead', a highly exceptional penalty that will be discussed further in the next chapter. Abductions were sensitive affairs that those involved preferred to deal with discretely. Most of the doors behind which these settlements were made were thus closed to contemporaries and remain so for historians trying to research these settlements today. Only when one of the people involved, such as Amelkin Jacops, refused to accept the settlement reached after abduction do we have access to the post-abduction situation and see how delicate and challenging the situation

was that had to be navigated. For many women and their families, marrying the abductor thus seems to have been a way of making the best out of an unwelcome situation.

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4. What Authorities Did to Help

Abstract
Chapter 4 examines the judicial settlement of abduction with matrimonial intent by looking at penalties issued by secular and ecclesiastical authorities. It contends that although abductions could certainly have serious legal consequences, most abductors got out relatively easily. Judges and especially bailiffs had some room to manoeuvre when promulgating penalties and they did not adopt uniform policies across the Low Countries or over the fifteenth century. People judged by these officials, however, also had space to interpret the law. Their interactions with the law reveal an impressive degree of legal knowledge.

Keywords: consistory courts, secular courts, litigation, crime, legal strategy

In Pamele, a town near Oudenaarde in Flanders, around 1438, Zeger Tristam abducted thirteen-year-old Catherine tsRijnlanders. The surviving plea describes it as a coerced abduction perpetrated with the help of several armed accomplices. After Catherine had been taken and forced to exchange promises of marriage, she went to the bailiff of Oudenaarde and some of the aldermen of Pamele to press charges against Zeger and his accomplices. The plea was successful, as the local authorities banished Zeger from Flanders for violent abduction. After this turbulent episode in her young life, Catherine moved on and married another man named Jan, identified as 'the bastard of Wadripont'. Catherine and Jan did not follow canon procedure, but contracted a so-called presumptive marriage, a clandestine marriage not by words of present consent but through exchanging words of future consent, which constituted a betrothal, and having sexual intercourse afterwards.[1] The prosecutor of the consistory court of Cambrai diocese, referred to as the promotor, got wind of this case and summoned them. He also summoned Zeger, Catherine's abductor, with whom she had exchanged marital promises

1 Vleeschouwers-Van Melkebeek, 'Introduction', *Le tribunal de l'officialité*, 39–40.

Delameillieure, C., *Abduction, Marriage, and Consent in the Late Medieval Low Countries*. Amsterdam: Amsterdam University Press, 2024
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earlier. The judge of the Cambrai court annulled the betrothal of Catherine and Zeger for reasons of coercion and ordered Catherine and Jan to officially celebrate their clandestine marriage. All three parties had to make amends and pay for the promotor's legal costs.[2]

This case shows the actions of different authorities in the aftermath of an abduction. Brundage has argued that consistory courts held exclusive competence in all matters regarding marriage, family, and sexual behaviour, but many scholars have nuanced that thesis.[3] While ecclesiastical and secular authorities did have separate areas of jurisdiction, respectively the validity of marriage and marriage's social and financial consequences, there could be overlap in practice.[4] Abduction was particularly prone to overlapping jurisdictions because it raised issues regarding consent and coercion that concerned the church and property-related matters that fell under the purview of secular authorities. In the case above, the involvement of these authorities seems to have been complementary. Each authority knew its task and clearly defined its jurisdiction; the secular official punished the man for seizing a minor against her will, and the consistory court official dealt with the alleged marriage between abductor and abductee and the latter's marriage to another man.

Moreover, the case above shows legal procedures initiated by a private party and by the authorities. Catherine tsRijnlanders pressed charges against Zeger with local authorities, while the Cambrai prosecutor initiated a case against Catherine and the two men alleged to be involved with her. Both ecclesiastical and secular courts dealt with *ex officio* cases and private complaints. The line between lawsuits and penal cases was not rigid. Private parties often assisted promotors, and the bailiff, who acted as prosecutor in city courts, often initiated cases based on tips from individuals. Historians long ago moved away from the concept that justice was a top-down process between authorities and their citizens. Instead, historians look at the experiences of men and women interacting with the law and at the interplay between the courts and the societies in which they were embedded. Zeger was punished after Catherine spoke to the local authorities. It is significant, however, that Catherine did not appeal to the consistory court to annul her betrothal to her abductor, even though his use of force and fear was an impediment according to canon law. Instead, she followed another strategy

2 Vleeschouwers-Van Melkebeek, *Registres de sentences*, no. 64, 30 (15 November 1438).

3 Brundage, *Medieval canon law*, 72; Naessens, 'Sexuality in Court'; Smail, *The Consumption of Justice*, 41.

4 Reynolds, *How Marriage Became One of the Sacraments*, 35.

to avoid the enforcement of her betrothal to the abductor, the strategy of entering into a second alliance, a frequent tactic to escape previous partners and forced marriages, as this chapter will show. Deploying this strategy of contracting a second alliance suggests that Catherine had a good knowledge of the judicial system.

A common historiographical conclusion is that the focus on consent in consistory courts gave women and, by extension, young people stronger voices in choosing a spouse.[5] Secular courts, especially local ones, consisted of the community's prominent men who favoured secular norms, property, and status over canon law principles.[6] One problem with these conclusions is the underlying premise that there was a sharp contrast between what young people or individuals wanted and what their parents and families wanted. As shown in Chapter 2, many abductions were more complicated than a simple binary of individuals against the family. Moreover, scholars have softened the traditional argument that there was a competition between secular and ecclesiastical authorities over marriage.[7] It was also possible for young people to bring lawsuits in city courts and win against older relatives, even in respectable elite families.[8] On the opposite end, canonists did not intend that consent would entail free choice. Relatives could still influence spouses' actions in consistory courts.[9] Because Catherine in the above case was so young, she may not have decided to contract a second marriage entirely by herself. Fearing that the authorities might acknowledge the marriage to her abductor, members of her family may have encouraged her to do so.

This chapter looks at authoritative bodies and how they dealt with cases of abduction. Analysis of the penalties authorities issued and the abduction marriages they enforced or dissolved clarifies views and policies in the late medieval Low Countries on abduction followed by subsequent marriage. This chapter starts by looking at secular jurisdictions and then examines the practical application of urban and comital/ducal legal texts. This is followed by an analysis of the consistory courts' actions on abduction,

5 For a brief discussion on this debate, see Beaulande-Barraud and Charageat, *Les officialités dans l'Europe*, 19–20.

6 The medieval household structure was mirrored by the organization of local communities; both were governed by a male head of he houshold/prominent male governors and structured on patriarchal lines of authority, see McSheffrey, *Marriage, Sex, and Civic Culture,* 13, 105–6, 137.

7 In 1977, Duby described the relation as follows: *L'histoire du mariage en Occident est l'histoire du conflit entre deux pouvoirs: le pouvoir profane et le pouvoir sacré*, in Duby, 'Le mariage', 18.

8 Delameillieure and Haemers, 'Recalcitrant Brides and Grooms', 163–65.

9 Butler, 'I will never consent to be wedded with you!'; Beaulande-Barraud and Charageat, *Les officialités dans l'Europe*, 20; for a discussion of the presence, success of, and prejudice against female litigants in English consistory courts, see Goldberg, 'Gender and Matrimonial Litigation', 43–46.

a comparison of the types of abduction cases in each court's registers, differences between these courts, and significant jurisdictional patterns. Analysis of the verdicts shows that judges had room to deal with abduction cases in different ways, meaning that they had some flexibility to apply abduction laws in a variety of ways depending on the specific circumstances. However, abductors, abductees, and their families were aware of the judges' latitude in interpretation and employed certain strategies, both in and out of court, to obtain the legal outcome they preferred.

Secular authorities: between repression and reconciliation

Secular authorities issued a variety of penalties for abduction, ranging from a fine of five pounds for consensual abduction in Vier Ambachten and Land van Waas to pilgrimages to Cyprus in Leuven and even execution by decapitation. Chapter 3 pointed out that the abductee's consent (what this constituted legally) could set the abductors free; bailiff's accounts and pardon letters mention consent often as an extenuating factor. Looking more deeply into authorities' punishments for abductions, either *ex officio* or based on private complaints, reveals the ambiguity of their approach. The severe, menacing language of the legislative texts gives way in practice to a more utilitarian attitude. Although they occasionally awarded severe punishments, the secular authorities settled many abductions amicably and waived penalties. Some abductors successfully applied for a state pardon.

Penalties for abductors, accomplices, and abductees

In the late Middle Ages, a trial proceeded by public prosecution.[10] The bailiff initiated a case to be judged by the aldermen. A private complaint was preferable, but not required. The bailiff, a state official who represented the duke or count locally, had the power to charge suspects and force them to appear in court without a private complaint.[11] In Ghent, however, the bailiff never acquired this right. This city prided itself on its independence from sovereign authority and wanted to limit the influence of the count as much as possible.[12] The Ghent 1438 law, however, specifically stated

10 Maes, *Vijf eeuwen stedelijk strafrecht*, 93–107; Van Caenegem, *Geschiedenis van het strafprocesrecht*, 1–2.

11 See for example the *ex officio* case against Johanna Pypenpoys in Leuven, discussed in Chapter 2.

12 Van Rompaey, *Het grafelijk baljuwsambt*, 272–73.

Figure 3: Sentences and compositions for abductors in the bailiff's accounts and sentence books of Antwerp, Leuven, and the city (C) and districts (Q) of Ghent (15th c.)

that city officials were to bring *ex officio* charges in cases of abduction if the abductee or her relatives failed to file a complaint themselves.[13] In all three cities, court cases about abduction could therefore be initiated both by the authorities and by a private party.

Figure 3 shows the penalties for all 625 abductors, chief instigators, and active and passive accomplices, listed in the bailiffs' accounts and registers of final sentences of each city and district.[14] Before addressing and interpreting the penalties, the following points should be considered. In the first place, a small proportion of the category labelled 'unknown' were abductors whose punishments I was not able to track down. In a few cases, the penalty was illegible because of damage to the document or faded ink. In the majority of these cases, however, the penalties are unknown because the records simply did not specify them. For example, some documents state the punishment for only one person, while mentioning several other abductors who were involved. Secondly, the category of 'other' contains eight abductors acquitted by the aldermen, nine abductors declared outlaws and fourteen abductors

13 Prevenier, *Prinsen en poorters*, 286; see also Chapter 1.

14 This figure is based on the data about 83 abductors in Antwerp, 168 in Leuven, 153 in Ghent, and 221 in the districts in the quarter of Ghent. Whilst the bailiffs' accounts cover the whole fifteenth century, the Ghent sentence books cover the period between 1472–1537, the Leuven one between 1398–1422, and the Antwerp one between 1412–1515. 'Ghent (C)' refers to the records from the city of Ghent, whereas 'Ghent (Q)' includes cases from Land van Waas and Vier Ambachten, two districts in the Ghent quarter. For the distinction between active and passive accomplices, see Chapter 3.

who received pardons without the sources reporting whether they were ever tried and what their punishments would have been. A third note is that Figure 3 only contains data from the sentence books and bailiff's accounts, which are organized differently in each city. It does not include the small number of lawsuits found in the aldermen's registers because, unlike the sentence books and bailiff's accounts, there are no complete surveys of fifteenth-century aldermen's registers for all these cities.

Finally, the differences between the cities and the Land van Waas and Vier Ambachten districts are largely related to the source material used. Even though the proportion of compositions is much higher in the districts in the quarter of Ghent than in the cities, this probably does not represent an actual difference. After all, for the Ghent districts, there are no surviving registers of final sentences, and the bailiff's accounts are the only sources. Although the bailiff's accounts frequently include reports of cases punished by the aldermen, which never involved composition, this difference in sources nevertheless would cause different results. Registers containing the aldermen's final sentences are available for the cities of Ghent, Antwerp, and Leuven and yield additional insight into cases that were settled in court. However, these sentence books with the aldermen's verdicts are not available for the whole fifteenth century, a gap that leads to divergent results. For example, in Leuven, *Dbedevaertboeck* only covers the period between 1398 and 1422, while the Ghent *Ballincbouc* records court cases from 1472 through 1537, and the Antwerp *Correctieboeck* covers the years 1412 through 1515. These gaps would distort the results. Another inconsistency is that there are only 83 abductors in the Antwerp records, while Leuven has 168 and Ghent has 153 abductors. The bailiff's accounts of the districts in the quarter of Ghent list 221 abductors. Needless to say, even though these quantitative differences do not necessarily represent differences in the frequency of abductions, they have an impact on the results in Figure 3. Furthermore, it is important to remember that many abductions were settled peacefully outside of court, without any interference by the bailiff as discussed earlier.

