

Early Modern Rape Culture(s): Women's Confrontations with Religion and Law

Attending to Early Modern Women: Action and Agency

2018 Conference

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In 1680, an unmarried woman named Mary Knowles defended herself against accusations of infanticide by telling the harrowing story of her rape by a stranger at her home in Arncliffe, North Yorkshire.¹ She had not publicly shared her rape experience prior to her hearing. This was not uncommon in Early Modern Europe, as the very rape culture that enabled sexual violence also served to silence and shame its victims. In seventeenth century Europe, most instances of sexual assault went unreported, unless the perpetrator was accused by a male family member or employer, a practice that had continued from the medieval period. In both medieval and early modern culture, therefore, the accusation of sexual violence faced obstacles, obstacles that we submit were part of an emerging and particularly Early Modern rape culture that have yet to be fully explored.

In recent decades, the topics of sexual assault and modern rape cultures have become prominent in a variety of scholarly disciplines. While modern sexual assault has been and continues to be studied in detail, however, less scholarly attention has been devoted to studying the nature of sexual violence in Early Modern Europe and its connections to and distinctions from its medieval roots. Significant changes in religion, law, socioeconomics, and politics during the early modern period affected the ways in which rape and sexual assault were perceived, experienced, and prosecuted. The impact of religio-legal changes on Early Modern rape culture, in particular, could benefit from additional study. This workshop will focus on how these religious and legal changes affected perceptions of sexual assault in Early Modern Europe.

Recently, scholars like Sara M. Butler and Caroline Dunn have discussed sexual assault and the law in the medieval world. Butler's "I will never consent to be wedded with you!: Coerced Marriage in the Courts of Medieval England" (2004) focuses on forced marriage and its connections to assault, whereas Dunn's "The Language of Ravishment in Medieval England" (2011) explores the ways in which sexual assault was discussed by contemporaries. Emma Hawkes' articles "Preliminary Notes on Consent in the 1382 Rape and Ravishment Laws of Richard II" (2007) and her earlier "She was ravished against her will, what so ever she say': Female Consent in Rape and Ravishment in late-medieval England" (1995) focus on the place of the female victim and the law in cases of sexual assault. While the majority of available scholarship focuses on medieval England, articles like Elise Histed's "Mediaeval Rape: A Conceivable Defence?" (2004) study assault on a wider scale.

Scholarship on sexual assault in early modern Europe has been more geographically varied. Renato Barahona's *Sex Crimes, Honour, and the Law in Early Modern Spain: Vizcaya, 1528-1735* (2003) discusses the concept of female honour, its loss via victimization by sexual

¹ Miranda Chaytor, "Husband(ry): Narratives of Rape in the Seventeenth Century," *Gender & History* 7 (1995): 378.

assault and its redemption through recourse to the law. Abigail Dyer's "Seduction by Promise of Marriage: Law, Sex, & Culture in 17th-Century Spain" (2003) explores sexual contact in relation to marriage, and Laura Gowing's scholarship (1996, 1998, 2003) studies gender differences in sexual litigation, encompassing sexual assault and insult, as well as marriage contracts based on rape. Manon Van Der Heijen's "Women as Victims of Sexual and Domestic Violence in Seventeenth-Century Holland: Criminal Cases of Rape, Incest, and Maltreatment in Rotterdam and Delft" (2011) discusses women as victims in Holland, and Sharon P. Johnson's "The Toleration and Eroticization of Rape: Interpreting Charles Perrault's *Le Petit Chaperon Rouge* within Seventeenth- and Eighteenth-Century French Jurisprudence" (2003) focuses on connections between culture, literature and the law. Less scholarship has focussed on the connections between religious changes in Early Modern Europe and changes to the perceptions and prosecutions of rape. As a result, these questions will guide the workshop:

How did the establishment of Protestant consistories and other religious courts affect the raped?

What legal changes affected the raped and how? Why were these legal changes instituted and on what were they based?

What were the regional differences for victims of sexual violence? Did these vary according to religious boundaries? Linguistic lines? Cultural boundaries? Community by Community?

What are the changes and continuities between medieval rape cultures and early modern rape cultures? Are these changes attributable to the religious changes of the sixteenth and seventeenth centuries?

How were these continuities and/or differences depicted in art, literature, religious homilies and teachings, and law?

Reading: Garthine Walker. 14 Mar 2013, Sexual Violence and Rape in Europe, 1500–1750 from: *The Routledge History of Sex and the Body, 1500 to the Present* Routledge.

Accessed on: 23 Oct 2017

<https://www.routledgehandbooks.com/doi/10.4324/9780203436868.ch23>

Suggested texts:

Crawford, Katherine, *European Sexuaities, 1400-1800* (Cambridge: Cambridge University Press, 2007), especially pages 55-99.

