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.