Several abductions were tried in court, where the aldermen applied the laws against abduction and sentenced the perpetrators to death, banishment, or pilgrimage. Very few cases ended with the abductor's execution; three men in Leuven were executed, six in the city and quarter of Ghent, and four in Antwerp. In Antwerp, all four men were decapitated for the same abduction. The reference to this case in the 1482/83 bailiff's account is even more concise than normal: 'About Peter den Necker of Ghent, arrested for abduction, after his defence before the bench of the aldermen from which he was turned over to the lord by their sentence and decapitated'. After this,

three other lines, one per accomplice, show that Peter's two brothers and his nephew received the same severe penalty. They had 'helped to carry out the aforementioned deed'.[15] In Leuven, Henryc Oege was executed for abducting the daughter of Gielijs Stoeprox. Heynric was not put to death by decapitation but by hanging. Because this method of execution was extremely degrading, it was reserved for the most disgraceful offenders.[16] Henric's accomplices received other penalties. While one of them was hiding abroad, the other two were both sent on two pilgrimages, one to Rome and one to Strasburg. One of them successfully made a deal with the bailiff that replaced the sentence with a composition. According to the record, the other offender had already completed his first pilgrimage and was to leave for the second to Strasbourg.[17] This case also lacks a description of the context, which might explain why Henric was hanged. The missing context might be connected to the increase in the number of punishments for abduction in this period, a matter I will return to below. If the figure were to include all cases of 'possible abduction', the proportion of offenders who were executed would increase slightly.[18] This is not surprising since some of these cases were probably rapes, not abductions. The secular courts of the late medieval Low Countries rarely punished rape with execution, yet more rapists than abductors met that fate.[19]

The records clearly show a link between the laws governing a city or region and the penalties its aldermen applied. In Leuven, the most common penalty issued by the aldermen for abduction was a pilgrimage.[20] The city's 1396 legal text prescribed a pilgrimage to Cyprus for those convicted of abduction. In practice, however, the aldermen did not always choose Cyprus as the destination. Some abductors were sent to closer destinations,

15 SAB, CC, no. 12904, December 1482–June 1483, fol. 46r: 'Van Peeteren den Necker van Ghendt, gevangen zijnde van schaecke. Ter vierschaeren na zijns selfs verlijden, aensprake, ende verantworden, vonisselic den Here toegewesen is denselven mids den voirscreven redene doen richten metten zweerde'.

16 Maes, *Vijf eeuwen stedelijk strafrecht*, 394–401; Van Caenegem, *Geschiedenis van het strafprocesrecht*, 161–63.

17 SAB, CC, no. 12656, December 1457–June 1458, fol. 414r.

18 About this category of 'possible abductions', see Introduction, page 33.

19 Vanhemelryck, *De criminaliteit in de ammanie van Brussel*, 149–53; Verwerft, 'De beul in het markizaat van Antwerpen', 117; Van Eetveld, 'Vrouwencriminaliteit in Gent', 103; Delport, 'Misdadigheid in Leuven', 161–66.

20 The large number of pilgrimages in Leuven can partially be explained by the particular focus of this city's sentence book. However, also the Leuven bailiff's accounts contain many references to pilgrimage penalties which indicates that it was a frequent penalty in this city. About pilgrimage as a penalty, see Van Herwaarden, *Opgelegde bedevaarten*; Rousseaux, 'Le pèlerinage judiciaire'.

such as Santiago de Compostela, Rome, Rocamadour, Aachen, Cologne, Trier, and Paris. As the last example demonstrated, the aldermen ordered some abductors to make multiple, separate pilgrimages. For example, the aldermen of Leuven ordered one abductor to make three pilgrimages, to Cyprus, Santiago de Compostela, and Rocamadour.[21] To be allowed back into the city of Leuven, he had to present a certificate that proved he had arrived in all three places. He could not travel from one to the next but was to return to Leuven after his first trip to Cyprus to present his certificate to the aldermen before he could leave for his next journey to Compostela. Although convicts regularly bought off these penalties, Low Countries' sentence books and bailiffs' accounts occasionally include these certificates, indicating that many perpetrators did in fact undertake these pilgrimages. Although I have not found a legal text for Antwerp specifically addressing abduction, its aldermen also sentenced many offenders to pilgrimages. However, in agreement with Ghent law, the aldermen of this city usually banished abductors, for three years if the abduction was consensual and for fifty years if it had been violent.[22] Sometimes, the aldermen added other penalties, such as levying a fine or combining banishment and pilgrimage, to the most common penalties of banishment or pilgrimage. The combination of penalties was especially frequent in Antwerp. For example, the aldermen sentenced the chief perpetrator Woyte van Roye to harsh punishment for abducting Gertruyd Papen, 'a young virgin' who lived in the Antwerp beguinage. He was sent on a pilgrimage to Cyprus where he had to stay for twenty-five years. If he came back to Brabant before that term ended, he would be executed.[23] Also in Antwerp, Willeken Bode had to go on pilgrimage to the Basilica of Saint Nicolas in Bari, stay abroad for one year, and pay a fine, all for complicity in an abduction.[24] The latitude they exercised in combining penalties and assigning various pilgrimage destinations reveals that the judges had a certain leeway to deal with abduction cases differently based on the specific context of each case.[25]

21 SAB, CC, no. 12654, December 1418–June 1419, fol. 190v.

22 About the punishment of banishment in the late Middle Ages, see Zaremska, *Les bannis*; Jacob, 'Bannissement et rite de la langue'; Demaret, 'Du banissement à la peine de mort'.

23 FAA, V, no. 234, fol. 58r (1 March 1435). In Ghent, a similar abduction of a young virgin occurred. Two men took the girl who was peacefully walking near the wooden bridge at Sint-Baafs against her will while being drunk. The men were banished from Flanders for fifty years and had to undertake two pilgrimages each, to Rome and Santiago de Compostela, see CAG, S 212, no. 1, fol. 74r (26 May 1484).

24 SAB, CC, no. 12902, June–December 1411, fol. 120r.

25 On the ambiguity of legal texts, which led to disputes and variation in settlement in sixteenth-century Castile, see Kagan, *Lawsuits and Litigants*, 16–23.

The figure also reveals that many abductions never came under the aldermen's judgement. The records show that a significant share of all abduction cases registered in the bailiff's accounts and sentence books were settled through the composition mechanism.[26] As the introduction explains, the bailiff did not bring to court every case that came to his attention. After examining the case, he could decide to handle the offence out of court. Although, strictly speaking, he was not part of the judiciary system, the bailiff had one important power that in practice gave him decision-making authority over settling offences. He had the power to arrange a financial settlement (called 'composition' or *compositie* in the records) with suspects who thereby avoided prosecution. This power was restricted so that the bailiff could not exercise it arbitrarily. One example is that, in theory, the bailiff could not allow an amicable settlement if a private party had filed a complaint.[27] He had to move forward with the prosecution and prepare a case to be presented to the aldermen. However, bailiffs sometimes did the opposite for cases that lacked sufficient proof, or those that did not fit the legal definition of the crime but were considered inappropriate, such as consensual abductions of adult women.[28] The bailiff made a financial settlement with suspects if no one had filed a legal complaint, if the offender had reconciled with the other party, or if lack of evidence might mean that the judges would acquit the accused.[29] In addition to these criteria, the bailiff often justified the settlement out of court with subjective extenuating circumstances. Chapters 2 and 3 feature many of these, such as the abductee's consent, the subsequent marriage of abductor and abductee that made the offence 'silly', or the poverty of the perpetrator and his need to care for his young children.[30] Another common reason given was that the accused's family and friends had spoken to the bailiff asking him to not bring the case to court or to rescind the penalty already imposed by the aldermen. For example, after Merten Heynen had assisted Dierijc Jan Dierijcszone with abducting the widow of late Jan Mees near Antwerp, his friends sought out the bailiff and 'begged' him to settle through composition.[31] These examples show the power and influence of social networks aiming to restore public peace as quickly and smoothly as possible after a breach.

26 See Figure 3.

27 Van Rompaey, 'Het compositierecht in Vlaanderen', 49–50.

28 See Chapters 2 and 3.

29 Van Rompaey, 'Het compositierecht in Vlaanderen', 19–51; Dupont, 'Le temps des compositions (II)', 60.

30 Van Rompaey, 'Het compositierecht in Vlaanderen', 55–56.

31 SAB, CC, no. 12903, fol. 64v, 74v–75r.

Although the majority of composition settlements were made for offences that had never reached a judge, some were made after the aldermen had pronounced a sentence. In Leuven, the bailiff did have the power to reverse sentences. Some abductors in the composition category thus had already been sentenced in court but settled with the bailiff afterwards, which voided the aldermen's sentence.[32] The lower incidence of composition in Ghent and the resulting high proportion of sentences is striking. The cause of the discrepancy was that the bailiff had a weaker position in Ghent because the citizens preferred to have their aldermen adjudicate abduction cases instead of a representative of the count. Still, not all abductors who had been banished by the Ghent aldermen carried out their sentence. In the Ghent *Ballincbouc* that lists banished offenders, several names have been crossed out, indicating that the banishment term had ended, the abductor had returned prematurely, or the penalty was rescinded by a pardon or payment of a fee or after an important political event, such as a sovereign's joyous entry.[33] Managing abductions with the composition mechanism and altering severe penalties into lighter sentences does not mean that abductors 'got away' with their behaviour. In the late medieval Low Countries, authorities often applied the widely accepted method of composition and regarded it as a more effective penalty than corporal punishment.[34]

It is not a surprise that the aldermen of Land van Waas and Vier Ambachten ordered sixteen abductors to pay a fine since their law included this penalty. As discussed in Chapter 1, legal provisions for consensual abduction in these Ghent districts seem mild in comparison to the terms in the Ghent legal texts. In the districts, legal texts merely assigned a fine of five pounds for the consensual abduction of a minor. The following examples prove that mild treatment of abduction in law also applied in fifteenth-century legal practice. The aldermen of Vier Ambachten sentenced Pieter Deye to pay a five-pound fine *pour avoir emmennee et éspousee* Betkin Caulben, an orphan, against the will of her guardians. The brief deed states that

32 For example, the Leuven aldermen sentenced Wouter van Huldenberg with a pilgrimage to Cyprus for seizing a woman named Ydeke and taking her along the Minderbroederstraat to a tavern. However, the bailiff 'saved him from the severity of justice' and replaced this sentence with a composition that Wouter paid over two instalments. See SAB, CC, no. 12659, December 1484–June 1485, fol. 116v–117r.

33 Crabbé, 'Beledigingen', 173; Plovie, '"Ghij en waert noeyt goed voor de stede van Ghent!"', 20.

34 Dupont, 'Le temps des compositions (II)', 60. In many European regions, harsh corporal punishments were often replaced by financial ones, see Skoda, 'Crime and Law', 198.

the offence was abduction, punishable by the five-pound fine according to the district's charter (*lequel meffait l'en dist estre en Flammen 'scaec', dont selont le Keure du Pays, l'amende est V lb.*).[35] In 1467, the aldermen of Land van Waas meted out the same penalty to Pieter De Smet for abducting Liesbette Vander Heyde with her consent.[36] The lighter penalty for consensual abduction applied in both Land van Waas and Vier Ambachten for the entire fifteenth century. Since there are no surviving sentence books, the only reason that these sentences are now known is that they were mentioned in bailiffs' accounts. It is quite likely that the aldermen settled more consensual abductions in this way. One significant Vier Ambachten case suggests that the bailiff did not always agree with this rather mild punishment. Three men, the brothers Jehan and Pierre Agneeten, and another man named Hue Agneeten, had abducted Pasquine Vandewinkel, who had granted her consent. Afterwards, Pierre and Pasquine married publicly before a group of respectable people, including the girl's father. The bailiff's record states that he feared the aldermen would punish this case as a consensual abduction, with a fine of 'only five pounds' (*seulement V. lb.*). Because he did not have enough evidence to take the case to court as a violent abduction, he settled it with a composition forty times higher than the prescribed fine of five pounds.[37] While the city aldermen of Ghent frequently sentenced abductors to a three-year banishment (in consensual cases) and could—in theory—disinherit abductees for allowing their abduction and marrying the abductor, perpetrators in Land van Waas and Vier Ambachten who committed the same act only had to pay a fine of five pounds. The difference in lawmakers' treatment of abduction between Ghent and less urbanized districts nearby, discussed in Chapter 1, was therefore borne out by an actual difference in legal practice between the two jurisdictions.

Most legal texts stipulated that abducted women should also be sentenced. According to law, minors who fled their parents' authority and married their abductors and adult women who were abducted against their will but still married the attackers were to be disinherited. In the late medieval period, lawmakers in other regions of Europe made similarly draconian legal proclamations, but historians have noted that judges rarely applied the penalty of disinheritance. This pattern seems to hold true for the Low Countries, too. I found no actual examples of disinheritance in the Leuven

35 SAB, CC, no. 14111, 1419 January–1420 March, fol. 195v.

36 SAB, CC, no. 14117, 1467, fol. 93r.

37 SAB, CC, no. 14111, January 1419–May 1421, fol. 199v.

records.[38] In contrast, Monique Vleeschouwers-Van Melkebeek located eight civil lawsuits in the registers of the *Keure* aldermen, while Marianne Danneel added two other cases from the registers of the *Gedele*. I found one example of disinheritance in Antwerp.[39] Disinheriting a woman involved a breach of family unity. Moreover, disinheriting a child directly contradicted the principle of equal inheritance enshrined in most Low Countries cities. Canonists also expressed their disapproval of parents disinheriting their children for marrying against their wishes.[40] This sentiment that disinheritance was an extreme penalty must have existed in families in the late medieval Low Countries. The few disinheritance cases that can be found involved the wealthiest elite families, which strongly suggests that the more assets were at stake, the lower the threshold potential heirs needed to reach to turn to such an extreme measure. For examples, the relatives of the adult woman, Johanna Van Saemslacht, whose case will be discussed in detail below, successfully filed for Johanna's disinheritance In Ghent.[41] The plaintiffs presented what had happened as a violent assault; while Johanna claimed that the abduction had been consensual from the start, thereby hoping to maintain possession of her property. The final verdict connected to the specific requirements of the legal texts by repeating that Johanna had been abducted 'with force and while crying for help' (*ontscake met forsche ende hulpgheroupe*) but then stayed with the main perpetrator afterwards.[42] Favouring the relatives, the aldermen adopted the plaintiffs' characterization of the offence as 'violent' and disinherited Johanna 'as if she were dead'.

