a comparison of the types of abduction cases in each court's registers, differences between these courts, and significant jurisdictional patterns. Analysis of the verdicts shows that judges had room to deal with abduction cases in different ways, meaning that they had some flexibility to apply abduction laws in a variety of ways depending on the specific circumstances. However, abductors, abductees, and their families were aware of the judges' latitude in interpretation and employed certain strategies, both in and out of court, to obtain the legal outcome they preferred.

Secular authorities: between repression and reconciliation

Secular authorities issued a variety of penalties for abduction, ranging from a fine of five pounds for consensual abduction in Vier Ambachten and Land van Waas to pilgrimages to Cyprus in Leuven and even execution by decapitation. Chapter 3 pointed out that the abductee's consent (what this constituted legally) could set the abductors free; bailiff's accounts and pardon letters mention consent often as an extenuating factor. Looking more deeply into authorities' punishments for abductions, either *ex officio* or based on private complaints, reveals the ambiguity of their approach. The severe, menacing language of the legislative texts gives way in practice to a more utilitarian attitude. Although they occasionally awarded severe punishments, the secular authorities settled many abductions amicably and waived penalties. Some abductors successfully applied for a state pardon.

Penalties for abductors, accomplices, and abductees

In the late Middle Ages, a trial proceeded by public prosecution.[10] The bailiff initiated a case to be judged by the aldermen. A private complaint was preferable, but not required. The bailiff, a state official who represented the duke or count locally, had the power to charge suspects and force them to appear in court without a private complaint.[11] In Ghent, however, the bailiff never acquired this right. This city prided itself on its independence from sovereign authority and wanted to limit the influence of the count as much as possible.[12] The Ghent 1438 law, however, specifically stated

10 Maes, *Vijf eeuwen stedelijk strafrecht*, 93–107; Van Caenegem, *Geschiedenis van het strafprocesrecht*, 1–2.

11 See for example the *ex officio* case against Johanna Pypenpoys in Leuven, discussed in Chapter 2.

12 Van Rompaey, *Het grafelijk baljuwsambt*, 272–73.

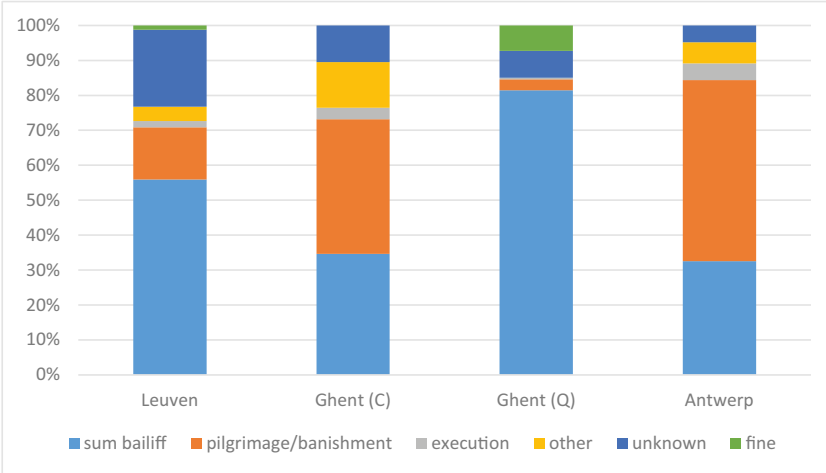

Figure 3: Sentences and compositions for abductors in the bailiff's accounts and sentence books of Antwerp, Leuven, and the city (C) and districts (Q) of Ghent (15th c.)

that city officials were to bring *ex officio* charges in cases of abduction if the abductee or her relatives failed to file a complaint themselves.[13] In all three cities, court cases about abduction could therefore be initiated both by the authorities and by a private party.

Figure 3 shows the penalties for all 625 abductors, chief instigators, and active and passive accomplices, listed in the bailiffs' accounts and registers of final sentences of each city and district.[14] Before addressing and interpreting the penalties, the following points should be considered. In the first place, a small proportion of the category labelled 'unknown' were abductors whose punishments I was not able to track down. In a few cases, the penalty was illegible because of damage to the document or faded ink. In the majority of these cases, however, the penalties are unknown because the records simply did not specify them. For example, some documents state the punishment for only one person, while mentioning several other abductors who were involved. Secondly, the category of 'other' contains eight abductors acquitted by the aldermen, nine abductors declared outlaws and fourteen abductors

13 Prevenier, *Prinsen en poorters*, 286; see also Chapter 1.

14 This figure is based on the data about 83 abductors in Antwerp, 168 in Leuven, 153 in Ghent, and 221 in the districts in the quarter of Ghent. Whilst the bailiffs' accounts cover the whole fifteenth century, the Ghent sentence books cover the period between 1472–1537, the Leuven one between 1398–1422, and the Antwerp one between 1412–1515. 'Ghent (C)' refers to the records from the city of Ghent, whereas 'Ghent (Q)' includes cases from Land van Waas and Vier Ambachten, two districts in the Ghent quarter. For the distinction between active and passive accomplices, see Chapter 3.

who received pardons without the sources reporting whether they were ever tried and what their punishments would have been. A third note is that Figure 3 only contains data from the sentence books and bailiff's accounts, which are organized differently in each city. It does not include the small number of lawsuits found in the aldermen's registers because, unlike the sentence books and bailiff's accounts, there are no complete surveys of fifteenth-century aldermen's registers for all these cities.

Finally, the differences between the cities and the Land van Waas and Vier Ambachten districts are largely related to the source material used. Even though the proportion of compositions is much higher in the districts in the quarter of Ghent than in the cities, this probably does not represent an actual difference. After all, for the Ghent districts, there are no surviving registers of final sentences, and the bailiff's accounts are the only sources. Although the bailiff's accounts frequently include reports of cases punished by the aldermen, which never involved composition, this difference in sources nevertheless would cause different results. Registers containing the aldermen's final sentences are available for the cities of Ghent, Antwerp, and Leuven and yield additional insight into cases that were settled in court. However, these sentence books with the aldermen's verdicts are not available for the whole fifteenth century, a gap that leads to divergent results. For example, in Leuven, *Dbedevaertboeck* only covers the period between 1398 and 1422, while the Ghent *Ballincbouc* records court cases from 1472 through 1537, and the Antwerp *Correctieboeck* covers the years 1412 through 1515. These gaps would distort the results. Another inconsistency is that there are only 83 abductors in the Antwerp records, while Leuven has 168 and Ghent has 153 abductors. The bailiff's accounts of the districts in the quarter of Ghent list 221 abductors. Needless to say, even though these quantitative differences do not necessarily represent differences in the frequency of abductions, they have an impact on the results in Figure 3. Furthermore, it is important to remember that many abductions were settled peacefully outside of court, without any interference by the bailiff as discussed earlier.