Witte, John Jr, and Robert M. Kingdon, *Sex, Marriage, and Family in John Calvin's Geneva, Vol. I, Courtship, Engagement, and Marriage* (Grand Rapids, Michigan: Eerdmans Publishing Company, 2005), especially pages 262-284.

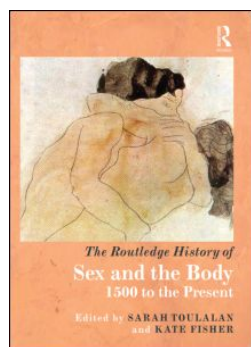
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Part XII

SEXUAL VIOLENCE AND RAPE

SEXUAL VIOLENCE AND RAPE IN EUROPE, 1500–1750

Garthine Walker

Sexual violence and rape may seem transhistorical, for sexual acts we may categorize as coerced, violent and/or violatory appear to have been known in all historical periods. Yet we must not assume that rape and other forms of sexual aggression have no history. Nor should we suppose that the direction of historical change follows an obvious or inevitable pattern. The specific circumstances, general contexts, and collective and individual meanings attributed to sexual violence may change over time and are matters for historical investigation. This chapter begins by sketching out approaches to the history of sexual violence, paying particular attention to accounts of change during the early modern era. Sexual violence and rape in the period 1500–1750 is then discussed in four sections: the first establishes the legal frameworks within which sexual violence was situated; the second considers the practical difficulties inherent in accusing, prosecuting, convicting and punishing rape; the third clarifies the nature and significance of the early modern crime of abduction and other forms of sexual violence as ‘property’ crimes. Finally, we revisit the issue of change over time.

Writing the history of rape

Sexual violence became the subject of historical enquiry in the 1970s when feminists turned their attention to it. This early work assumed that the experience of both female victims and male perpetrators differed little over time and between cultures. From this perspective, articulated most forcefully in radical feminist accounts such as Susan Brownmiller’s *Against Our Will: Men, Women and Rape* (1975), which attended to the issue of men’s sexual violence from Ancient Babylonian society to 1970s America, sexual violence and rape were the *inevitable* consequences of men’s nature, a primary means by which men as a group maintain political and social dominance over *all* women in patriarchal societies.¹ The maxim that all men are potential rapists was not restricted to feminist analyses. Edward Shorter, responding to Brownmiller in 1977, asserted that male libidinal drives appear to be historically constant even if rape itself was not. Early modern European society with its late age of marriage and proscription of pre- and extra-marital sexual activity contained ‘a huge, restless mass of sexually frustrated men’ for whom rape and sexual violence was a primary and inevitable release.² More recently, certain contributions

from the perspective of evolutionary psychology naturalize male sexual violence in ways that appear to offer an explanation and, arguably, an *apologia* for this apparent constant of gender relations.³ Although presumably not the authors' intention, this position may contribute to the notion that ultimately women are responsible for both avoiding and inviting rape. If sexually aggressive men merely act out 'natural' sexual impulses, the onus is on women not to conduct themselves in a manner that might encourage them. Such ideas about rape – 'rape myths' – are evident in many cultural media, from the popular press, cinema and television to surveys of popular opinion and verdicts in rape cases. However, even things that seem the same may be understood or experienced differently in particular times, places and contexts.

Much historical writing about sexual violence in fact tends to combine an essentialist acceptance that men have a natural propensity for sexual aggression with an account of change over time in which men gradually learn to control their drives and urges as they become more modern. Sexual violence effectively provides a gauge of how 'modern' any given society is and vice versa. The precise nature, chronology and meaning of changes identified vary. One study of the development of attitudes to sex and behaviour argued that countless pre-marital pregnancies in early modern Europe ensued from 'a chance meeting in an inappropriate location, at an age when [male] sexual urges became too demanding'. Many such encounters probably 'bordered on rape: stereotypes of the time, if not of nature, demanded it'.⁴ Others have argued that although the process of civilization by which male violence became stigmatized and criminalized began in the pre-modern sixteenth century, only in the later eighteenth and nineteenth centuries were modern sensibilities sufficiently developed for rape to be viewed as 'a crime against a woman as a person rather than as the property of her husband or father'.⁵ Another account identifies the same new attitude to rape as a form of interpersonal violence against women but locates it earlier, in the seventeenth century; here, the old view is one of rape as a sexual offence for which women were partly culpable. Either way, 'modern' society acknowledges women to be the victims of rape while 'pre-modern' society does not.