In other, similar pleas for disinheritance initiated by relatives, the plaintiffs do not contest that the abductee had consented to the abduction. They often include quotes from legal texts such as 'women who were still under the care of their parents or guardians cannot marry via an abduction against their families' wishes'.[43] This means that the charged women in these cases

38 In Antwerp, one record with information about a partial disinheritance of the abductee is preserved in the aldermen registers. However, the authorities were not involved in this as it is registered as a private contract between the abductee and her parents, see FAA, SR, no. 20, fol. 56v (11 June 1433). After marrying Laureys Jacob Laureyszone against her parents' will, Lijsbeth van Kuyck entered into a contract with them that led to the suspension of her rights to her inheritance as long as her abductor/husband lived.

39 Vleeschouwers-Van Melkebeek, 'Mortificata est', 360–61, n. 12; Danneel, *Weduwen en wezen*, 117, n. 440.

40 Dunn, *Stolen Women*, 117; Brundage, *Law, Sex, and Christian Society*, 443.

41 CAG, S 301, no. 57, fol. 174v (28 April 1484).

42 Ibid.

43 See example in CAG, S 301, no. 43, fol. 138rv (30 April 1455).

were probably still minors, an assumption supported by the ages included for some of the abductees. Two women were approximately twelve and thirteen years old at the time of their abductions. In 1456, Elisabeth van Massemen, an abductee whose defence was recorded, makes no mention of her consent as a reason that she should not be disinherited, as Johanna Van Saemslacht had. This might indicate that Elisabeth was a minor. Her consent would not have made any difference. A fascinating case among these consensual abductions of minors is the one of Margriet tsGraven, since it contains evidence about the connection between consent and pardon, as well as evidence that the consensual abduction of minors was still considered to be an illegal offence. There are two surviving acts concerning this case. Margriet was abducted by Arthur Heyman. In the first act, on 8 January 1463, immediately after the abduction, Margriet declared her consent before the aldermen of Ghent. As a result, two men whom Margriets' father claimed had acted as the abductor's accomplices escaped punishment ('the aforementioned Jacop and Jan through the aforementioned sentence of the aldermen had been acquitted by the declaration of the aforementioned Margrite').[44] On 11 October in the same year, however, Margriet's father filed charges against his daughter and successfully obtained her disinheritance. Arthur was banished from Flanders for three years.[45] This outcome and the plea in the second court case tallies with the other cases in which the aldermen punished consensual abductions of minors with disinheritance and banishment. However, the outcome of the first court case shows that even the consent of minor abductees could impact the judicial outcome and serve to justify a lighter punishment or none at all.

Beyond this small number of cases ending in property loss, the judges awarded other penalties that held some women as accountable as their abductors. For example, Joos Rueghe had married Callekin Van Walle against the will of her parents and friends. The record does not state that Joos had to pay a composition. Instead, it seems that they were held jointly responsible and had to pay a composition as a married couple (*le bailli 'les' a laissé composé*).[46] Joint responsibility was sometimes the decision in the abductions of married women as well. For example, an anonymous Leuven woman left her husband to go away with Hendrick Dekens. She had to pay

44 CAG, S 301, no. 47, fol. 102r (8 July 1463): 'So weten de voorscreven Jacop ende Jan bij dat tvonesse van scepene voorscreven volcommen was bij der verclaerste van der voorscreven Magrite ontsleghen van der voorscreven zelven'.

45 CAG, S 301, no. 47, fol. 118r (11 October 1463).

46 SAB, CC, no. 14115, January–May 1446, fol. 8r.

a composition.[47] There is no distinction between abduction and adultery here. Walter Prevenier discusses a unique pardon letter granted to both the abductor and abductee, who had written a letter hoping for remission together as a couple.[48]

In the Low Countries, as in many other European regions, every subject of the duke or count had the right to ask him for pardon by mouth or written letter.[49] Prevenier and Arnade's forthcoming edition of a group of pardon letters concerning forced marriages or other violence against women contains approximately thirty letters dated between 1387 and 1501 that deal with abduction for marriage in the County of Flanders. This low number reveals that people sentenced for abduction rarely applied for pardons. In most of these letters, abductors requested pardon, but there were a couple of cases of an abductee's relatives who had murdered the abductor.[50] Although most pardons were for premeditated murder or involuntary manslaughter, perpetrators could ask to be pardoned for any offence, in theory. If the duke or count granted the abductor's request for pardon, that cancelled the penalties already imposed by local courts and cleared him of all charges. The pardon restored the abductors to honourable status and reinstated their reputation, which protected them from retaliation by the victim's relatives or acquaintances.[51] In the letters located by Prevenier and Arnade, as in the city registers and bailiff's accounts, the state granted pardons to abductors in clusters. While some years featured no pardons, for others there are multiple pardon letters. Since many abductions were ended in a friendly settlement or composition rather than stricter penalties, mostly those perpetrators who had already received a severe sentence or risked one applied for a pardon. The court had reasons for granting pardons, such as a monetary incentive (most petitioners had to pay for this procedure, at least if they had the money) and the desire to forge political alliances. However, the most important reason was probably the ability it gave the sovereign to portray himself as the supreme leader possessing greater authority than local governors.[52]

47 SAB, CC, no. 12659, December 1497–December 1500, fol. 360r.

48 See Prevenier's analysis of this abduction on the basis of the pardon letter in Prevenier, 'Huwelijk en clientele'.

49 Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 6–13.

50 For example, Philip the Good pardoned Ernoul Brangher, Jan Storem and Jehan Coupeland for killing Gauthier de Craywerc and Bert Le Busere, who had abducted a young woman who was about to be married from the Bruges beguinage, see ADN, B1681, fol. 23rv (July 1387).

51 Baatsen and De Meyer, 'Forging or Reflecting Multiple Identities?', 26–27.

52 Verreycken, 'The Power to Pardon', 7; Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 9–12, 52; Prevenier, 'The Two Faces of Pardon Jurisdiction'.

Authorities' ambiguous approaches

Some of the variations between law and practice derive from differences between cases since authorities considered some abductions more serious than others. Often, missing context makes it impossible to reconstruct the link between the penalty and the nature of the offence. Despite this caveat, the overwhelming impression is a contradiction between the severity of abduction in law and the tolerant attitude of legal practice. Compositions could even overrule sentences pronounced by the aldermen. Abductors could buy off banishments already imposed, as the crossed-out names in the *Ballincbouc* show. Criminal justice historians studying multiple regions have noted the discrepancy between law and legal practice.[53] As even the slightest breaches of peace could threaten social harmony and stability, many late medieval societies revolved completely around conflict management. The law was an instrument of maintaining the peace, and the authorities dealt with infractions to that law by prioritizing the smooth return to peace.[54] If the citizens involved had reconciled and the abduction did not cause further trouble, there was no point in bringing the case to court. It was better to make a composition or a private penalty agreement that would extract the required amends from the offenders.[55]

The figures below display a scattered pattern of abductions reported in small clusters rather than a balanced, consistent pattern throughout the fifteenth century.[56] Either abduction occurred more frequently, or the authorities prosecuted abductions more intensely in some years than in others. It has been argued that abduction occurred more frequently during periods of socioeconomic decline since families had a more desperate need for advantageous marriages.[57] Although there was a slight increase in abduction numbers during some crises, such as the late 1430s in Leuven, a period of plague and famine, the numbers are too low and scattered to support

53 Skoda, 'Crime and Law', 198; Rousseaux, 'Crime, Justice, and Society', 3–4; Dean, *Crime and Justice*, passim; Verreycken, 'The Power to Pardon', 6.

54 About the political ideas regarding conflict management, peace, unity, and harmony in the late medieval Low Countries, see Prevenier, *Prinsen en poorters*, 269, 278, 293; Dumolyn, 'Privileges and Novelties', 12–13; Boone and Haemers, 'Bien commun'; De Boodt, '"How One Shall Govern a City"', 10.

55 In late medieval Italy too, 'the practice of composing, rather than punishing, crimes was deeply engrained' says Dean, *Crime and Justice*, 20.

56 The figures (4, 5, 6) contain data from the bailiff accounts and sentence books in each city. For Ghent, however, I also included the aldermen registers of the *Keure* since these have been examined for the whole fifteenth century by Monique Van Melkebeek and Cyriel Vleeschouwers.

57 Berents, *Het werk van de vos*, 40; Prevenier, *Prinsen en poorters*, 191.

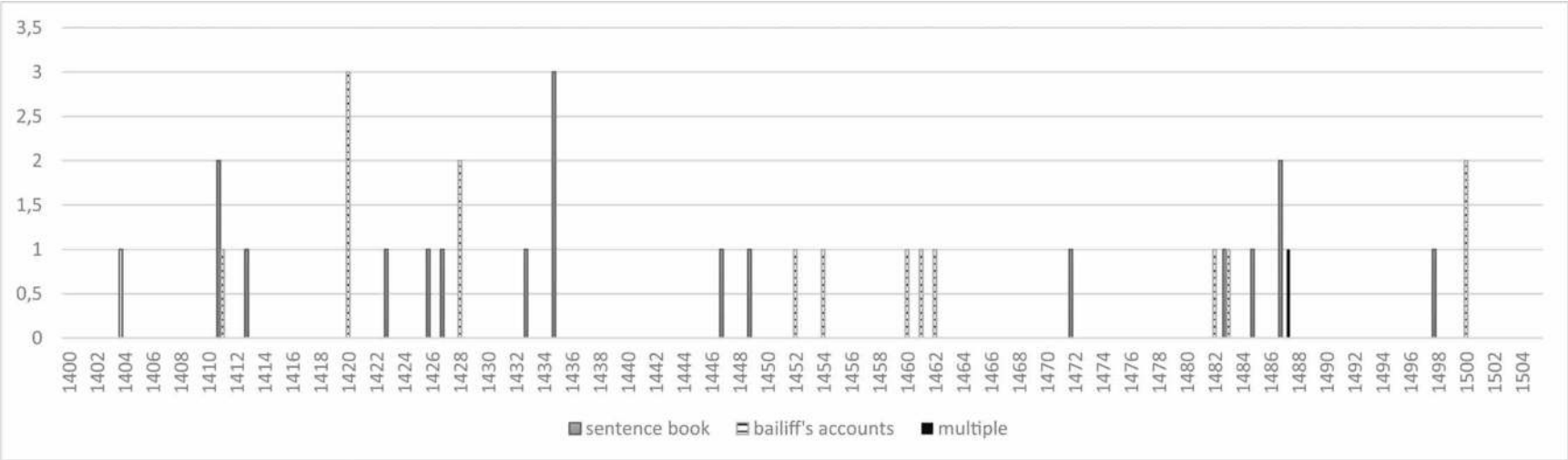

Figure 4: Number of abductions in the bailiff's accounts and sentence books of Antwerp (15th. c.)

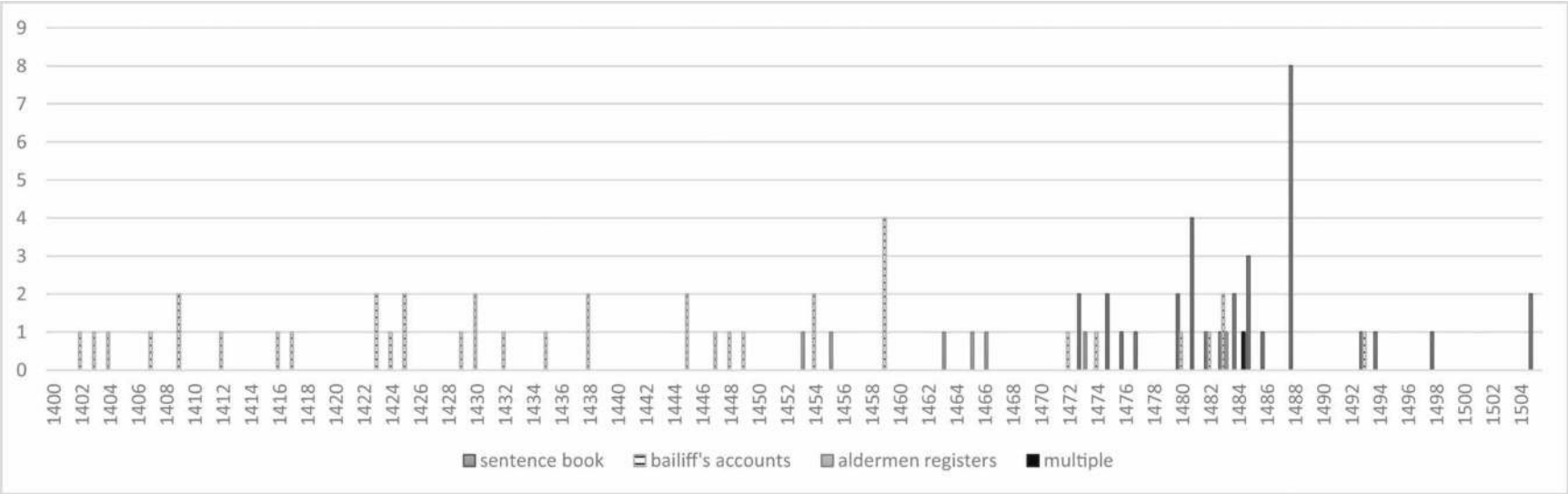

Figure 5: Number of abductions in registers of the aldermen and bailiff of Ghent (sentence book, bailiff's accounts, and registers of de Keure, 15th c.)