Several abductions were tried in court, where the aldermen applied the laws against abduction and sentenced the perpetrators to death, banishment, or pilgrimage. Very few cases ended with the abductor's execution; three men in Leuven were executed, six in the city and quarter of Ghent, and four in Antwerp. In Antwerp, all four men were decapitated for the same abduction. The reference to this case in the 1482/83 bailiff's account is even more concise than normal: 'About Peter den Necker of Ghent, arrested for abduction, after his defence before the bench of the aldermen from which he was turned over to the lord by their sentence and decapitated'. After this,

three other lines, one per accomplice, show that Peter's two brothers and his nephew received the same severe penalty. They had 'helped to carry out the aforementioned deed'.[15] In Leuven, Henryc Oege was executed for abducting the daughter of Gielijs Stoeprox. Heynric was not put to death by decapitation but by hanging. Because this method of execution was extremely degrading, it was reserved for the most disgraceful offenders.[16] Henric's accomplices received other penalties. While one of them was hiding abroad, the other two were both sent on two pilgrimages, one to Rome and one to Strasburg. One of them successfully made a deal with the bailiff that replaced the sentence with a composition. According to the record, the other offender had already completed his first pilgrimage and was to leave for the second to Strasbourg.[17] This case also lacks a description of the context, which might explain why Henric was hanged. The missing context might be connected to the increase in the number of punishments for abduction in this period, a matter I will return to below. If the figure were to include all cases of 'possible abduction', the proportion of offenders who were executed would increase slightly.[18] This is not surprising since some of these cases were probably rapes, not abductions. The secular courts of the late medieval Low Countries rarely punished rape with execution, yet more rapists than abductors met that fate.[19]

The records clearly show a link between the laws governing a city or region and the penalties its aldermen applied. In Leuven, the most common penalty issued by the aldermen for abduction was a pilgrimage.[20] The city's 1396 legal text prescribed a pilgrimage to Cyprus for those convicted of abduction. In practice, however, the aldermen did not always choose Cyprus as the destination. Some abductors were sent to closer destinations,

15 SAB, CC, no. 12904, December 1482–June 1483, fol. 46r: 'Van Peeteren den Necker van Ghendt, gevangen zijnde van schaecke. Ter vierschaeren na zijns selfs verlijden, aensprake, ende verantworden, vonisselic den Here toegewesen is denselven mids den voirscreven redene doen richten metten zweerde'.

16 Maes, *Vijf eeuwen stedelijk strafrecht*, 394–401; Van Caenegem, *Geschiedenis van het strafprocesrecht*, 161–63.

17 SAB, CC, no. 12656, December 1457–June 1458, fol. 414r.

18 About this category of 'possible abductions', see Introduction, page 33.

19 Vanhemelryck, *De criminaliteit in de ammanie van Brussel*, 149–53; Verwerft, 'De beul in het markizaat van Antwerpen', 117; Van Eetveld, 'Vrouwencriminaliteit in Gent', 103; Delport, 'Misdadigheid in Leuven', 161–66.

20 The large number of pilgrimages in Leuven can partially be explained by the particular focus of this city's sentence book. However, also the Leuven bailiff's accounts contain many references to pilgrimage penalties which indicates that it was a frequent penalty in this city. About pilgrimage as a penalty, see Van Herwaarden, *Opgelegde bedevaarten*; Rousseaux, 'Le pèlerinage judiciaire'.

such as Santiago de Compostela, Rome, Rocamadour, Aachen, Cologne, Trier, and Paris. As the last example demonstrated, the aldermen ordered some abductors to make multiple, separate pilgrimages. For example, the aldermen of Leuven ordered one abductor to make three pilgrimages, to Cyprus, Santiago de Compostela, and Rocamadour.[21] To be allowed back into the city of Leuven, he had to present a certificate that proved he had arrived in all three places. He could not travel from one to the next but was to return to Leuven after his first trip to Cyprus to present his certificate to the aldermen before he could leave for his next journey to Compostela. Although convicts regularly bought off these penalties, Low Countries' sentence books and bailiffs' accounts occasionally include these certificates, indicating that many perpetrators did in fact undertake these pilgrimages. Although I have not found a legal text for Antwerp specifically addressing abduction, its aldermen also sentenced many offenders to pilgrimages. However, in agreement with Ghent law, the aldermen of this city usually banished abductors, for three years if the abduction was consensual and for fifty years if it had been violent.[22] Sometimes, the aldermen added other penalties, such as levying a fine or combining banishment and pilgrimage, to the most common penalties of banishment or pilgrimage. The combination of penalties was especially frequent in Antwerp. For example, the aldermen sentenced the chief perpetrator Woyte van Roye to harsh punishment for abducting Gertruyd Papen, 'a young virgin' who lived in the Antwerp beguinage. He was sent on a pilgrimage to Cyprus where he had to stay for twenty-five years. If he came back to Brabant before that term ended, he would be executed.[23] Also in Antwerp, Willeken Bode had to go on pilgrimage to the Basilica of Saint Nicolas in Bari, stay abroad for one year, and pay a fine, all for complicity in an abduction.[24] The latitude they exercised in combining penalties and assigning various pilgrimage destinations reveals that the judges had a certain leeway to deal with abduction cases differently based on the specific context of each case.[25]

21 SAB, CC, no. 12654, December 1418–June 1419, fol. 190v.

22 About the punishment of banishment in the late Middle Ages, see Zaremska, *Les bannis*; Jacob, 'Bannissement et rite de la langue'; Demaret, 'Du banissement à la peine de mort'.

23 FAA, V, no. 234, fol. 58r (1 March 1435). In Ghent, a similar abduction of a young virgin occurred. Two men took the girl who was peacefully walking near the wooden bridge at Sint-Baafs against her will while being drunk. The men were banished from Flanders for fifty years and had to undertake two pilgrimages each, to Rome and Santiago de Compostela, see CAG, S 212, no. 1, fol. 74r (26 May 1484).

24 SAB, CC, no. 12902, June–December 1411, fol. 120r.

25 On the ambiguity of legal texts, which led to disputes and variation in settlement in sixteenth-century Castile, see Kagan, *Lawsuits and Litigants*, 16–23.

The figure also reveals that many abductions never came under the aldermen's judgement. The records show that a significant share of all abduction cases registered in the bailiff's accounts and sentence books were settled through the composition mechanism.[26] As the introduction explains, the bailiff did not bring to court every case that came to his attention. After examining the case, he could decide to handle the offence out of court. Although, strictly speaking, he was not part of the judiciary system, the bailiff had one important power that in practice gave him decision-making authority over settling offences. He had the power to arrange a financial settlement (called 'composition' or *compositie* in the records) with suspects who thereby avoided prosecution. This power was restricted so that the bailiff could not exercise it arbitrarily. One example is that, in theory, the bailiff could not allow an amicable settlement if a private party had filed a complaint.[27] He had to move forward with the prosecution and prepare a case to be presented to the aldermen. However, bailiffs sometimes did the opposite for cases that lacked sufficient proof, or those that did not fit the legal definition of the crime but were considered inappropriate, such as consensual abductions of adult women.[28] The bailiff made a financial settlement with suspects if no one had filed a legal complaint, if the offender had reconciled with the other party, or if lack of evidence might mean that the judges would acquit the accused.[29] In addition to these criteria, the bailiff often justified the settlement out of court with subjective extenuating circumstances. Chapters 2 and 3 feature many of these, such as the abductee's consent, the subsequent marriage of abductor and abductee that made the offence 'silly', or the poverty of the perpetrator and his need to care for his young children.[30] Another common reason given was that the accused's family and friends had spoken to the bailiff asking him to not bring the case to court or to rescind the penalty already imposed by the aldermen. For example, after Merten Heynen had assisted Dierijc Jan Dierijcszone with abducting the widow of late Jan Mees near Antwerp, his friends sought out the bailiff and 'begged' him to settle through composition.[31] These examples show the power and influence of social networks aiming to restore public peace as quickly and smoothly as possible after a breach.