Not everyone views changes in attitudes to rape since 1500 as positive for women. In the tradition of socialist-feminist history, Anna Clark argued in 1983 that one of the (many) negative consequences for women of industrialization and the development of separate spheres ideology was that women came to be held *more* culpable for illicit sexual activity after 1750. In other words, as women were supposed to remain in the private domestic sphere, they had no business being out and about without male protection and putting themselves in situations where they were fair game for the men who raped them. The implication that women brought rape upon themselves made it harder for them to report it.⁶ A related argument is found in histories of sexuality inspired by the work of Michel Foucault, which similarly eschew the notion that changing attitudes to and practices of sexual behaviours were necessarily positive for women. The 'first recognizably modern sexual identities' in the eighteenth century constructed women as the potential victims of dangerous male sexual urges, a discourse that was then used to maintain and strengthen a 'new and debilitating' model of passive, asexual femininity. This emphasis on women as weak and vulnerable victims was one way in which rape 'became a discursive mechanism through which female agency was limited'.⁷

Wherever we might stand on these issues of continuity and change, we might agree on an aspect of rape that is historically constant: a victim of rape does not consent to sex or only 'consents' to it under duress. Thus, accused men seek, in historically variable ways, to

prove that victims consented of their free will; victims seek to disprove their own complicity and to prove the rapist used actual or threatened force. Arguments concerning if and when force (physical or otherwise) may legitimately be used against women may not be the same in all times and places. But if a woman is forced to have sex against her will, whether by physical force or not, from her perspective it is not legitimate.

Sexual coercion and law in Europe, 1500–1750

In all early modern jurisdictions, rape was rarely prosecuted and had a low conviction rate. Yet generalizing about sexual violence in early modern Europe is less straightforward than might at first appear. This is not due only to an absence of evidence about rape – although rape was without doubt vastly under-reported. Problems also arise from the disparity of evidence that *does* exist. Laws governing rape and sexual violence, and the procedures of the various tribunals in which cases were heard, varied widely both within and beyond state boundaries. Such variations could have a significant impact on how, when, against whom, by whom, and with what effect such acts were reported, prosecuted and punished. In early modern Europe, ‘rape’ denoted a range of incidents related to but not limited to those consonant with the type of coerced sex associated with rape today.

Nevertheless, as European legal systems and bodies of law shared roots in Roman, Germanic and Canon law, the legal foundations of rape were similar across the continent. Rape commonly required three criteria: sexual intercourse, defined as penile penetration of the vagina (sometimes stipulating ejaculation too); force (the degree and nature of which varied), and the (necessarily female) victim’s non-consent. There were, however, a number of specific legal categories of rape depending on the status of the perpetrator and/or victim, the relationship between them, and the circumstances in which the act occurred. These differed from place to place, over time, and by tribunal. For example, in parts of Europe, the rape of a virgin (*defloratio, estupro, stupro forzoso*), an unmarried or widowed woman, a married woman (by a man other than her husband), a nun, a noblewoman (by a commoner), and an heiress, were each offences in their own right or subcategories to which particular rules applied. The rape of children was everywhere viewed as especially shocking. In some countries, sexual intercourse with female children under the age of consent (12 years) counted as rape even if the child had assented and no physical force was used. The dynamics of European colonial rule prompted further distinctions: an aggravated category of rape enacted by enslaved or black men on white women and a diminished one by white men on slave or indigenous women. Throughout Europe, rape was associated in legislation and language with abduction: the violent and forcible carrying away of women or minors with the intention to marry them to the abductor or someone else. Abduction and rape, abduction with the intention to forcibly marry (*rapt, raptus*), and abduction and clandestine marriage (elopement, *ravissement, raptus de seduction, estupro*) were all legal categories of offence. Precise definitions varied. In Spain, for instance, the term *estupro* technically meant both rape and seduction, but in practice the courts distinguished between *estupro* (seduction by promise of marriage) and *stupro forzoso* (rape), while rape was also known as *fuerza de mujer*. Certain acts of sexual coercion, even those involving high degrees of physical violence, did not legally constitute ‘rape’ at all, as may be seen in legislation concerning sexual intercourse as a consequence of ‘persuasion’ and ‘seduction’. Moreover, marital rape was not legally recognized in early modern Europe (nor was it in France until 2006, in the UK, Eire, Germany, the Netherlands, Switzerland, and all US

states until the 1990s, or Austria until 1989). Laws prohibiting prostitutes from bringing charges of rape were also widespread.