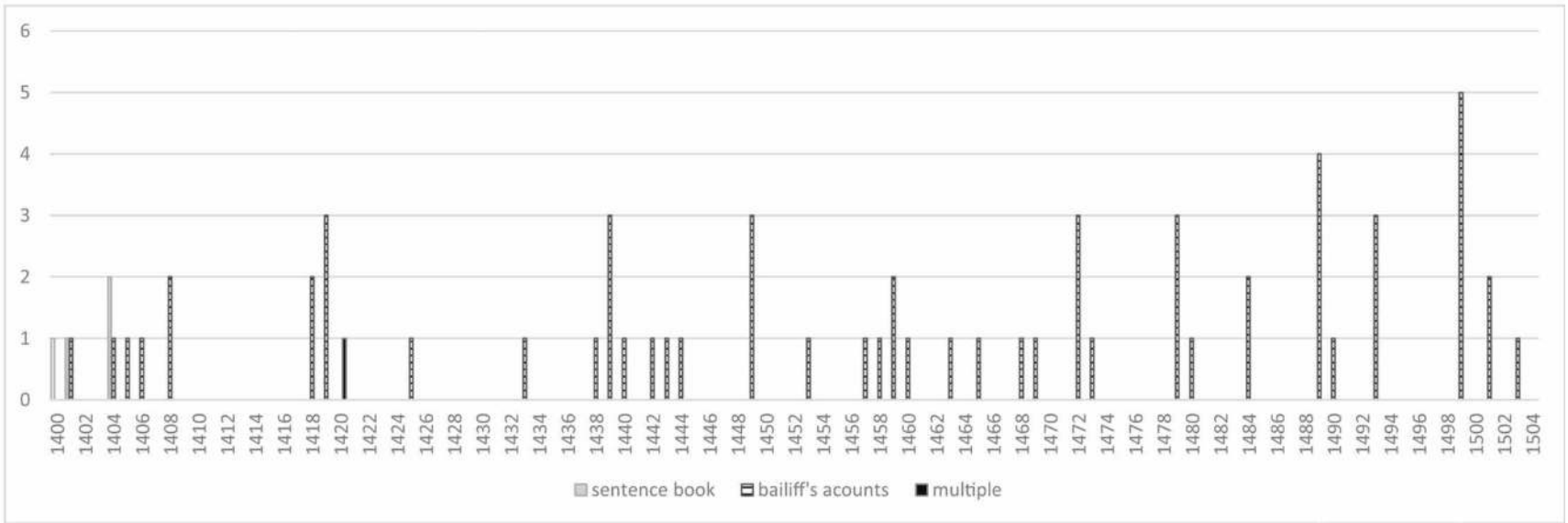

Figure 6: Number of abductions in the bailiff's accounts and sentence book of Leuven (15th c.)

this conclusion.[58] It is more likely that most abduction cases never went to court, because they were resolved by private conflict settlements, still the most predominant method of handling abduction in the fifteenth century. Some abductions are only known through pardon letters and never appear in the city bailiff's accounts or sentence books.[59] The incidents recorded in the bailiff's accounts and sentence books are only the tip of the iceberg; they do not include all the abductions that occurred and were managed by the authorities. Therefore, the small clusters, in Ghent and Antwerp around the 1480s and Leuven around the 1440s and the end of the 1450s, do reflect periods of increased social concern about abduction which led to waves of control. Studies using the same types of sources have similarly argued that these records reflect official attempts to control the behaviour of people.[60]

The sources demonstrate that the underlying purpose of punishing abductors was social discipline, warning people that abduction was a dishonourable act that was severely punished. The first indication is that authorities carried out death sentences during phases of increased prosecution. In Leuven, the 1443 bailiff's accounts state that Arndt van Comptich was executed for abducting Grieten Sleens. The bailiff paid the hangman to decapitate Arndt by the sword and put his decapitated body on a wheel so that all residents could see it.[61] The fact that several abductions were punished in the early 1440s may not have been a coincidence. The abovementioned abductor Heynric Oege was hung in 1458, another time featuring multiple abductions in the records. The Antwerp 1482–83 account reveals that the hangman decapitated four abductors. Figure 4 clearly shows an increase in punishments in the late 1470s and the 1480s in Antwerp. The small number of death sentences and the public spectacle of the executions suggests that authorities employed the extreme penalty when they wanted to suppress abductions by reminding their subjects of the possible consequences.

Moreover, the records frequently add that the abduction was 'a case of a very evil example'. The final sentences in the Ghent *Ballincbouc* often include this stipulation at the end of the verdict, which was probably read aloud in court. For example, Jan Vanderhulst was banished for fifty years from Flanders for taking away a young virgin 'which is a case of evil example' (*dwelke een*

58 Van Uytven, *Stadsfinanciën*, 584–85.

59 See for example the abduction of Katharina Meulenpas in Leuven: Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 153–58.

60 Boone, 'State Power and Illicit Sexuality', 152; Haemers and Delameillieure, 'Women and Contentious Speech', 331.

61 SAB, CC, no. 12655, December 1442–June 1443, 418rv; June-December 1443, fol. 432rv–439v. About these spectacular punishments, see Merback, *The Thief, the Cross and the Wheel*.

stic es van quaden exemple).[62] Although this formulaic closing sentence is a rather hollow statement added for the sake of performance and tradition, its frequent deployment is a symptom of justice's exemplary character. The authorities hoped that this punishment would discourage others.[63]

Finally, the spike in abduction cases comes before the promulgation of new legal texts, not after. There was no increase in abductions after a new legal text appeared. Lawmakers did not immediately apply the new laws, nor did they encourage citizens to press charges. However, there was an increase in abduction numbers in the years preceding the new legal texts. In 1406, the Leuven city government issued a text that cited a recent increase in abductions and called for prosecution and strict sentences for all cases. The Ghent aldermen issued a severe charter on abduction in 1438, which was echoed by the ducal charter of Philip the Good. In the records of actual practice in both cities, there was a rash of penalized abductions. Authorities might thus have reacted against what they thought was an increase in abductions by composing a new law that repeated that this offence was unacceptable. The 1406 text opens with 'now recently, more than at other times, great moral decay and evil have emerged and happened in the city of Leuven'.[64] The Ghent 1438 text reportedly came just after the scandalous abduction of a woman referred to as the widow Doedins. I have not found any further evidence about this case. Although these types of statements were commonly used to legitimize the promulgation of new laws, the prosecution rates in the years preceding suggest there is an element of truth to them.

If authorities were more agitated by abductions in some periods than in others, what factors caused that moral panic or the opposite, a lack of interest? One factor was that sensational cases involving prominent citizens triggered the authorities to pull out all the stops. The abduction of women from important families caused turmoil in the city. The authorities then took extreme measures to search for the perpetrators. In June 1469, when Christiaen Vander Gracht abducted the wealthy widow Anthonyne van Calckene of Ghent, the duke ordered a search and launched a call to action with trumpets. Anthonyne was found and quickly returned home.[65] While there is no definitive proof that this case caused the rise in penalized

62 CAG, S 212, no. 1, fol. 83v (13 February 1485).

63 Dean, *Crime and Justice*, 39; Dean, *Crime in Medieval Europe*, 126; Jones, *Gender and Petty Crime*, 200.

64 CAL, OA, no. 1258, fol. 17rv.

65 'My formidable lord made searches and calls with trumpets, and so much was done that on Monday the aforementioned woman came back to her house in Ghent' ('Mijn geduchte heere dedene zoucken ende uproepen met trompetten, ende wart zo vele ghedaen dat 's maendaeghs

abductions in the early 1470s, authorities launched a massive response to abductions that aroused social concern and must have been a topic of interest, speculation, and gossip throughout the city.

Moreover, lack of interest may reflect the occurrence of other crises or uprisings, which absorbed the authorities' attention and forced them to deal with offences related to political insurgence rather than moral matters. One example is the absence of abduction cases in the Leuven records in the mid-1470s. In 1477, there was an uprising of the Leuven craft guilds. Abductions were likely not high on the aldermen's agenda for the next few years. Instead, they focused on offences, such as subversive speech, that directly challenged the authority of those in charge.[66] In Ghent, the number of abduction cases decreased around 1450 and in the late 1460s, periods of increased protest against Philip the Good and Charles the Bold. However, there are tumultuous years that also featured abductions. During the 1480s the city of Ghent was absorbed by a rebellion against Maximilian.[67] Yet, according to Figure 5, there was also a spike in penalized abductions, especially in those punished by the aldermen. This suspicious contradiction is related to the rebellion's specific context. Ghent was fighting for its independence from sovereign authority. City government, therefore, committed itself to governing autonomously, taking every possible action to protect their privileges and retain their rights, such as the right to punish their citizens and residents.[68] This context explains the rise in abductions in Ghent's sentence book. The city governors emphasized their independence and aspirations for autonomy by exercising their right to punish abductors and abductees, as established by the comital charters of 1297 and 1438, without state interference. The political context could significantly impact the legal settlement of abductions and other offences.[69]

…, de zelve vrauwe weder quam te haren huus te Ghendt') in Fris ed., *Dagboek van Gent*, 223; CAG, S 301, no. 50, fol. 41rv (27 September 1469).

66 In the 1470s, the Leuven bailiff's accounts show an increased number of people punished for speaking 'evil words', see Haemers and Delameillieure, 'Women and Contentious Speech', 331.

67 About this uprising and the relation between Ghent and Maximilian, see Haemers, *De strijd om het regentschap*, 97–273.

68 Mariann Naessens noticed a general rise in prosecutions in the late 1470s and 1480s in Ghent and equally points towards Ghent's political situation as an explanation, in Naessens, 'Seksuele delicten', 155–56.

69 See for example the case study of Johanna Van Saemslacht discussed below. Prevenier elaborated on some well-documented abduction cases in the Low Countries and also showed the impact of politics on the case's settlement, see Prevenier, *Marriage and Social Mobility*; Prevenier, 'Huwelijk en clientele'.

Historians studying crime and morality in the late Middle Ages have often noted that authorities enforced a stricter moral code from the 1480s onwards. Historians have seen this for several phenomena and offered possible explanations.[70] Figures 4 and 5 also show an increase in abductions registered in the 1480s. In Ghent, the political context accounts for this change, and in both Ghent and Antwerp, figures dropped again in the 1490s. In Leuven, there is no cluster in the 1480s, but *Dbedevaertboeck* does not cover this period. Because the number of abductions per year is always low, explaining all the evolutions in the number of registered abductions is challenging. Whether authorities were concerned about penalizing abduction probably depended on a combination of context-specific factors in each city and perhaps on a general shift in morality starting in the late fifteenth century. The small number of abductions in the 1490s could be a consequence of the erosion of the composition mechanism. From the end of the fifteenth century onwards, the authorities chose more physical sanctions for offenders and made fewer monetary settlements. In the early modern period, the composition system almost completely disappeared.[71] However, the 1490s dip in numbers also exists in the aldermen's sentence books, which casts doubt on any causal connection between a stricter moral code and the rise in abduction numbers in the 1480s.

Despite increasing severity in legal stipulations against abduction in the late Middle Ages, most abductors who came into contact with justice officials 'got away' with a composition or a milder penalty that replaced a more severe one throughout the fifteenth century. Many men still had to go on pilgrimages to faraway countries, suffer banishment for a few years, or pay a significant sum of money, sometimes in several instalments if the financial burden was too heavy.[72] The records do reveal that abductors feared prosecution. Some abductors fled abroad. Many pardon letters state that the offender was writing from abroad; sentences and bailiff's accounts note the abductor's absence as well. For example, the Antwerp bailiff's accounts report that Henneken Goerne, 'a paltry servant', abducted a girl from her cousin's house because he wanted to marry her. The girl's friends followed and took her back, and Henneken fled abroad. He only came back after his friends had negotiated a composition settlement with the bailiff of

70 See discussion of these explanations and references in Chapter 1, pages 70–71.

71 Vrolijk, *Recht door gratie*, 105; Van Rompaey, 'Het compositierecht in Vlaanderen', 78. For a statistical analysis of the decline of the medieval tax-system in the sixteenth century in Nivelles, see De La Croix, Rousseaux, and Urbain, 'To fine or to punish'.

72 Banishment was far from a soft punishment according to Demaret, 'Du bannissement à la peine de mort', 87–88.

Antwerp.[73] The Ghent aldermen declared some abductors 'outlaws' because they did not appear in court, often because they were in hiding outside of the city. A case from Antwerp explicates the fear of being prosecuted for abduction. Henrick van Herenthout lured a young girl away 'with nice words'.[74] The girl followed him but soon realized that he only wanted 'his will' with her, and left him. Henrick grew afraid of being charged with violent abduction and proactively went to the Antwerp authorities to explain what had happened ('he thought that they would consider the abduction an abduction against the girl's will and consent').[75] Although most abductors received light penalties, a composition, fine, short pilgrimage, or banishment, some were punished harshly, especially if authorities ruled it a coerced abduction. People were aware of this risk; another reason the abductee's consent was so central to many legal narratives. In the worst-case scenario, the abductor risked execution, a gruelling pilgrimage, or lifelong banishment.

Ideally, the authorities only awarded these severe penalties to people who had perpetrated violent abductions against the women's will. Although there is some evidence in the legal records that consensual abductions received milder punishments, as discussed in the previous chapter, it is difficult to make sense of the rationale for the penalties awarded in some cases. Even though the abduction was reported as consensual, the Leuven hangman decapitated Arndt van Comptich. Moreover, since his 'victim' Grieten Sleens was abducted 'with her will', stayed with Arndt, and married him, the Leuven bailiff confiscated her property and made her pay a composition.[76] These penalties for both abductor and abductee were quite exceptional, especially given the reported consent. Details in the record indicate that friends of Grieten pressed charges and that Arndt and his accomplices were 'very poor', which might explain the penalties. Grieten was possibly a minor from a much wealthier family, who refused to accept an amicable settlement and asked for a harsh penalty. In other cases, however, such as the abduction of Woyeken Hagen, discussed at the start of this book, who refused to marry an 'ugly bearded man', the bailiff used the woman's consent as a factor to justify his decision to settle out of court, even though she was a minor and her parents complained.[77] Why the authorities imposed a penalty in a specific case does not always make sense

73 SAB, CC, no. 12903, June–December 1452, fol. 35r.
74 SAB, CC, no. 12903, June–December 1483, fol. 58v.
75 Ibid.
76 SAB, CC, no. 12655, June–December 1443, fol. 439v.
77 See discussion of this fascinating case in Introduction.

for modern commentators, who do not have access to all the details of the case, the background of the protagonists and their families, and the motives of the authorities, all of which could have impacted the settlement. The role of the bailiff is especially significant. Whereas aldermen had to apply the law, although they had some flexibility to adapt their penalties as the wide range of pilgrimage destinations indicates, the bailiff was much less bound by this legal framework. His scope of action was more restricted in Ghent than in the Brabantine cities, but he still had a lot of decision-making power. He could force people to pay him a composition merely based on a rumour that he may not even have believed himself, or he could 'save' people in his network from being tried in court.