26 See Figure 3.

27 Van Rompaey, 'Het compositierecht in Vlaanderen', 49–50.

28 See Chapters 2 and 3.

29 Van Rompaey, 'Het compositierecht in Vlaanderen', 19–51; Dupont, 'Le temps des compositions (II)', 60.

30 Van Rompaey, 'Het compositierecht in Vlaanderen', 55–56.

31 SAB, CC, no. 12903, fol. 64v, 74v–75r.

Although the majority of composition settlements were made for offences that had never reached a judge, some were made after the aldermen had pronounced a sentence. In Leuven, the bailiff did have the power to reverse sentences. Some abductors in the composition category thus had already been sentenced in court but settled with the bailiff afterwards, which voided the aldermen's sentence.[32] The lower incidence of composition in Ghent and the resulting high proportion of sentences is striking. The cause of the discrepancy was that the bailiff had a weaker position in Ghent because the citizens preferred to have their aldermen adjudicate abduction cases instead of a representative of the count. Still, not all abductors who had been banished by the Ghent aldermen carried out their sentence. In the Ghent *Ballincbouc* that lists banished offenders, several names have been crossed out, indicating that the banishment term had ended, the abductor had returned prematurely, or the penalty was rescinded by a pardon or payment of a fee or after an important political event, such as a sovereign's joyous entry.[33] Managing abductions with the composition mechanism and altering severe penalties into lighter sentences does not mean that abductors 'got away' with their behaviour. In the late medieval Low Countries, authorities often applied the widely accepted method of composition and regarded it as a more effective penalty than corporal punishment.[34]

It is not a surprise that the aldermen of Land van Waas and Vier Ambachten ordered sixteen abductors to pay a fine since their law included this penalty. As discussed in Chapter 1, legal provisions for consensual abduction in these Ghent districts seem mild in comparison to the terms in the Ghent legal texts. In the districts, legal texts merely assigned a fine of five pounds for the consensual abduction of a minor. The following examples prove that mild treatment of abduction in law also applied in fifteenth-century legal practice. The aldermen of Vier Ambachten sentenced Pieter Deye to pay a five-pound fine *pour avoir emmennee et éspousee* Betkin Caulben, an orphan, against the will of her guardians. The brief deed states that

32 For example, the Leuven aldermen sentenced Wouter van Huldenberg with a pilgrimage to Cyprus for seizing a woman named Ydeke and taking her along the Minderbroederstraat to a tavern. However, the bailiff 'saved him from the severity of justice' and replaced this sentence with a composition that Wouter paid over two instalments. See SAB, CC, no. 12659, December 1484–June 1485, fol. 116v–117r.

33 Crabbé, 'Beledigingen', 173; Plovie, '"Ghij en waert noeyt goed voor de stede van Ghent!"', 20.

34 Dupont, 'Le temps des compositions (II)', 60. In many European regions, harsh corporal punishments were often replaced by financial ones, see Skoda, 'Crime and Law', 198.

the offence was abduction, punishable by the five-pound fine according to the district's charter (*lequel meffait l'en dist estre en Flammen 'scaec', dont selont le Keure du Pays, l'amende est V lb.*).[35] In 1467, the aldermen of Land van Waas meted out the same penalty to Pieter De Smet for abducting Liesbette Vander Heyde with her consent.[36] The lighter penalty for consensual abduction applied in both Land van Waas and Vier Ambachten for the entire fifteenth century. Since there are no surviving sentence books, the only reason that these sentences are now known is that they were mentioned in bailiffs' accounts. It is quite likely that the aldermen settled more consensual abductions in this way. One significant Vier Ambachten case suggests that the bailiff did not always agree with this rather mild punishment. Three men, the brothers Jehan and Pierre Agneeten, and another man named Hue Agneeten, had abducted Pasquine Vandewinkel, who had granted her consent. Afterwards, Pierre and Pasquine married publicly before a group of respectable people, including the girl's father. The bailiff's record states that he feared the aldermen would punish this case as a consensual abduction, with a fine of 'only five pounds' (*seulement V. lb.*). Because he did not have enough evidence to take the case to court as a violent abduction, he settled it with a composition forty times higher than the prescribed fine of five pounds.[37] While the city aldermen of Ghent frequently sentenced abductors to a three-year banishment (in consensual cases) and could—in theory—disinherit abductees for allowing their abduction and marrying the abductor, perpetrators in Land van Waas and Vier Ambachten who committed the same act only had to pay a fine of five pounds. The difference in lawmakers' treatment of abduction between Ghent and less urbanized districts nearby, discussed in Chapter 1, was therefore borne out by an actual difference in legal practice between the two jurisdictions.

Most legal texts stipulated that abducted women should also be sentenced. According to law, minors who fled their parents' authority and married their abductors and adult women who were abducted against their will but still married the attackers were to be disinherited. In the late medieval period, lawmakers in other regions of Europe made similarly draconian legal proclamations, but historians have noted that judges rarely applied the penalty of disinheritance. This pattern seems to hold true for the Low Countries, too. I found no actual examples of disinheritance in the Leuven

35 SAB, CC, no. 14111, 1419 January–1420 March, fol. 195v.
36 SAB, CC, no. 14117, 1467, fol. 93r.
37 SAB, CC, no. 14111, January 1419–May 1421, fol. 199v.

records.[38] In contrast, Monique Vleeschouwers-Van Melkebeek located eight civil lawsuits in the registers of the *Keure* aldermen, while Marianne Danneel added two other cases from the registers of the *Gedele*. I found one example of disinheritance in Antwerp.[39] Disinheriting a woman involved a breach of family unity. Moreover, disinheriting a child directly contradicted the principle of equal inheritance enshrined in most Low Countries cities. Canonists also expressed their disapproval of parents disinheriting their children for marrying against their wishes.[40] This sentiment that disinheritance was an extreme penalty must have existed in families in the late medieval Low Countries. The few disinheritance cases that can be found involved the wealthiest elite families, which strongly suggests that the more assets were at stake, the lower the threshold potential heirs needed to reach to turn to such an extreme measure. For examples, the relatives of the adult woman, Johanna Van Saemslacht, whose case will be discussed in detail below, successfully filed for Johanna's disinheritance In Ghent.[41] The plaintiffs presented what had happened as a violent assault; while Johanna claimed that the abduction had been consensual from the start, thereby hoping to maintain possession of her property. The final verdict connected to the specific requirements of the legal texts by repeating that Johanna had been abducted 'with force and while crying for help' (*ontscake met forsche ende hulpgheroupe*) but then stayed with the main perpetrator afterwards.[42] Favouring the relatives, the aldermen adopted the plaintiffs' characterization of the offence as 'violent' and disinherited Johanna 'as if she were dead'.

