

# 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’.<sup>1</sup>

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.<sup>2</sup> 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

<sup>1</sup> SAB, CC, no. 12904, fol. 270rv.

<sup>2</sup> Ibid.

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.<sup>3</sup> 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.<sup>4</sup> 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 *schae*c in Middle Dutch, are at the core of this study.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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

<sup>3</sup> Ibid.

<sup>4</sup> Godding, *Le droit privé*, 72–73.

<sup>5</sup> About this peculiar term, see Delameillieure, "They Call it Schae in Flemish".

<sup>6</sup> 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.

<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> Consequently, the multivalence of *raptus* and the similarly ambiguous term 'ravishment' are at the core of English abduction scholarship, which

<sup>12</sup> Dunn, *Stolen Women*, 19.