Yet, the aldermen were not completely impartial either.[78] These men came from influential urban families to which many abductors and abductees also belonged. When Leuven Mayor Jasper Absoloens had to deal with the abduction of his own daughter in court, he might have been happy to see the perpetrator sent to Cyprus.[79] However, the Leuven bailiff reversed this penalty and allowed a composition. The split legal personality of the bailiff as a staunch enforcer of law and pragmatic composition collector appears also in the sovereign's performance. On the one hand, he issued severe laws against abduction. On the other, he pardoned convicted abductors. Especially when the abduction involved prominent families, every abduction case was about more than the man and woman who perpetrated the act. Issues of property, power, and honour complicated matters further and led to a wide range of penalties and settlements. The authorities were lawmakers and judges at the same time, which helps explain why they were sometimes influenced by the political context as they adjudicated offences. It is, therefore, necessary to take contextual factors, difficult as they are to connect, into account in analyzing how the authorities dealt with specific cases.

Johanna van Saemslacht

Several of these contextual factors influence the abduction case of Johanna van Saemslacht. Although there are many aspects of this abduction and its management that are difficult to explain, some context is known. Johanna

78 In a Ghent case, the abductee's relatives even publicly accused the aldermen of being impartial and therefore favouring the abductor, see Vleeschouwers-Van Melkebeek, 'Mortificata est', 368–71.

79 SAB, CC, no. 12656, June–December 1453, fol. 228v, 263rv.

was abducted by Perceval Triest, a Ghent citizen of noble birth, while she was travelling from Zaamslag to Ghent. Zaamslag was a fief ruled by the lords of Zaamslag. It formally belonged to *Vier Ambachten*. Johanna appears twice in the sources, once being sentenced by the aldermen in 1482 and then defending herself in a lawsuit initiated by her relatives in 1483. In the first record, Johanna was charged and convicted for a verbal transgression: 'she spread many evil and damaging words about some governors of the city in many crowded places'.[80] The second record in the aldermen's registers, which will be discussed first, was a civil lawsuit ending in her disinheritance for staying with her abductor and marrying him.

Backed by several of Johanna's relatives, the chief alderman of the *Gedele* made the plea, as Johanna was an orphan, against Johanna herself, Percheval Triest and his accomplices, his brother Jan, and three other men, named Arend van Maerle, Quinten Trempen, and Lieven de Mey.[81] According to the plea, the armed men had abducted Johanna as she was travelling to Ghent by boat. It was violent and she did not want it. She shouted loudly: 'Murder, murder! Dear guardian, will you not help me?' The plea continued that the aldermen had summoned the men to explain themselves, but Johanna 'stayed conversing with the perpetrators in public'. Therefore, the plaintiffs asked for the aldermen to apply the charters of Guy of Flanders and Philip the Good: declare the perpetrators (who had fled) outlaws and disinherit Johanna. Acting on Johanna's behalf, her attorney answered these allegations, saying that Johanna was greatly astonished by the plea. He stated that the entire affair happened with her consent, the abduction took place outside of the city of Ghent, and Johanna was not a Ghent citizen. Therefore, the charters cited by the plaintiffs did not apply to her because 'they explicitly dealt with abductions within Ghent and citizens of the city'. Also, he noted a procedural mistake; the plea had not been filed within fifteen days after the abduction and should therefore be declared inadmissible. In their response, the plaintiffs said that since the abductor was a Ghent citizen, the affair did concern the city. They claimed that a procedural discrepancy should not prevent justice from being done. The aldermen agreed and granted the plea, stating that the law also applied outside of Ghent.

The political context of Ghent in the 1480s, described above, informs this case. One significant connection is that Johanna's argument about Ghent citizenship and the location of the abduction reveals the severity of Ghent

80 CAG, S 212, no. 1, fol. 64r (9 November 1482).

81 All quotes in the following paragraph in CAG, S 301, no. 57 (28 April 1484), the record in the aldermen registers about this trial.

law. By claiming her abduction was consensual and arguing that Ghent law did not apply to her, she hoped to escape severe penalties for her husband and herself. Johanna's abduction occurred between Zaamslag and Ghent, possibly somewhere in the district of *Vier Ambachten* located in between the two. Johanna's argument suggests that abductions were penalized more severely in Ghent than in the surrounding districts. Indeed, if Johanna's case was judged and determined by the aldermen in *Vier Ambachten* to be a consensual abduction, Percheval might have come away with a five-pound fine. The city of Ghent experienced the pinnacle of its autonomy in the uprising against Maximilian of Austria in the early 1480s.[82] The city was defending the charters that it had acquired at a heavy cost and arguing that they were valid throughout the whole Ghent quarter. This might explain the aldermen's reason for adjudicating this case, even though it took place outside of the city. Furthermore, the harsh penalties inflicted on Johanna and Perceval could have something to do with their political affiliation. They were on the wrong side of the political spectrum, as supporters of the Burgundian Duke Maximilian. A 1481 record states that Perceval served as a knight in Maximilian's army.[83] Moreover, one of Perceval's relatives, possibly his brother, was pardoned by Maximilian for abducting *demoiselle* Isabelle de Fretin in 1486, another indication of his family's connection to the court.[84] In 1488, the city of Ghent decapitated Perceval for his allegiance to Maximilian and displayed his head on a tall spike.[85]

Then there is Johanna's tirade against some of the governors of Ghent. One year before her disinheritance, she was banished for fifty years for subversive speech. However, her name was scratched out. Her appearance as a defendant in the abduction case means that the banishment had been revoked or had ended prematurely. If the chronology of the two convictions is correct, the aldermen whose office Johanna had seriously offended a year earlier were now determining her future. However, Johanna's relatives might not have filed a complaint until several months after the abduction. The record states that the relatives had not filed within the normal term of fifteen days, and it does not specify how long ago the abduction had happened. The fact that a clerk added a note about the abduction next to the final sentence about Johanna's banishment for subversive speech might indicate that the abduction had happened before her speech act. If

82 Haemers, *De strijd om het regentschap*, 97.

83 Buylaert, *Repertorium van de Vlaamse adel*, 684.

84 ADN, B1703, fol. 166rv (December 1486).

85 Despars and Jonghe, *Cronijcke van den lande ende graefscepe van Vlaenderen*, 415.

this were true, her improper words might have been a direct consequence of the abduction sentence. Perhaps the authorities had already intervened immediately after the abduction, and this led to Johanna verbally assaulting them. Whether Johanna's verbal aggression and Triest's loyalty to Maximillian explain the heavy penalties they suffered is uncertain. During the abduction trial, there was evidence presented and witnesses heard. Since there is no surviving record of these procedural elements, we only know part of the story. Nevertheless, this case makes clear that justice did not take place in a vacuum but in context, which undoubtedly had an impact on the litigants, public opinion, and the judges and bailiff who dealt with the case.

Two- and three-party cases before the consistory courts

Clandestine marriages through words of present consent were common in England but only occurred rarely in the Low Countries, where the vast majority of the clandestine marriages were contracted through words of future consent followed by sexual intercourse (i.e., presumptive marriage).[86] Cambrai synodical statutes determined that the betrothal through words of future consent should happen in public. It was binding and could only be made undone by the bishop. Betrothals conducted in private were illegal and considered clandestine if not celebrated publicly within eight days.[87] Whereas private parties initiated most legal proceedings in English consistory courts, the promotor generally initiated prosecution in the Low Countries' courts.[88] The majority of marriage cases involving abduction were begun by the so-called promotor. This public prosecutor was connected to the court and empowered to search for offences. He could initiate a case himself, or together with a private plaintiff.[89] The proportions of abductions in the registers of Cambrai, Brussels, and Liège are unevenly distributed (Table 3). The Liège register contains information about five abductions through plaintiffs' and defendants' depositions. In two of these cases, a final verdict also survives. The Brussels registers contain ninety-six cases involving abduction, and there are twelve in the Cambrai registers.[90]

86 Vleeschouwers-Van Melkebeek, 'Introduction', *Le tribunal de l'officialité*, 39–40.

87 See Chapter 1, page 55.

88 Donahue, *Law, Marriage, and Society*, 599.

89 Lefebvre-Teillard, *Les officialités*, 34.

90 The records of the diocese of Tournai are not included in this examination as they are accounts and not final sentences. Although these accounts do give partial access to the court's jurisdiction, the information offered is extremely concise. These accounts can therefore not be

In all three courts, abductions can be categorized by types of cases.[91] A two-party case concerned a marital alliance between two people that would be validated or dissolved. In a three-party case, two claims of marriage between three people were investigated. Occasionally, there were more complex cases involving four people.[92] In Cambrai, five of the twelve cases concerned abduction and rape or illicit intercourse perpetrated by a cleric. There are only very few abductions by priests for illicit intercourse or their relationships in Brussels and none at all in the other courts of the Low Countries, which led Donahue to believe that such instances were probably tried at another jurisdictional level.[93]

Table 3 Abduction cases in the registers of the Brussels diocesan court (1448-1459), the Cambrai diocesan court (1438-1454) and the Liège diocesan court (1434-1435).

	Brussels	Cambrai	Liège	Total
Two-party cases	42	2	0	44
Three-party cases	50	5	5	60
Four-party cases	4	0	0	4
Abduction by cleric	0	5	0	5
Total	96	12	5	113

Two-party abduction cases

Most cases involving only two people, an abductor and abductee, concern determining if a valid marriage existed between them and whether they needed to celebrate their (alleged) clandestine marriage officially. The records contain thirteen sentences that did not acknowledge the marriage of abductor and abductee, while twenty-eight sentences did. Three sentences

included as equal counterparts to the Cambrai and Liège records, which are sources that shed direct light on the jurisdictional process. However, the Tournai accounts have been well studied by Monique Vleeschouwers-Van Melkebeek, who has shown the value of these brief records, see her introduction to and edition of these accounts in Vleeschouwers-Van Melkebeek, *Compotus Sigiliferi*, I–IV; Ibid, *Le tribunal de l'officialité de Tounai*, I–II.

91 A detailed typology of the marriage cases in these consistory courts' registers can be found in Donahue, *Law, Marriage, and Society*, 383–520; Vleeschouwers-Van Melkebeek, 'Aspects du lien matrimonial'.

92 See the discussion of a four-party case involving abduction in the Brussels court in Donahue, *Law, Marriage, and Society*, 502–3.

93 Donahue, 393.

did not judge the alleged marriage's (in)validity but dealt only with the punishment of the abductor.

When the judges did not acknowledge the abduction marriage or consider it valid, there was usually an impediment. For example, the Brussels judge annulled the coerced betrothal between abductor Jan vanden Slyke and Katherina vanden Brugghen on 10 January 1459.[94] The judge imposed perpetual silence about the alleged marriage on the abductor and licensed the abductee to marry another man. The abductor was punished and had to pay the fines and legal costs of the case. The judge dissolved Jan and Katherina's betrothal because it was tainted by the impediment of force and fear. In 1458, an official similarly dissolved a clandestine betrothal because the abductor and abductee were related in the fourth degree of consanguinity, another impediment.[95] In each of these cases, the promotor had brought the couple, abductor and abductee, to court and asked the judge to dissolve their alleged marriage bond. These two promoters were successful. In other cases, however, the promotor asked that the alleged marriage between abductor and abductee be validated, but was unsuccessful. In some of these cases, it seems that the promotor was acting on behalf of the abductor, who wanted to have the woman he had abducted recognized as his lawful wife. The judge did not grant this request because the man had used violence and coercion, while he released the abductee from any promises of marriage.[96] The final sentence presented the abductee as a victim forced into marriage, despite the promotor's endeavour to have her marriage to her abductor validated.

However, judges frequently validated marriages between abductors and abductees. The vast majority of these verdicts followed an enforcement plea by the promotor upheld by the judge. He then ordered the couple to celebrate their clandestine marriage properly within forty days. For example, on 7 August 1456, the official of Brussels ordered abductor Jan de Witte and abductee Amelberga Roelants to celebrate their marriage. The couple had betrothed in the presence of a priest at the parish church of Baasrode (now Dendermonde in the province of Eastern Flanders). The judge ordered them to continue with the actual wedding within forty days and ordered both defendants to make amends for wilfully 'daring to go away together'

94 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 1411, 864–65 (10 January 1459).

95 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 1288, 802 (21 March 1458).

96 See for example: Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 370, 201–2 (9 May 1452), no. 703, 484 (15 October 1454).

without the consent of the abductee's mother.[97] This unusual statement will be discussed below. In a few cases, promotors requested that clandestine marriages be dissolved because the impediment of consanguinity might exist. However, the judges found that the claim of consanguinity, perhaps a rumour spread by relatives who disapproved of the abduction and subsequent marriage, was not valid. The promotors' pleas did not succeed and the couple's marriage was not dissolved because the judges did not consider the consanguinity charge either true or sufficiently proven.