In other, similar pleas for disinheritance initiated by relatives, the plaintiffs do not contest that the abductee had consented to the abduction. They often include quotes from legal texts such as 'women who were still under the care of their parents or guardians cannot marry via an abduction against their families' wishes'.[43] This means that the charged women in these cases

38 In Antwerp, one record with information about a partial disinheritance of the abductee is preserved in the aldermen registers. However, the authorities were not involved in this as it is registered as a private contract between the abductee and her parents, see FAA, SR, no. 20, fol. 56v (11 June 1433). After marrying Laureys Jacob Laureyszone against her parents' will, Lijsbeth van Kuyck entered into a contract with them that led to the suspension of her rights to her inheritance as long as her abductor/husband lived.

39 Vleeschouwers-Van Melkebeek, 'Mortificata est', 360–61, n. 12; Danneel, *Weduwen en wezen*, 117, n. 440.

40 Dunn, *Stolen Women*, 117; Brundage, *Law, Sex, and Christian Society*, 443.

41 CAG, S 301, no. 57, fol. 174v (28 April 1484).

42 Ibid.

43 See example in CAG, S 301, no. 43, fol. 138rv (30 April 1455).

were probably still minors, an assumption supported by the ages included for some of the abductees. Two women were approximately twelve and thirteen years old at the time of their abductions. In 1456, Elisabeth van Massemen, an abductee whose defence was recorded, makes no mention of her consent as a reason that she should not be disinherited, as Johanna Van Saemslacht had. This might indicate that Elisabeth was a minor. Her consent would not have made any difference. A fascinating case among these consensual abductions of minors is the one of Margriet tsGraven, since it contains evidence about the connection between consent and pardon, as well as evidence that the consensual abduction of minors was still considered to be an illegal offence. There are two surviving acts concerning this case. Margriet was abducted by Arthur Heyman. In the first act, on 8 January 1463, immediately after the abduction, Margriet declared her consent before the aldermen of Ghent. As a result, two men whom Margriets' father claimed had acted as the abductor's accomplices escaped punishment ('the aforementioned Jacop and Jan through the aforementioned sentence of the aldermen had been acquitted by the declaration of the aforementioned Margrite').[44] On 11 October in the same year, however, Margriet's father filed charges against his daughter and successfully obtained her disinheritance. Arthur was banished from Flanders for three years.[45] This outcome and the plea in the second court case tallies with the other cases in which the aldermen punished consensual abductions of minors with disinheritance and banishment. However, the outcome of the first court case shows that even the consent of minor abductees could impact the judicial outcome and serve to justify a lighter punishment or none at all.

Beyond this small number of cases ending in property loss, the judges awarded other penalties that held some women as accountable as their abductors. For example, Joos Rueghe had married Callekin Van Walle against the will of her parents and friends. The record does not state that Joos had to pay a composition. Instead, it seems that they were held jointly responsible and had to pay a composition as a married couple (*le bailli 'les' a laissé composé*).[46] Joint responsibility was sometimes the decision in the abductions of married women as well. For example, an anonymous Leuven woman left her husband to go away with Hendrick Dekens. She had to pay

44 CAG, S 301, no. 47, fol. 102r (8 July 1463): 'So weten de voorscreven Jacop ende Jan bij dat tvonesse van scepene voorscreven volcommen was bij der verclaerste van der voorscreven Magrite ontsleghen van der voorscreven zelven'.

45 CAG, S 301, no. 47, fol. 118r (11 October 1463).

46 SAB, CC, no. 14115, January–May 1446, fol. 8r.

a composition.[47] There is no distinction between abduction and adultery here. Walter Prevenier discusses a unique pardon letter granted to both the abductor and abductee, who had written a letter hoping for remission together as a couple.[48]

In the Low Countries, as in many other European regions, every subject of the duke or count had the right to ask him for pardon by mouth or written letter.[49] Prevenier and Arnade's forthcoming edition of a group of pardon letters concerning forced marriages or other violence against women contains approximately thirty letters dated between 1387 and 1501 that deal with abduction for marriage in the County of Flanders. This low number reveals that people sentenced for abduction rarely applied for pardons. In most of these letters, abductors requested pardon, but there were a couple of cases of an abductee's relatives who had murdered the abductor.[50] Although most pardons were for premeditated murder or involuntary manslaughter, perpetrators could ask to be pardoned for any offence, in theory. If the duke or count granted the abductor's request for pardon, that cancelled the penalties already imposed by local courts and cleared him of all charges. The pardon restored the abductors to honourable status and reinstated their reputation, which protected them from retaliation by the victim's relatives or acquaintances.[51] In the letters located by Prevenier and Arnade, as in the city registers and bailiff's accounts, the state granted pardons to abductors in clusters. While some years featured no pardons, for others there are multiple pardon letters. Since many abductions were ended in a friendly settlement or composition rather than stricter penalties, mostly those perpetrators who had already received a severe sentence or risked one applied for a pardon. The court had reasons for granting pardons, such as a monetary incentive (most petitioners had to pay for this procedure, at least if they had the money) and the desire to forge political alliances. However, the most important reason was probably the ability it gave the sovereign to portray himself as the supreme leader possessing greater authority than local governors.[52]

47 SAB, CC, no. 12659, December 1497–December 1500, fol. 360r.

48 See Prevenier's analysis of this abduction on the basis of the pardon letter in Prevenier, 'Huwelijk en clientele'.

49 Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 6–13.

50 For example, Philip the Good pardoned Ernoul Brangher, Jan Storem and Jehan Coupeland for killing Gauthier de Craywerc and Bert Le Busere, who had abducted a young woman who was about to be married from the Bruges beguinage, see ADN, B1681, fol. 23rv (July 1387).

51 Baatsen and De Meyer, 'Forging or Reflecting Multiple Identities?', 26–27.

52 Verreycken, 'The Power to Pardon', 7; Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 9–12, 52; Prevenier, 'The Two Faces of Pardon Jurisdiction'.

Authorities' ambiguous approaches

Some of the variations between law and practice derive from differences between cases since authorities considered some abductions more serious than others. Often, missing context makes it impossible to reconstruct the link between the penalty and the nature of the offence. Despite this caveat, the overwhelming impression is a contradiction between the severity of abduction in law and the tolerant attitude of legal practice. Compositions could even overrule sentences pronounced by the aldermen. Abductors could buy off banishments already imposed, as the crossed-out names in the *Ballincbouc* show. Criminal justice historians studying multiple regions have noted the discrepancy between law and legal practice.[53] As even the slightest breaches of peace could threaten social harmony and stability, many late medieval societies revolved completely around conflict management. The law was an instrument of maintaining the peace, and the authorities dealt with infractions to that law by prioritizing the smooth return to peace.[54] If the citizens involved had reconciled and the abduction did not cause further trouble, there was no point in bringing the case to court. It was better to make a composition or a private penalty agreement that would extract the required amends from the offenders.[55]

The figures below display a scattered pattern of abductions reported in small clusters rather than a balanced, consistent pattern throughout the fifteenth century.[56] Either abduction occurred more frequently, or the authorities prosecuted abductions more intensely in some years than in others. It has been argued that abduction occurred more frequently during periods of socioeconomic decline since families had a more desperate need for advantageous marriages.[57] Although there was a slight increase in abduction numbers during some crises, such as the late 1430s in Leuven, a period of plague and famine, the numbers are too low and scattered to support

53 Skoda, 'Crime and Law', 198; Rousseaux, 'Crime, Justice, and Society', 3–4; Dean, *Crime and Justice*, passim; Verreycken, 'The Power to Pardon', 6.

