

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 Pylser, '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 Jacobs, 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'.