Three-party abduction cases

Many abductions occurred in three-party cases. They can roughly be divided into three types. The first type, comprising approximately seventeen percent of the three-party abduction cases, involved one man and two women.[98] In most of these cases, a man abducted a woman and married her, despite his previous relationship with or alleged marriage to another woman. For example, on 25 August 1452, the official of Brussels heard a case initiated by the promotor against Agnes vander Heyen and Robert Jacops, identified as the spouse of Elisabeth Bouwens. Agnes challenged the marriage of Robert and Elisabeth, arguing that Robert was already married to her. The judge disagreed, although he acknowledged that Robert and Agnes had had sexual intercourse and ordered Robert to pay her compensation for defloration. The sentence states that Robert had also abducted Elisabeth and deflowered her and needed to make amends for that as well.[99]

However, eighty-three percent of the three-party abduction cases involved one woman and two men.[100] These belong to two different types. One type is an alleged marriage between an abductor and an abductee, with the abductor arguing it was a consensual abduction followed by the exchange of consent and sexual intercourse, and the abductee arguing the abduction was violent, she had spoken under duress, and there was no sexual intercourse. The abductee had already married another man, who was the third party. While Chapter 3 discussed examples from the Liège register, the Brussels registers also contain some cases of this type. In one example, the promotor summoned two men and one woman because one of the

97 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 1002, 647–48 (7 August 1456).

98 There are ten such cases in the Brussels register and I found none in the Cambrai or Liège registers.

99 Vleeschouwers-Van Melkebeek *Liber sentenciarum*, no. 400, 318–19 (25 August 1452).

100 I counted forty cases in the Brussels registers, five in the Cambrai registers, and five in the Liège one.

men, the abductor, opposed the future marriage of the other two. Egied Presemier and Katherina Kerkhofs had been betrothed before a priest in the church of Ranst in Antwerp. The abductor Jan Vlieghe opposed this union, claiming that he married Katherina first. The judge dismissed that accusation as unfounded and penalized Jan for violently abducting and deflowering Katherina.[101]

There were many cases belonging to the final type of the woman contracting a second marital alliance by abduction. Generally, her first alliance was a legal one, a public betrothal to the first man in the presence of a priest, friends, and family in the parish church. However, the woman corrupted this first relationship by 'allowing herself to be abducted by' a second man, exchanging promises and having sexual intercourse, which formed a presumptive clandestine marriage. On 11 July 1449, the Brussels judge decided the case of Elisabeth Eggherycx, publicly betrothed to one man and presumptively married to another. Elisabeth had contracted a betrothal with Simon Peerman publicly in front of a priest in the parish church of Steenhuffel north of Brussels. Elisabeth and Simon did not have sexual intercourse. Afterwards, Elisabeth 'did not shy away from allowing herself to be abducted' by Stefaan Aversmans.[102] He deflowered her, and they had sexual intercourse several times after exchanging promises, thereby transforming their alliance into a clandestine marriage. Because the second bond was stronger than the first one (the records calls the second bond the one with the *fortius vinculum*) the judge annulled the first betrothal and ordered Elisabeth and Stefaan to properly celebrate their presumptive marriage.[103] There are forty-three similar cases with only small variations.[104] The first alliance was sometimes a clandestine rather than a public betrothal, meaning that they did not make the exchange of words of future consent officially in the presence of a priest in a church, for example. Another sentence states that Petronella Henricus had *permissit* her abduction and betrothal to Nicolaas van Hecklegem, despite the ongoing negotiations about marriage to Jan Codde. The judge ordered the negotiations to stop and Petronella to celebrate her marriage to Nicolaas within forty days. She also had to make amends for going away without her mother's knowledge.[105]

101 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 1055, 680 (12 November 1456).

102 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 74, 129–30 (11 July 1449): 'Prefatam Elisabeth ream […] se ab eodem correo abduci, deflorari, et pluries postmodum carnaliter cognosci permittendo non erubuit'.

103 Donahue, *Law, Marriage, and Society*, 498, 500.

104 Thirthy-seven in Brussels, four in Cambrai, and two in Liège.

105 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 570, 413 (19 January 1454).

Ecclesiastical disapproval of a lack of parental consent

In the sentences of every case, the judge not only decided on the validity of the marriage but also punished parties for contracting marriage bonds improperly. The most common punishments were fines and the obligation to pay the promotor's legal costs. Sometimes the judge added paying one of the other parties' legal costs. A few times, the judge used excommunication, but usually as a warning, which would only apply if the verdict was not respected.[106] Carole Avignon argued for reading these verdicts as encouragement for couples to solemnize their marriages, rather than focussing on punishments as acts of repression.[107] Even though the court punished people for disrespecting the rules regarding publicity, couples received a period of time, usually forty days, to rectify their errors by officially solemnizing their union. In contrast to the other courts, the Brussels court frequently awarded additional penalties to abductees for going away against their parents' wishes and marrying without their consent. It is in this context that the empowering abduction language discussed in Chapter 2 occurs most often. Women were punished for 'allowing their own abduction', and couples for 'abducting each other mutually'. The Brussels court language was a significant departure from canon law, which did not require parental consent to contract marriage. The Brussels judge ordered couples to celebrate their clandestine marriages just as the other consistory courts did. Nevertheless (*nichilominus*), he punished each couple not only for *clandestine contrahere*,[108] but also for *sese preter licentiam sui patris affidarunt,*[109] or *preter consensum suorum parentum abire*.[110]

There may have been jurisdictional differences between dioceses, within the diocese, and even between different judges sitting in the same court. The Brussels registers contain many more abduction cases than do those of the other courts. Compared to the court of Cambrai, the Brussels court dealt with more three-party cases with two sets of marital promises and one consummation.[111] The judges in Brussels considered abducting someone or running away to be married against parental wishes to be an aggravating

106 Lefebvre-Teillard, *Les officialités*, 61.

107 Avignon, 'Les officialités normandes', 237.

108 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 1513, 918 (27 July 1459).

109 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 632, 448 (8 June 1454).

110 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 1183, 747 (13 July 1457).

111 In Brussels, three-party spousal cases in which sexual intercourse was alleged constitutes thirty-one percent of all marriage cases. In Cambrai this was only nine percent, see Donahue, *Law, Marriage, and Society*, 408.

factor and often penalized both abductors and abductees for these acts.[112] In comparison to other French consistory courts, Sara McDougall similarly noted that the consistory court of Troyes acted in a much more repressive and strict regulatory manner.[113] Monique Vleeschouwers-Van Melkebeek has shown that even individual judges within the same consistory court of Brussels applied different rules in some cases.[114] One judge named Platea punished more abduction cases than his predecessor Rodolphi had (seventy-nine percent vs. twenty-one percent). Even when taking into account that Platea sat on the bench for a longer period (1452–59 vs. 1449–52), the contrast remains striking. Donahue commented that Platea saw a world 'completely out of control' when it comes to marriage.[115] The Liège register may only cover one year, but there were many abduction cases in that year. The Cambrai registers have hardly any.

A certain degree of parental involvement was considered normal, even from an ecclesiastical point of view. According to the judge of the Brussels consistory court, parental consent was not merely preferable but even indispensable. In the Brussels registers, fifty-three final sentences explicitly stated that the parties did not have approval from the woman's relatives before their abduction or marriage. The Brussels court used the 'empowering' terminology (*se mutuo abduxerunt*), which appears almost exclusively in its registers, because it allowed them to blame these women and penalize them for taking an active role in their abductions. For example, on 31 October 1455, the Brussels official made Margareta Tswoters make amends for 'allowing herself to be abducted' *contra suorum parentum et amicorum voluntatem*.[116] Although the court of Brussels respected canon law and acknowledged this marriage, it punished couples for marrying clandestinely and penalized women for willingly going with their abductors or marrying/fornicating without the consent of their relatives. Records from the other courts contain far fewer references to abduction and circumvention of familial control and certainly do not penalize couples or women for the lack of familial involvement and approval.

The sharp contrast with the register of Liège also supports the conclusion that the Brussels emphasis on abduction and lack of parental consent as aggravating factors was not typical of consistory courts. The Liège register only

112 Vleeschouwers-Van Melkebeek, 'Aspects du lien matrimonial', 52–53.

113 McDougall, *Bigamy and Christian Identity*, 120–21.

114 Vleeschouwers-Van Melkebeek, 'Bina matrimonia', 252.

115 Donahue, *Law, Marriage, and Society*, 615.

116 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 871, 580–81 (31 October 1455).

refers to abductions in three-party cases. In some, the abductee contracted a second alliance with another man to get rid of her abductor. In others, a woman escaped a coming marriage to her betrothed by letting herself be abducted by a second partner. Two Liège cases contain the final sentences in addition to the plea and/or defence. These final sentences do not refer to the fact that abduction led to one of the marital alliances, even though that is included in the plea/defence. Moreover, these verdicts remain silent on the involvement of relatives even though that information would be clear from the cases' depositions, as the previous chapter explains. The judge merely determined which marriage had to be celebrated and which alliance was now dissolved. He did not punish the people involved for contracting via abduction, going away secretly, or ignoring their parents' wishes, as the Brussels judge did, but for marrying clandestinely, ignoring previous alliances, and contracting with two different people. If the surviving sources for the Liège court only contained final sentences, as is the case for Brussels and Cambrai, modern commentators would not know that abductions were involved in some of the alliances discussed in court. The differences among the consistory courts reflect a distinct approach and sensibility regarding marriage by abduction. The Brussels court criminalized abductions and circumvention of parental control and the other courts did not.

Dealing with consent and people's creative uses of canon law

The Brussels court's strict line with individuals marrying without informing their relatives calls into question the traditional view that the consistory court was an ally in young people's struggle to make decisions independently from their parents. Furthermore, some verdicts in the consistory court registers did not favour women and young people over men and families. As the previous chapter mentioned, consent did not always mean free choice, even in ecclesiastical courts. Analysis of their approach to consent reveals nuances. In a few cases, the promotor explicitly ordered couples to celebrate their marriages, even though the records describe the preceding abductions as violent. Declaring that the claim of consanguinity was void, a judge ordered Nicolaas Pittaert and Katherina Claes to celebrate their presumptive marriage, even though the record states that Nicolaas had abducted Katherina *contra sua voluntatem*. Moreover, they were both to make amends for the abduction and the illicit sexual intercourse which led to Katherina's deflowering, as well as pay the promotor's legal costs.[117] The

117 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 1513, 918 (27 July 1459).

records also show judges forcing women or couples to celebrate marriages they did not want. Jan Clinkart and Margareta de Lescole were ordered to celebrate their marriage within forty days.[118] Not wanting the marriage to Jan, Margareta raised the impediment of fear. However, the judge did not pursue this and deemed her claim unproven. The sentence explains that Jan had to pay a fine for deflowering Margareta, and both Jan and Margareta had to pay another fine for mutual abduction without the consent of Margareta's mother and friends. There are contradictory elements in this case; the record states that the marriage was consensual, yet Margareta was trying to prevent its validation. She might have regretted going along with her abduction, her relatives might have pressured her against marrying her abductor, or she might have failed to prove that she had been taken violently.[119] These examples demand that we consider the difference between legal and social consent and the importance of seeing consent as a process. Consistory courts did not interpret the consent doctrine in canon law to mean that the individual should have a free choice of partner regardless of their families' wishes.

It is striking that the three consistory courts rarely dissolved a marriage by abduction for coercion by the abductor.[120] This corresponds to Butler's findings for late medieval England. In York, there were only a few women who brought suits against their alleged husbands for coercion.[121] Medieval views on marriage and sex made it challenging for women to prove they had been coerced into marriage, even in the consistory courts, which insisted so strongly on consent.[122] The Low Countries' consistory court records say little about the requirements for proving coercion that would invalidate the marriage. The record about Margareta and Jan explains the judge's verdict with *qui merito in constantem mulierem cadere non debuit*, a reference to the canon law stock phrase that drew the line between consent and coercion.

118 Vleeschouwers-Van Melkebeek *Liber sentenciarum*, no. 1010, 652 (27 August 1456). For similar cases on consistory courts' twisted approach towards consent, see Chapter 3, page 148.

119 Donahue, *Law, Marriage, and Society,* 481.

120 The registers contain six cases of forced abductor-abductee betrothals in Brussels and one in Cambria.

121 However, the proportion of cases in which one of the litigants claimed to have been forced into marriage is relatively high in the York consistory court records, constituting sixteen per cent of all cases of marriage litigation, see Butler, 'I Will Never Consent to Be Wedded with You!', 251. Since Butler studied depositions instead of final sentences, it is possible that in the Low Countries people often made similar claims but that these were not always included in the final sentence preserved today. For comparison, the Liège records show several abductees claiming force and fear in their defence.

122 Butler, 'I Will Never Consent to Be Wedded with You!'

The meaning is that her fear was not the sort that would have influenced a 'constant woman'. Amelkin Jacops, the girl from Ghent whose abduction I discussed in the previous chapter, received the same verdict. Despite her extensive and repeated efforts to have her marriage to her abductor invalidated, the court of Tournai judged that at the time they exchanged words of consent, Amelkin had spoken willingly without being forced by her abductor. If he used force, it was not sufficient to affect her ability to consent to or refuse marriage.

However, the Brussels court did annul a few coerced marriages. In these cases, it was not the abductee who initiated the plea or assisted the promotor in bringing the case to court. The promotor, sometimes backed by the abductor, initiated these cases mostly to enforce, not to dissolve, the marriage.[123] The promotor took Isabella de Fanaerge and Jan de Hatquedal to court regarding their alleged marriage after an abduction, for example. However, the judge freed Isabella of both the promotor's claim and marriage to Jan. Although there are no surviving records of the legal proceedings, it seems that Isabella raised fear and coercion as an argument only when the court summoned her to force her into a marriage that she did not want.[124] There are also cases in Liège of female defendants only revealing the coercion they had been under in reaction to the abductor's enforcement plea. The courts annulled a few betrothals based on coercion, but not frequently. In the rare case that the court gave this verdict, the abductee had spoken in reaction.