54 About the political ideas regarding conflict management, peace, unity, and harmony in the late medieval Low Countries, see Prevenier, *Prinsen en poorters*, 269, 278, 293; Dumolyn, 'Privileges and Novelties', 12–13; Boone and Haemers, 'Bien commun'; De Boodt, '"How One Shall Govern a City"', 10.

55 In late medieval Italy too, 'the practice of composing, rather than punishing, crimes was deeply engrained' says Dean, *Crime and Justice*, 20.

56 The figures (4, 5, 6) contain data from the bailiff accounts and sentence books in each city. For Ghent, however, I also included the aldermen registers of the *Keure* since these have been examined for the whole fifteenth century by Monique Van Melkebeek and Cyriel Vleeschouwers.

57 Berents, *Het werk van de vos*, 40; Prevenier, *Prinsen en poorters*, 191.

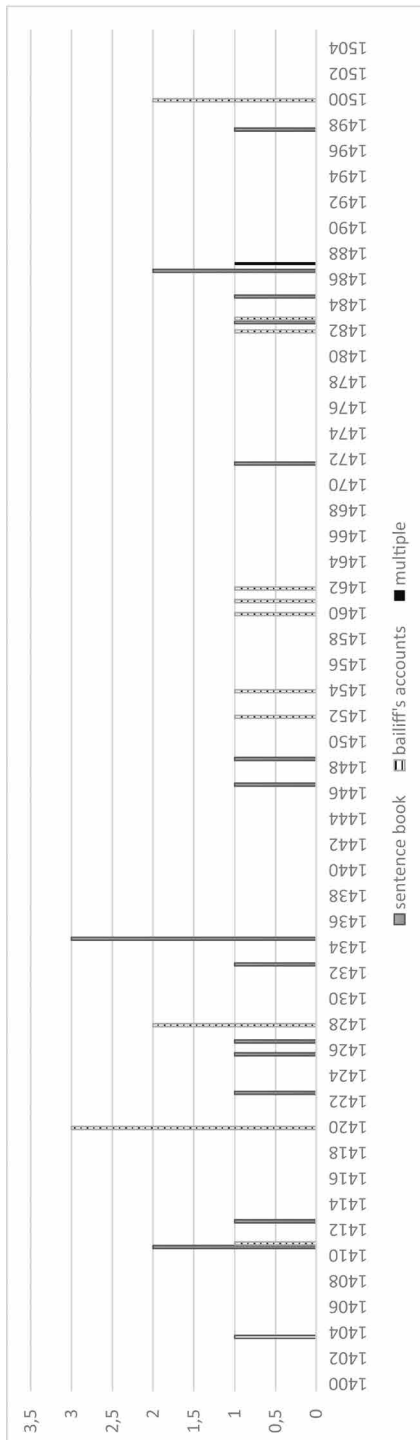

Figure 4: Number of abductions in the bailiff's accounts and sentence books of Antwerp (15th. c.)

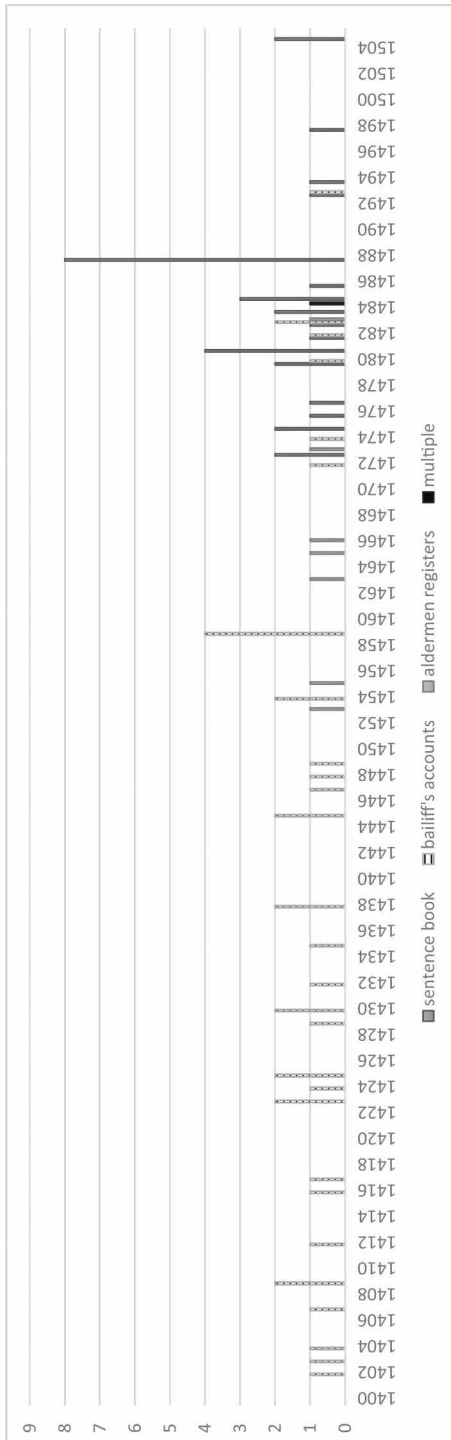

Figure 5: Number of abductions in registers of the aldermen and bailiff of Ghent (sentence book, bailiff's accounts, and registers of de Keure, 15th c.)

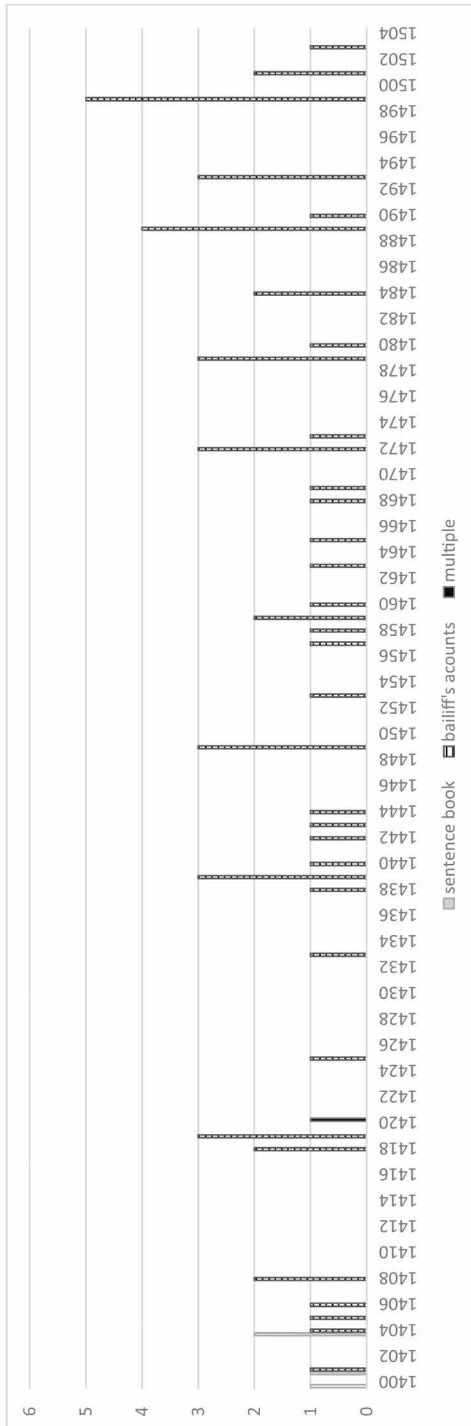

Figure 6: Number of abductions in the bailiff's accounts and sentence book of Leuven (15th c.)

