

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.