The marriage cases involving abduction, especially three-party cases, also show that people had a good understanding of canon law and the workings of the consistory court. After all, in many of these cases, one of the parties had consciously decided to form a second marital alliance because that dissolved former alliances. In some three-party cases, the abductee contracted a second marriage to make sure she would not have to live together with her abductor as husband and wife, the fate that was bestowed on the abovementioned Amelkin Jacops and Margareta de Lescole. A brief record in the aldermen registers of Ghent about Amelkin's case further informs us of the possibility of contracting a second alliance strategically. In 1471, about five years after her abduction, Amelkin's uncle and aunt who had been Amelkin's guardians asked the aldermen to not hold them accountable

123 Only a few cases seem to have been dissolution pleas based on force and fear, see the case of Jan vanden Slyke and Katherina vanden Brugghen discussed above. See also Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 795, 538–39 (28 April 455)

124 Vleeschouwers-Van Melkebeek, *Liber sentenciarum*, no. 976, 632–33 (18 June 1456).

if Amelkin would enter into a betrothal with a third party.[125] Her relatives thus might have suspected that Amelkin, who was desperately trying to get rid of her abductor/husband, might change strategy by entering into a second alliance. Amelkin did not, but the record does reveal that abducted women may have used this as a strategy to get away from their abductors. The Liège cases reinforce this assumption. The defendant-abductees claimed they had been forced to exchange consent, but they did not go to court themselves. Instead, they married another man clandestinely and only raised the impediment of force and fear when summoned to court by their abductors. Whereas in the two-party cases, the court ordered some women to celebrate their marriages despite their claims of force, in three-party cases the alleged abduction victims had already contracted another marriage, which the court validated.

In other three-party cases, the parties strategically used abduction itself to enter into a second marriage and dissolve previous alliances, which enabled the abductee to avoid an unwanted partner and marry another man whom some or all of the abductees' relatives had rejected. In these cases, the Brussels records state that the women arranged their own abductions even though they were already betrothed to another man. Abductor and abductee then exchanged promises and had sexual intercourse, actions that de facto dissolved any previous alliances that were not yet consummated, which were then subordinate to the presumptive marriage contracted afterwards. Because sexual intercourse perfected the exchange of promises, the presumptive marriage constituted a stronger bond, a *fortius vinculum*, than the bond formed in the first non-consummated alliance. Since a betrothal was considered binding, individuals could not break it themselves, but only with the permission of the bishop.[126] It seems, however, that individuals managed to bypass this rule by entering into a second alliance with intercourse, thereby annulling the former betrothal themselves. It is tempting to conclude, as Donahue did, that a woman who did not want the first marriage 'saw to it that she did not have to enter into it by contracting and having sexual intercourse with the second man'.[127] Although this explanation is plausible, to infer it from short sentences is risky. The abductor or a relative often controlled the abductee, even though she appears to act individually

125 See edition of 'CAG, S 301, no. 51, fol. 137r (14 August 1471)' in Vleeschouwers-Van Melkebeek, 'Mortificata est', 412.

126 Donahue, *Law, Marriage, and Society*, 387. See discussion of local Cambrai legislation in Chapter 1, pages 54–55.

127 Donahue, 490.

in the records. However, whether or not it was the abductee who organized the second marriage, contracting *bina sponsalia* was an effective way to dispose of a betrothed. These cases seem to have irritated the judges. They acknowledged the second alliance and followed canon law, but they also penalized the abductee financially for leaving with the abductor against the will of some of her relatives and disrespecting her previous alliance.

The methods used to contract some of these second alliances is further testament to lay people's knowledge of the law. According to the records, many couples contracted the second alliance in a private home or even in another diocese. While contracting marriage in private was common and accepted in medieval England, it was forbidden and punishable in the Low Countries, where parishioners were supposed to celebrate their betrothal and marriage in public in their parish.[128] Michiel Decaluwé has argued that people consciously contracted marriage in another diocese because they knew there was a lack of communication between dioceses, a method that reduced the chance that ecclesiastical institutions and officials would be aware of previous alliances.[129] However, it is more likely that people changed locations or married in private to avoid objections from acquaintances and fellow parishioners. After all, if people were aware of impediments, they were obligated to report them. Cambrai statutes greatly encouraged people to raise impediments, although the court did punish people for reporting false claims.[130] Therefore, by contracting a second marriage in a new environment, couples lessened the possibility that people who knew their history would raise impediments. The example at the beginning of this chapter shows the use of this strategy; Catherina tsRijnslanders contracted a presumptive marriage to Jan 'the bastard of Wadripont' in the diocese of Utrecht shortly after an abductor coerced her into marriage. The Liège case in the previous chapter shows the same strategy; a few days after her alleged violent abduction by Joost Claeszoon in Liège, Katrien Huysman married another man in a private house in Dordrecht, a city within the diocese of Utrecht.[131] Their decisions to marry in another diocese may have been motivated more by trying to avoid someone from their community raising an impediment rather than concern over the consistory court's interference. Perhaps these couples were already on the radar of the ecclesiastical and/or secular authorities. As Katrien Huysman did, couples sometimes contracted

128 See Chapter 1.

129 Decaluwe, 'Recht kennen om het te omzeilen'.

130 Donahue, *Law, Marriage, and Society*, 390.

131 SAL, AD, no. 1, fol. 6r (19 July 1434).

a second marriage alliance in private locations. Even though the church prohibited this private exchange of marital promises in a *loco prophano*, the alliance was still valid. This could help couples who wanted to make promises quickly to make sure former alliances would be dissolved.

Conclusion

Historians should make a less sharp distinction than in the past between ecclesiastical and secular courts on abduction and marriage cases. This chapter has shown that ecclesiastical judges also punished individuals for disregarding the will of their families, while bailiff's accounts and pardon letters frequently cited the abductee's consent as an extenuating circumstance. The evidence supports the view that secular courts considered abduction a serious crime, but in practice, the harsh penalties ordered by law were rarely applied. This is not unique to abduction since historians of criminal justice have found this pattern for many crimes in late medieval Europe. Because maintaining social peace was a key concern for lawmakers and rulers, out-of-court settlements were common.

Neither secular nor ecclesiastical courts adopted uniform policies over the fifteenth century. The secular records show waves of intense prosecution rather than steady numbers, some courts and even some judges' verdicts were more tolerant than others, and, most importantly, different legal outcomes were often the result of case-specific contextual factors that today can no longer be identified. The reason for this variety is that the legislators (consciously or not) had created some leeway in the laws, which allowed judges space for interpretation and led to different judicial outcomes for individual cases. Whereas a few abductors were executed, most had to make one or more pilgrimages or managed to get the bailiff to agree on a composition. However, judges were not the only ones with space to interpret the law; the people judged by them also possessed options. Abductors petitioning for pardon pointed out the abductee's consent, while the abductor's relatives begged the bailiff not to take the case to court. The cases discussed in this chapter clearly show that abductors, abductees, and their families were aware of this legal space and tried to use it to their advantage.

Even though attorneys were no doubt responsible for many strategic legal decisions, people also talked to each other about their legal experiences. Several elements in the consistory court records, such as contracting a second marriage to negate previous alliances and doing so in a private home or another diocese, show people's knowledge of legal and jurisdictional matters,

even without the involvement of legal counsellors. It was quite a job for the ecclesiastical officials, especially in Brussels where they were so much more concerned about these practices, to cope with the ways people creatively manipulated the law to their advantage. However, officials often had no other choice, beyond charging fines, than to follow canon law and ratify people's machinations to win validation or absolution of a marriage. The reaction of Brussels judges to abduction and marriages without the approval of relatives certainly seems more rigorous than that of their counterparts in other consistory courts. However, it is also possible, as Donahue has suggested, that abductions and clandestine marriages simply were more frequent in the upper Flemish-speaking part of the diocese of Cambrai under the jurisdiction of the Brussels court than in the French-speaking part under the jurisdiction of the Cambrai court.[132] Perhaps stories about the encounters of citizens with canon law and potentially successful strategies circulated more intensely in large cities such as Antwerp and Brussels, at least among some social groups. This topic certainly deserves to be investigated further, but for now, it is clear that the legal experiences of abductors, abductees, their relatives, and possible other alleged husbands and wives were diverse and context specific.

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132 Donahue, *Law, Marriage, and Society*, 417–23

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Conclusion

For decades, historians have been debating the extent to which the tension between the church's 'consensualist' approach of marriage and custom's emphasis on family strategy affected how people got married and how societies dealt with marriage and partner choice in the late Middle Ages. Many have argued that the impact of this tension has been overstated; it was a theoretical divide that only rarely emerged and by no means entailed a 'crisis' of marriage.[1] Literary, legal and administrative records of the Low Countries, however, abound with narratives of partner choice conflicts in which the consent of the partners or their families is at the core. Indeed, recorded cases of abduction with marital intent, as well as normative discourses exuding a deeply entrenched social anxiety concerning unconventional marriages, seem to have been remarkably more prominent in the Low Countries than elsewhere in late medieval Europe.

This book hopes to carry forward historians' understanding of how the particular legal regime applied to women, young people and their families in dealing with marriage-making in fifteenth-century Brabant and Flanders, while at the same time contributing to more general questions about women, marriage and the law in late medieval Europe. In the Low Countries, laws governing the deeply ingrained practice of strategic marriage were widely promulgated, becoming stricter over the course of the late medieval period. Families worked hard to educate their children about the importance of marriage. Some parents and relatives feared their daughters, or even their sons, widowed mothers and nieces, would marry without their consent. This need for control is strongly evident in law and legal practice of the secular age of consent, which made it illegal for people to marry whom they chose until they were well into their twenties. The high age of emancipation, in combination with the punishment of consensual marriages without familial approval, indicates that marriage was even more strictly supervised in the Low Countries than elsewhere.[2] This intense criminalization of abductions

1 McSheffrey, 'I Will Never Have None against My Father's Will'; McDougall, *Bigamy and Christian Identity*, 2;

2 With Italy as an exception; see Dean, 'A Regional Cluster'; Dean, 'Fathers and Daughters'.

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DOI 10.5117/9789463724074_CON

with marital intent can be explained by two factors. First of all, the Low Countries' gender-blind inheritance custom' increased families' involvement in their children's life choices.[3] Historians of the Low Countries have mostly pointed towards the emancipatory effects of these laws of inheritance: children, regardless of age or sex, had access to property, which gave them the ability to build their own lives and make decisions more independently from authoritarian family structures.[4] For children from wealthy upper and middling groups in the cities, however, there seems to have been another effect that has been neglected in historical scholarship. Young people's marriages caused property shifts, and since each child took property with them when marrying as an advance on their inheritance, a poor choice of spouse could endanger the size and value of the family patrimony. This led to the paradoxical situation of women receiving remarkably extensive inheritance rights only to have many other limits placed on them in a desperate effort to control whom daughters married.

Moreover, the great power of cities, which were governed by elites, and in Ghent and Leuven by merchants and artisans, and inhabited by large groups of propertied families, further contributed to the criminalization of abductions with marital intent. These middling groups were part of the city government that promulgated severe law texts and statutes to frighten those who wanted to flout social conventions regarding marriage-making. Moreover, there is evidence that even the ducal and comital charters against abduction came into being upon the explicit request of these social groups. Secular law thus, again paradoxically, both granted women inheritance rights and limited their freedom to do things seen as against the family interest. The knee-deep involvement of these families organizing their children's marriages and settling abductions to which they were party becomes apparent in every chapter of this book. Marriage was so important, and potentially involved multiple property shifts with different effects on many people, that the competing interests made it difficult for families to form a united front. Indeed, in spite of scholars' fascination with the idea of daughters using abduction and clandestine marriage to become 'protagonists of their own destiny', this study shows that these young women were not the only parties involved who might benefit from (consensual) abduction.[5] Abductions and clandestine marriages should first and foremost be considered in the context of family feuds, as they were practised by kin

3 Hutton, *Women and Economic Activities*, 30.

4 See for example: Kittel and Suydam eds, *The texture of society*.

5 Titone, 'The Right to Consent', 141.

groups rather than individuals. Even the abductee's relatives were regularly involved, turning to abduction to push through the candidate for marriage they preferred against resistance from other family members. This study thus strengthens the idea that kin were very much involved in marriage decisions even among the middling societal groups.[6] Rather than marking the importance of free partner choice, abduction testifies to marriage's strategic nature, as evidenced by relatives' involvement in every step. This fact applies to marriage across late medieval Europe but is particularly true for the Low Countries cities examined here, where these middling groups' families were powerful, socially and culturally highly significant and involved in law-making and the justice system.