this conclusion.[58] It is more likely that most abduction cases never went to court, because they were resolved by private conflict settlements, still the most predominant method of handling abduction in the fifteenth century. Some abductions are only known through pardon letters and never appear in the city bailiff's accounts or sentence books.[59] The incidents recorded in the bailiff's accounts and sentence books are only the tip of the iceberg; they do not include all the abductions that occurred and were managed by the authorities. Therefore, the small clusters, in Ghent and Antwerp around the 1480s and Leuven around the 1440s and the end of the 1450s, do reflect periods of increased social concern about abduction which led to waves of control. Studies using the same types of sources have similarly argued that these records reflect official attempts to control the behaviour of people.[60]

The sources demonstrate that the underlying purpose of punishing abductors was social discipline, warning people that abduction was a dishonourable act that was severely punished. The first indication is that authorities carried out death sentences during phases of increased prosecution. In Leuven, the 1443 bailiff's accounts state that Arndt van Comptich was executed for abducting Grieten Sleens. The bailiff paid the hangman to decapitate Arndt by the sword and put his decapitated body on a wheel so that all residents could see it.[61] The fact that several abductions were punished in the early 1440s may not have been a coincidence. The abovementioned abductor Heynric Oege was hung in 1458, another time featuring multiple abductions in the records. The Antwerp 1482–83 account reveals that the hangman decapitated four abductors. Figure 4 clearly shows an increase in punishments in the late 1470s and the 1480s in Antwerp. The small number of death sentences and the public spectacle of the executions suggests that authorities employed the extreme penalty when they wanted to suppress abductions by reminding their subjects of the possible consequences.

Moreover, the records frequently add that the abduction was 'a case of a very evil example'. The final sentences in the Ghent *Ballincbouc* often include this stipulation at the end of the verdict, which was probably read aloud in court. For example, Jan Vanderhulst was banished for fifty years from Flanders for taking away a young virgin 'which is a case of evil example' (*dwelke een*

58 Van Uytven, *Stadsfinanciën*, 584–85.

59 See for example the abduction of Katharina Meulenpas in Leuven: Arnade and Prevenier, *Honor, Vengeance, and Social Trouble*, 153–58.

60 Boone, 'State Power and Illicit Sexuality', 152; Haemers and Delameillieure, 'Women and Contentious Speech', 331.

61 SAB, CC, no. 12655, December 1442–June 1443, 418rv; June-December 1443, fol. 432rv–439v. About these spectacular punishments, see Merback, *The Thief, the Cross and the Wheel*.

stic es van quaden exemple).[62] Although this formulaic closing sentence is a rather hollow statement added for the sake of performance and tradition, its frequent deployment is a symptom of justice's exemplary character. The authorities hoped that this punishment would discourage others.[63]

Finally, the spike in abduction cases comes before the promulgation of new legal texts, not after. There was no increase in abductions after a new legal text appeared. Lawmakers did not immediately apply the new laws, nor did they encourage citizens to press charges. However, there was an increase in abduction numbers in the years preceding the new legal texts. In 1406, the Leuven city government issued a text that cited a recent increase in abductions and called for prosecution and strict sentences for all cases. The Ghent aldermen issued a severe charter on abduction in 1438, which was echoed by the ducal charter of Philip the Good. In the records of actual practice in both cities, there was a rash of penalized abductions. Authorities might thus have reacted against what they thought was an increase in abductions by composing a new law that repeated that this offence was unacceptable. The 1406 text opens with 'now recently, more than at other times, great moral decay and evil have emerged and happened in the city of Leuven'.[64] The Ghent 1438 text reportedly came just after the scandalous abduction of a woman referred to as the widow Doedins. I have not found any further evidence about this case. Although these types of statements were commonly used to legitimize the promulgation of new laws, the prosecution rates in the years preceding suggest there is an element of truth to them.

If authorities were more agitated by abductions in some periods than in others, what factors caused that moral panic or the opposite, a lack of interest? One factor was that sensational cases involving prominent citizens triggered the authorities to pull out all the stops. The abduction of women from important families caused turmoil in the city. The authorities then took extreme measures to search for the perpetrators. In June 1469, when Christiaen Vander Gracht abducted the wealthy widow Anthonyne van Calckene of Ghent, the duke ordered a search and launched a call to action with trumpets. Anthonyne was found and quickly returned home.[65] While there is no definitive proof that this case caused the rise in penalized

62 CAG, S 212, no. 1, fol. 83v (13 February 1485).

63 Dean, *Crime and Justice*, 39; Dean, *Crime in Medieval Europe*, 126; Jones, *Gender and Petty Crime*, 200.

64 CAL, OA, no. 1258, fol. 17rv.

65 'My formidable lord made searches and calls with trumpets, and so much was done that on Monday the aforementioned woman came back to her house in Ghent' ('Mijn geduchte heere dedene zoucken ende uproepen met trompetten, ende wart zo vele ghedaen dat 's maendaeghs

abductions in the early 1470s, authorities launched a massive response to abductions that aroused social concern and must have been a topic of interest, speculation, and gossip throughout the city.

Moreover, lack of interest may reflect the occurrence of other crises or uprisings, which absorbed the authorities' attention and forced them to deal with offences related to political insurgence rather than moral matters. One example is the absence of abduction cases in the Leuven records in the mid-1470s. In 1477, there was an uprising of the Leuven craft guilds. Abductions were likely not high on the aldermen's agenda for the next few years. Instead, they focused on offences, such as subversive speech, that directly challenged the authority of those in charge.[66] In Ghent, the number of abduction cases decreased around 1450 and in the late 1460s, periods of increased protest against Philip the Good and Charles the Bold. However, there are tumultuous years that also featured abductions. During the 1480s the city of Ghent was absorbed by a rebellion against Maximilian.[67] Yet, according to Figure 5, there was also a spike in penalized abductions, especially in those punished by the aldermen. This suspicious contradiction is related to the rebellion's specific context. Ghent was fighting for its independence from sovereign authority. City government, therefore, committed itself to governing autonomously, taking every possible action to protect their privileges and retain their rights, such as the right to punish their citizens and residents.[68] This context explains the rise in abductions in Ghent's sentence book. The city governors emphasized their independence and aspirations for autonomy by exercising their right to punish abductors and abductees, as established by the comital charters of 1297 and 1438, without state interference. The political context could significantly impact the legal settlement of abductions and other offences.[69]

…, de zelve vrauwe weder quam te haren huus te Ghendt') in Fris ed., *Dagboek van Gent*, 223; CAG, S 301, no. 50, fol. 41rv (27 September 1469).

