

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).

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 rederijckers*, 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 Bühner-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.