Despite the enormous role of relatives in marriage-making and the importance of property and economic motives, the abductee's consent was important, as the many contentious discussions about its presence or absence in the court material illustrate. This study thus disagrees with the widespread argument that authorities defined violence by assessing whether the family's rights were attacked, not by considering the woman's consent.[7] The records swarm with examples in which the abductee's consent made a difference: such consent allowed the abductor to settle the offence amicably, motivated the bailiff not to take some cases to court in spite of parental opposition, and even led to the acquittal of abductors who had seized away women of age. However, this legal notion of consent did not necessarily correspond with social understandings of the concept. As I argued in Chapter 3, women sometimes consented to their abductions because of social conventions regarding honour and property, not because they wanted to defy their families and marry a partner of their choice. This does not mean that abduction was never practised by couples who wanted to marry against their families' wishes, but it does indicate that abductions that were reported as consensual could in fact have been cases in which the abductee acted in very constrained circumstances and was coerced into marriage by relatives and/or abductor(s), or was pressured by societal values. That is, she consented to that which she would not have wanted under normal circumstances. In doing so, however, we must not automatically victimise the woman and turn her into someone who was pushed or forced by her family in accepting an initially unwanted marriage. For the woman in question too, a marriage with her attacker could be the preferable option. The standards of behaviour for young women from wealthy families that

6 De Moor and Van Zanden, 'Girl Power', 11–12.

7 Greilsammer, 'Rapts de séduction', 83; Dean, *Crime in Medieval Europe*, 85.

were visible and present in the city were high, so we must consider the possibility that abduction victims themselves were 'agreeing' to marry 'against their will' in order to meet those standards and avoid the potential shame or loss of future opportunities that might face them. Marriage to the abductor could well be seen as the best option available post-abduction.

Consent was rather crudely considered; the abductee's consent was made up of a range of decisions made over time. Records revealed many shades of consent on the spectrum between enthusiastic willingness and combative resistance. Notably, medieval people were aware of this, as they described some abductions as 'partly with or against her will', others as cases in which the abductee was 'satisfied' after she had initially been taken against her will, and still others as cases in which she had changed her mind about the elopement after being pressured by relatives to distance herself from her abductor. A dichotomous characterisation of the phenomenon as either a violent abduction of wealthy heiresses or elopement by young people to circumvent parental interference simply fails to represent the diversity of abduction experiences or grasp the nuances of the social context. The parties involved could change their minds over the course of events for many reasons. The final sentences studied thus are not sufficient to inform us about the parties' initial intentions. Whether abduction was used by women with any frequency as a tool to choose their own spouses is a pressing question in historiography related to abductees' agency. However, as Gwen Seabourne has noted, this question cannot be answered given the legal records' complex relationships with the events they recount.[8] The statements about consent and coercion reportedly made by the abductees do not per se give us access to the voices of these women as legal narratives do not represent the real voice of the litigant but are instead the result of many voices, ranging from the litigant, attorneys, clerks, and relatives to social expectations and legal conventions. Moreover, narratives in court records were carefully constructed around the desired legal outcomes, and therefore should not be taken at face value. This predetermined outcome determined the litigant's legal argumentation, which in the case of abduction and marriage was often built around consent or coercion. The records do reveal that the idea of consensual, even love-inspired abductions and elopements was well-known: it appears in pleas, defences and in some abductees' declarations of consent, as well as in contemporary literature.

An abductee could indeed face heavy pressure, since the abductor and his relatives did their best to get her to marry him and attest to her consent,

8 Seabourne, *Imprisoning Medieval Women*, 160–61.

while her relatives tried to convince her to press charges or, out of concern for their honour, started negotiations with the abductor's kin to discuss marriage. The question here is whether the abductee had any room to manoeuvre and whether she could make her own choices in a situation in which so many parties pursued their own interests. Throughout this study, we encountered abductees pressing charges against their abductors, fighting their own relatives in court, marrying a second partner to avoid the enforcement of an abduction marriage, or vice versa, entering into a presumptive abduction marriage to annul a previous betrothal. All these actions, attributed to the abductee in the records, could have been influenced or forced by others, but it would be unreasonable to assume that the abductees themselves never had a voice. Abduction and its consequences deeply impacted these women's personal lives and futures. Portraying them as completely passive is as much an oversimplification as portraying them as rebels challenging social and familial norms. Dividing all abductions into cases in which women either lacked or exercised agency does no justice to the diverse and complex experiences these women had in the diverse and complex situations they encountered. This understanding stems from outdated historiographical assessments of these women as 'pawns', 'instruments' or mere 'objects'.[9] Danneel previously showed that despite the intense involvement of relatives in marriage-making in Ghent, the consent of the individual to be married was still a social reality that was taken into account, whereas McSheffrey remarked that individuals and their relatives could have pursued the same goals and taken into account each other's wishes and interests.[10] My records confirm this option of cooperation and show women using the law to obtain the best possible outcome given the circumstances, such as Johanna van Saemslacht, who defended herself alone in court against her relatives, or Amelkin Jacops, who managed to get rid of her abductor-husband after over ten years of lawsuits against him.

The degree of legal knowledge displayed by abductors, abductees and their relatives is remarkable. This appears, first, in legal narratives employed in court. Plaintiffs and defendants referred to specific stipulations in law texts to prove their cases, cleverly undermined points made by the counterparties or carefully portrayed themselves as honourable daughters or loving, peaceful husbands, thereby responding to contemporary views on gender

9 Dumolyn, 'Patriarchaal patrimonialisme', 3, 13. See discussion of McNamara, 'Women and Power' in Staples, *Daughters of London*, 7; Fosi and Visceglia, 'Marriage and Politics', 214, 224.

10 Danneel, *Weduwen en wezen*, 180; McSheffrey, 'I Will Never Have None Ayenst My Faders Will', 154.

and honour. However, in secular courts as in consistory courts, the attorneys involved were trained in law and spoke on behalf of those whom they represented. These strategic narratives do probably represent the training these men received rather than the litigants' legal knowledge.[11] Some inclusions nevertheless suggest a close involvement of the litigants in the process of trial, namely the vernacular words of consent in the Latin ecclesiastical court records of Liège. It has been argued that such statements record litigants' voices, although here too these people were possibly coached on what to say in court.[12] Nevertheless, people probably had a good understanding of what abduction entailed. After all, abduction trials were undoubtedly witnessed and talked about in the community: records inform us about the gossiping and fuss some abductions caused in the neighbourhood, and bailiffs and promotors were active in the community, examining alleged offences by conducting interviews and gathering evidence.[13] The line between law and society was permeable.

In addition, I have argued that apart from legal narratives, there are other indicators showing people's legal sophistication, namely the arrangements and decisions made out of court in anticipation of a trial. People's legal awareness especially shows in their efforts to have the abduction followed by an official statement of the abductee's consent as soon as possible, preferably right after the removal of the abductee from one place to another and before the contraction of marriage. This was important both to avoid charges of rape or violent abduction and to lend legitimacy to the marriage. The prevalence of this practice shows people's knowledge of both secular laws on abduction and canon law on consent. This legal awareness is also evident in the three-party cases in the consistory court records, in which second alliances, preferably contracted in a private place or even in another diocese, were consciously entered into to diminish the chance of previous alliances being enforced.

Abduction, although discouraged by the severest laws and associated with the disruption of families, patrimony and communities, was managed through sophisticated negotiation processes rather than hard sanctions. There was no general model of punishing or settling these disputes, as different dioceses, slightly different customs and interpretations thereof, different judges, different families and individuals and even different

11 Bailey, 'Voices in Court:'.

12 Goldberg, 'Echoes, Whispers, Ventroliquisms', 34–37.

13 Research on trials' publicity in the Low Countries is scarce, but criminal trials in Antwerp were always conducted publicly, see Meewis, *De Vierschaar*, 71.

socio-political situations led to different outcomes. Consequently, abduction settlements have to be considered on a case-by-case basis. Nevertheless, a few basic patterns can be detected. First of all, abductions registered in the secular criminal records do not occur evenly throughout time but in clusters. This could result from waves of increased or decreased alertness to the phenomenon. For example, a sharp rise in abduction figures in the 1480s in the city of Ghent may reflect the power struggle between the city and the count, during which the former increasingly became stronger and fiercely demonstrated this power by exercising its right to govern, to adjudicate disputes and to sentence its citizens independently. Abduction was not always a primary concern for authorities, but they kept an eye open and intervened when they felt they should. A few abductors were executed, their heads placed visibly on stakes and their bodies on wheels to remind all citizens of the severe possible penalties. Although some cases were resolved with cruel exemplary punishments, judges also explored extenuating circumstances and compromise. In their verdicts, they considered the interests of all parties and their willingness to pacify and reconcile. The goal was to restore peace as efficiently as possible.

This tendency to look for compromise brings me to a second pattern: the distinction between consistory courts and secular courts. This was more subtle than is often assumed in historiography. Consent was not defined in the same way in canon law and secular law: for example, the age at which a person could consent differed. What was illegal according to a secular judge could have been perfectly fine according to an episcopal judge. Nevertheless, both church and secular court records contain examples in which the contradiction between a violent abduction and the subsequent consensual marriage is striking and seems to have been broadly accepted. Even in consistory courts, abduction marriages in which 'consent' was far from an enthusiastic 'Yes, I do' were validated, and episcopal judges sometimes forced women who claimed coercion to join their spouses and respect their contested marital union. Brussels judges regularly punished women for marrying against their families' wishes, which is noteworthy since parental consent was not a requirement according to canon law, and this tendency cannot be detected in any of the other consistory courts examined here. Secular records contain many examples of abductions against the will of relatives being punished, but at the same time, these show that an abductee's consent is regularly referenced to legitimise the decision not to prosecute or even to acquit the abductors of all charges. Both secular and ecclesiastical courts show examples of the courts finding for the spouses or the families. Moreover, the records reveal that speaking about these

two stereotypical sides distorts the historical reality, since, as noted above, many abductions were issues between and even within families rather than between a family and a disobedient daughter or son. Rather than revealing an ideological distinction between church and state, the high stakes involved in marriage-making in the Low Countries led parents, lay elites and also ecclesiastical elites to work in various ways to try to prevent, limit and punish marriages made without the consent of all parties.

In sum, the narratives that can be found in many of the Low Countries' records seem to reveal a 'crisis' of marriage at first sight, as they contain stereotypical stories that exploit the opposition between love and property, between intimacy and strategy, between the individual and the family. Yet this study's close reading of the reports of over 650 cases of abduction with marital intent in a diverse range of sources shows clearly that framing these cases in terms of agency or suppression falls short. Abductions for the purpose of marriage should above all be interpreted as collective enterprises and complex struggles for power and influence between many different parties, all of whom benefited from a particular outcome and went to great lengths to achieve it. In that jumble, distinguishing between the role and intent of the abducted woman and that of the other parties is an impossible task. Rather than a struggle between a head of the household and those subjected to their authority, abduction and partner choice should be perceived as a process of negotiation in which different parties with changing dynamics determined the outcome. In this process, the abducted woman was an essential player, given that her consent was crucial in determining the settlement. Consent was fundamental to marriage formation, and therefore the agency of those whose consent was needed was expected and required. Although people did not debate the general meaning of this concept back then as they do today, they were aware of the dangers its central position in marriage law entailed and of the slippery line between consent and coercion.

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Abbreviations

ADN	Archives Départementales du Nord in Lille	
CAA	City Archive of Antwerp (Felixarchief)	
	O	Archival fonds *Ordonnanties*
	SR	Archival fonds *Schepenregisters*
	V	Archival fonds *Vierschaar*
CAG	City Archive of Ghent (Archief Gent)	
	S	Series (*Reeks*)
CAL	City Archive of Leuven (Stadsarchief Leuven)	
	OA	Archival fonds *Oud Archief*
SAB	State Archive of Brussels (Algemeen Rijksarchief Brussel)	
	CC	Archival fonds *Chambres des comptes*
SAL	State Archive of Liège (Rijsarchief Leuven)	
	AD	Archival fonds *Archives diocésaines*

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See forthcoming edition of these letters by Walter Prevenier, *Pardon Letters from the Dukes of Burgundy on Violence onWwomen Between 1386 and 1500.*

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No. 7343
No. 7346
No. 7348–No. 7349
No. 7351–No. 7352
No. 7354
No. 7369
No. 7704–7711
No. 7715
No. 7719–7721
No. 7725–7727
No. 7733
No. 7735
No. 7738
No. 7746–7752
No. 8104–8106

No. 8110–8112
No. 8120
No. 8124
No. 8126–8127

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No. 1254: Joyeus Entry of Filips of Saint-Pol.

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No. 3
No. 4–5
No. 7–10
No. 13–15
No. 17
No. 31

Series 301: aldermen of the Keure
No. 15–16
No. 20
No. 22
No. 32
No. 39
No. 41–44
No. 47–52
No. 56–57
No. 60

Series 330: registers of the aldermen of Gedele
No. 15
No. 19
No. 38

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No. 12903 (1450–1480)
No. 12904 (1480–1520)

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No. 14107-14109 (1393–1411) microfilm 4656–4658
No. 14110 (1411–16) microfilm 4658
No. 14111 (1416–21) microfilm 4658–4659
No. 14112 (1421–26) microfilm 4659
No. 14113 (1426–33) microfilm 4659
No. 14114 (1433–41) microfilm 4660
No. 14115 (1441–53) microfilm 4660
No. 14116 (1453–65)
No. 14117 (1465–81)
No. 14118 (1481–93)
No. 14119 (1493–1501)

Bailiff accounts Leuven
No. 12653 (1403–13)
No. 12654 (1413–27)
No. 12655 (1427–45)
No. 12656 (1445–61)
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The Middle Dutch term *schaec* referred to abduction with marital intent. This book explores this phenomenon to understand wider attitudes towards marriage-making in the fifteenth-century Low Countries. Whilst exchanging words of consent was all that was required legally, making marriage was a social process that evoked public concern and familial scrutiny. Abductions embodied contrasting evaluations of what mattered when selecting a spouse and resulted in polarized trials in which narratives on consent, coercion, and family strategy coincided and competed. *Abduction, Marriage, and Consent in the Late Medieval Low Countries* draws from a wide range of legal records to assess how men, women, families, and authorities used, navigated, and dealt with abductions during this period. It contributes to debates on consent, family involvement, and women's access to justice and demonstrates that abduction should be approached as a comprehensive social phenomenon, one that is crucial in the history of marriage and women's social and legal status.

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