66 In the 1470s, the Leuven bailiff's accounts show an increased number of people punished for speaking 'evil words', see Haemers and Delameillieure, 'Women and Contentious Speech', 331.

67 About this uprising and the relation between Ghent and Maximilian, see Haemers, *De strijd om het regentschap*, 97–273.

68 Mariann Naessens noticed a general rise in prosecutions in the late 1470s and 1480s in Ghent and equally points towards Ghent's political situation as an explanation, in Naessens, 'Seksuele delicten', 155–56.

69 See for example the case study of Johanna Van Saemslacht discussed below. Prevenier elaborated on some well-documented abduction cases in the Low Countries and also showed the impact of politics on the case's settlement, see Prevenier, *Marriage and Social Mobility*; Prevenier, 'Huwelijk en clientele'.

Historians studying crime and morality in the late Middle Ages have often noted that authorities enforced a stricter moral code from the 1480s onwards. Historians have seen this for several phenomena and offered possible explanations.[70] Figures 4 and 5 also show an increase in abductions registered in the 1480s. In Ghent, the political context accounts for this change, and in both Ghent and Antwerp, figures dropped again in the 1490s. In Leuven, there is no cluster in the 1480s, but *Dbedevaertboeck* does not cover this period. Because the number of abductions per year is always low, explaining all the evolutions in the number of registered abductions is challenging. Whether authorities were concerned about penalizing abduction probably depended on a combination of context-specific factors in each city and perhaps on a general shift in morality starting in the late fifteenth century. The small number of abductions in the 1490s could be a consequence of the erosion of the composition mechanism. From the end of the fifteenth century onwards, the authorities chose more physical sanctions for offenders and made fewer monetary settlements. In the early modern period, the composition system almost completely disappeared.[71] However, the 1490s dip in numbers also exists in the aldermen's sentence books, which casts doubt on any causal connection between a stricter moral code and the rise in abduction numbers in the 1480s.

Despite increasing severity in legal stipulations against abduction in the late Middle Ages, most abductors who came into contact with justice officials 'got away' with a composition or a milder penalty that replaced a more severe one throughout the fifteenth century. Many men still had to go on pilgrimages to faraway countries, suffer banishment for a few years, or pay a significant sum of money, sometimes in several instalments if the financial burden was too heavy.[72] The records do reveal that abductors feared prosecution. Some abductors fled abroad. Many pardon letters state that the offender was writing from abroad; sentences and bailiff's accounts note the abductor's absence as well. For example, the Antwerp bailiff's accounts report that Henneken Goerne, 'a paltry servant', abducted a girl from her cousin's house because he wanted to marry her. The girl's friends followed and took her back, and Henneken fled abroad. He only came back after his friends had negotiated a composition settlement with the bailiff of

70 See discussion of these explanations and references in Chapter 1, pages 70–71.

71 Vrolijk, *Recht door gratie*, 105; Van Rompaey, 'Het compositierecht in Vlaanderen', 78. For a statistical analysis of the decline of the medieval tax-system in the sixteenth century in Nivelles, see De La Croix, Rousseaux, and Urbain, 'To fine or to punish'.

72 Banishment was far from a soft punishment according to Demaret, 'Du bannissement à la peine de mort', 87–88.

Antwerp.[73] The Ghent aldermen declared some abductors 'outlaws' because they did not appear in court, often because they were in hiding outside of the city. A case from Antwerp explicates the fear of being prosecuted for abduction. Henrick van Herenthout lured a young girl away 'with nice words'.[74] The girl followed him but soon realized that he only wanted 'his will' with her, and left him. Henrick grew afraid of being charged with violent abduction and proactively went to the Antwerp authorities to explain what had happened ('he thought that they would consider the abduction an abduction against the girl's will and consent').[75] Although most abductors received light penalties, a composition, fine, short pilgrimage, or banishment, some were punished harshly, especially if authorities ruled it a coerced abduction. People were aware of this risk; another reason the abductee's consent was so central to many legal narratives. In the worst-case scenario, the abductor risked execution, a gruelling pilgrimage, or lifelong banishment.

Ideally, the authorities only awarded these severe penalties to people who had perpetrated violent abductions against the women's will. Although there is some evidence in the legal records that consensual abductions received milder punishments, as discussed in the previous chapter, it is difficult to make sense of the rationale for the penalties awarded in some cases. Even though the abduction was reported as consensual, the Leuven hangman decapitated Arndt van Comptich. Moreover, since his 'victim' Grieten Sleens was abducted 'with her will', stayed with Arndt, and married him, the Leuven bailiff confiscated her property and made her pay a composition.[76] These penalties for both abductor and abductee were quite exceptional, especially given the reported consent. Details in the record indicate that friends of Grieten pressed charges and that Arndt and his accomplices were 'very poor', which might explain the penalties. Grieten was possibly a minor from a much wealthier family, who refused to accept an amicable settlement and asked for a harsh penalty. In other cases, however, such as the abduction of Woyeken Hagen, discussed at the start of this book, who refused to marry an 'ugly bearded man', the bailiff used the woman's consent as a factor to justify his decision to settle out of court, even though she was a minor and her parents complained.[77] Why the authorities imposed a penalty in a specific case does not always make sense

73 SAB, CC, no. 12903, June–December 1452, fol. 35r.
74 SAB, CC, no. 12903, June–December 1483, fol. 58v.
75 Ibid.
76 SAB, CC, no. 12655, June–December 1443, fol. 439v.
77 See discussion of this fascinating case in Introduction.

for modern commentators, who do not have access to all the details of the case, the background of the protagonists and their families, and the motives of the authorities, all of which could have impacted the settlement. The role of the bailiff is especially significant. Whereas aldermen had to apply the law, although they had some flexibility to adapt their penalties as the wide range of pilgrimage destinations indicates, the bailiff was much less bound by this legal framework. His scope of action was more restricted in Ghent than in the Brabantine cities, but he still had a lot of decision-making power. He could force people to pay him a composition merely based on a rumour that he may not even have believed himself, or he could 'save' people in his network from being tried in court.

Yet, the aldermen were not completely impartial either.[78] These men came from influential urban families to which many abductors and abductees also belonged. When Leuven Mayor Jasper Absoloens had to deal with the abduction of his own daughter in court, he might have been happy to see the perpetrator sent to Cyprus.[79] However, the Leuven bailiff reversed this penalty and allowed a composition. The split legal personality of the bailiff as a staunch enforcer of law and pragmatic composition collector appears also in the sovereign's performance. On the one hand, he issued severe laws against abduction. On the other, he pardoned convicted abductors. Especially when the abduction involved prominent families, every abduction case was about more than the man and woman who perpetrated the act. Issues of property, power, and honour complicated matters further and led to a wide range of penalties and settlements. The authorities were lawmakers and judges at the same time, which helps explain why they were sometimes influenced by the political context as they adjudicated offences. It is, therefore, necessary to take contextual factors, difficult as they are to connect, into account in analyzing how the authorities dealt with specific cases.

Johanna van Saemslacht

Several of these contextual factors influence the abduction case of Johanna van Saemslacht. Although there are many aspects of this abduction and its management that are difficult to explain, some context is known. Johanna

78 In a Ghent case, the abductee's relatives even publicly accused the aldermen of being impartial and therefore favouring the abductor, see Vleeschouwers-Van Melkebeek, 'Mortificata est', 368–71.

79 SAB, CC, no. 12656, June–December 1453, fol. 228v, 263rv.

was abducted by Perceval Triest, a Ghent citizen of noble birth, while she was travelling from Zaamslag to Ghent. Zaamslag was a fief ruled by the lords of Zaamslag. It formally belonged to *Vier Ambachten*. Johanna appears twice in the sources, once being sentenced by the aldermen in 1482 and then defending herself in a lawsuit initiated by her relatives in 1483. In the first record, Johanna was charged and convicted for a verbal transgression: 'she spread many evil and damaging words about some governors of the city in many crowded places'.[80] The second record in the aldermen's registers, which will be discussed first, was a civil lawsuit ending in her disinheritance for staying with her abductor and marrying him.

Backed by several of Johanna's relatives, the chief alderman of the *Gedele* made the plea, as Johanna was an orphan, against Johanna herself, Percheval Triest and his accomplices, his brother Jan, and three other men, named Arend van Maerle, Quinten Trempen, and Lieven de Mey.[81] According to the plea, the armed men had abducted Johanna as she was travelling to Ghent by boat. It was violent and she did not want it. She shouted loudly: 'Murder, murder! Dear guardian, will you not help me?' The plea continued that the aldermen had summoned the men to explain themselves, but Johanna 'stayed conversing with the perpetrators in public'. Therefore, the plaintiffs asked for the aldermen to apply the charters of Guy of Flanders and Philip the Good: declare the perpetrators (who had fled) outlaws and disinherit Johanna. Acting on Johanna's behalf, her attorney answered these allegations, saying that Johanna was greatly astonished by the plea. He stated that the entire affair happened with her consent, the abduction took place outside of the city of Ghent, and Johanna was not a Ghent citizen. Therefore, the charters cited by the plaintiffs did not apply to her because 'they explicitly dealt with abductions within Ghent and citizens of the city'. Also, he noted a procedural mistake; the plea had not been filed within fifteen days after the abduction and should therefore be declared inadmissible. In their response, the plaintiffs said that since the abductor was a Ghent citizen, the affair did concern the city. They claimed that a procedural discrepancy should not prevent justice from being done. The aldermen agreed and granted the plea, stating that the law also applied outside of Ghent.

The political context of Ghent in the 1480s, described above, informs this case. One significant connection is that Johanna's argument about Ghent citizenship and the location of the abduction reveals the severity of Ghent

80 CAG, S 212, no. 1, fol. 64r (9 November 1482).

81 All quotes in the following paragraph in CAG, S 301, no. 57 (28 April 1484), the record in the aldermen registers about this trial.

law. By claiming her abduction was consensual and arguing that Ghent law did not apply to her, she hoped to escape severe penalties for her husband and herself. Johanna's abduction occurred between Zaamslag and Ghent, possibly somewhere in the district of *Vier Ambachten* located in between the two. Johanna's argument suggests that abductions were penalized more severely in Ghent than in the surrounding districts. Indeed, if Johanna's case was judged and determined by the aldermen in *Vier Ambachten* to be a consensual abduction, Percheval might have come away with a five-pound fine. The city of Ghent experienced the pinnacle of its autonomy in the uprising against Maximilian of Austria in the early 1480s.[82] The city was defending the charters that it had acquired at a heavy cost and arguing that they were valid throughout the whole Ghent quarter. This might explain the aldermen's reason for adjudicating this case, even though it took place outside of the city. Furthermore, the harsh penalties inflicted on Johanna and Perceval could have something to do with their political affiliation. They were on the wrong side of the political spectrum, as supporters of the Burgundian Duke Maximilian. A 1481 record states that Perceval served as a knight in Maximilian's army.[83] Moreover, one of Perceval's relatives, possibly his brother, was pardoned by Maximilian for abducting *demoiselle* Isabelle de Fretin in 1486, another indication of his family's connection to the court.[84] In 1488, the city of Ghent decapitated Perceval for his allegiance to Maximilian and displayed his head on a tall spike.[85]

Then there is Johanna's tirade against some of the governors of Ghent. One year before her disinheritance, she was banished for fifty years for subversive speech. However, her name was scratched out. Her appearance as a defendant in the abduction case means that the banishment had been revoked or had ended prematurely. If the chronology of the two convictions is correct, the aldermen whose office Johanna had seriously offended a year earlier were now determining her future. However, Johanna's relatives might not have filed a complaint until several months after the abduction. The record states that the relatives had not filed within the normal term of fifteen days, and it does not specify how long ago the abduction had happened. The fact that a clerk added a note about the abduction next to the final sentence about Johanna's banishment for subversive speech might indicate that the abduction had happened before her speech act. If

82 Haemers, *De strijd om het regentschap*, 97.

83 Buylaert, *Repertorium van de Vlaamse adel*, 684.

84 ADN, B1703, fol. 166rv (December 1486).

85 Despars and Jonghe, *Cronijcke van den lande ende graefscepe van Vlaenderen*, 415.

this were true, her improper words might have been a direct consequence of the abduction sentence. Perhaps the authorities had already intervened immediately after the abduction, and this led to Johanna verbally assaulting them. Whether Johanna's verbal aggression and Triest's loyalty to Maximillian explain the heavy penalties they suffered is uncertain. During the abduction trial, there was evidence presented and witnesses heard. Since there is no surviving record of these procedural elements, we only know part of the story. Nevertheless, this case makes clear that justice did not take place in a vacuum but in context, which undoubtedly had an impact on the litigants, public opinion, and the judges and bailiff who dealt with the case.

Two- and three-party cases before the consistory courts

Clandestine marriages through words of present consent were common in England but only occurred rarely in the Low Countries, where the vast majority of the clandestine marriages were contracted through words of future consent followed by sexual intercourse (i.e., presumptive marriage).[86] Cambrai synodical statutes determined that the betrothal through words of future consent should happen in public. It was binding and could only be made undone by the bishop. Betrothals conducted in private were illegal and considered clandestine if not celebrated publicly within eight days.[87] Whereas private parties initiated most legal proceedings in English consistory courts, the promotor generally initiated prosecution in the Low Countries' courts.[88] The majority of marriage cases involving abduction were begun by the so-called promotor. This public prosecutor was connected to the court and empowered to search for offences. He could initiate a case himself, or together with a private plaintiff.[89] The proportions of abductions in the registers of Cambrai, Brussels, and Liège are unevenly distributed (Table 3). The Liège register contains information about five abductions through plaintiffs' and defendants' depositions. In two of these cases, a final verdict also survives. The Brussels registers contain ninety-six cases involving abduction, and there are twelve in the Cambrai registers.[90]

86 Vleeschouwers-Van Melkebeek, 'Introduction', *Le tribunal de l'officialité*, 39–40.

87 See Chapter 1, page 55.

88 Donahue, *Law, Marriage, and Society*, 599.

89 Lefebvre-Teillard, *Les officialités*, 34.

90 The records of the diocese of Tournai are not included in this examination as they are accounts and not final sentences. Although these accounts do give partial access to the court's jurisdiction, the information offered is extremely concise. These accounts can therefore not be