While not all of the activities mentioned above were designated offences everywhere over the entire period, their range and the spectrum of penalties they carried indicates the complexity of the topic of sexual violence in early modern Europe. Contemporaries did not view them all as equally heinous nor meriting similar punishment. The temporal and geographic incidences of court cases concerning sexual violence can also give a false impression of universality. For instance, in the early sixteenth century, the courts in Venice, Dijon and south-eastern England regularly heard cases of abduction of women of high social status and child rape, yet in Seville these offences were seldom prosecuted at all. Meanwhile, the *only* form of rape routinely sued in Rome's main criminal court was *defloratio* (the rape of virgins).⁸ Practices and rituals of sexual violence also took particular forms in certain places. Gang rapes of prostitutes and other women allegedly of 'low morals' in the cities in southern Italy, France and Spain in the late fifteenth and sixteenth centuries appear to have been unfamiliar elsewhere. Similarly, sexual aggression towards young women during wedding celebrations formed a rite of violence only in some German communities.⁹ When early modern historians discuss 'rape', then, we cannot take for granted that their sources refer to the same thing. In one study of sexual and domestic violence in seventeenth-century Holland, the author is unclear even about the status of rape and its prosecution in her own sources. We are told not only that no Dutch law against rape existed in the sixteenth and seventeenth centuries until 1656, when a marriage law that criminalized the 'seduction' of 'honourable' young girls included forcing or goading them to have sex in its remit, but also that previously only abduction and incest were covered by Dutch legislation (of 1540 and 1580, which presumably acknowledged the possibility of forced coition). Yet the author proceeds to discuss accusations, convictions and sentences for rape and attempted rape as early as 1618 and of married women.¹⁰ Without a clearer statement of what the 'crime' of rape consisted of we do not know if we are comparing like with like.

Procedural and penal differences in the complex and overlapping jurisdictions of early modern Europe complicate an already complex picture. Between 1500 and 1750, few European 'countries' were unified states with centralized criminal justice systems. Most of the territory comprising what we now know as Germany, Switzerland, Italy, and much of central Europe was made up of independent or quasi-autonomous kingdoms, principalities, duchies, bishoprics and city-states, each with its own laws and legal institutions. Judicial practices were diverse even in the constituent parts of composite political units such as the Habsburg monarchy or the Holy Roman Empire. Thus, numerous German territories within the latter adopted aspects of the Empire's legal code of 1532, the *Constitutio Criminalis Carolina*, yet retained their existing legal institutions. Even the relatively centralized French state contained several provinces that possessed distinct legal traditions and privileges. The Parlement de Paris, in its role as the highest court of appeal, thus standardized sentences and punishments over only one half of the country. While England imposed its legal system upon Wales in 1536, Scotland retained its separate legal system in the Act of Union of 1707. In addition, rape was not solely a criminal matter. Like other sexual offences, rape came within the jurisdiction of the church courts or, in Reformation Germany, under the secular moral or 'marriage' courts. It also led to civil actions by which compensation was sought for the damage done to the victim. Penalties for rape varied accordingly.

Rape in the abstract was condemned as a most heinous offence. A Spanish almanac of 1619 was typical in proclaiming rape, like murder and tyranny, to be a ‘great misery’ portended by the comet of that year.¹¹ Most criminal law codes categorized rape with murder, sodomy, and other ‘notorious offences’ that merited capital punishment. Convicted rapists were, for instance, decapitated in areas adhering to the *Carolina*, decapitated or hanged in parts of the Dutch Republic, broken on the wheel or hanged in France, and hanged in England and Wales and in Ireland. The odiousness of rape was reflected in further penal conventions. In England and Ireland, rape was added (in 1576 and 1612 respectively) to the list of aggravated felonies for which the death penalty could not be commuted to branding. In several of England’s colonies, rapists (particularly if they were slaves) were hanged in chains. In Venice, in 1513, an ordained priest who was convicted of robbing and raping 16 women was decapitated and quartered, his quarters displayed on the gibbet.¹²

Rape was not, however, an exclusively capital crime. Sentences for raping a minor in sixteenth-century Venice included the amputation of a hand and blinding; in Sardinian customary law rape incurred a fine, but if it had not been paid within 15 days the offender was to have a foot amputated.¹³ The *Carolina* stipulated a penalty of ‘body *or* life’, leaving open the option of mutilation followed by banishment; in practice, convicted rapists were rarely executed. In the Dutch Republic, punishments for rape in Rotterdam were whipping, branding and banishment, not death, while in Amsterdam judges had the discretion to pass capital or corporal sentences.¹⁴ Condemned rapists in French and Spanish courts in the sixteenth and early seventeenth centuries were among those reprieved and dispatched to a lifetime of servitude in the galleys. We ought not *automatically* to designate non-capital punishments as ‘lenient’; certainly not all were intended to be so. Many men found the conditions of slavery in the galleys so insufferable that they deserted at the risk of being executed if caught. Banishment, too, was one of the most rigorous and severe punishments available. The Rotterdam man who, on a second conviction for rape, was sentenced to severe whipping, branding, 12 years’ incarceration at hard labour, and thereafter life banishment from the city (thereby losing his family, home, occupation and community) is unlikely to have found his punishment modest.¹⁵ In Russia, men were sentenced to pay hefty compensation to provide dowries for the young women they raped, as well as being sentenced to beatings and exile, while Byzantine secular law stipulated that the rapist give one-third of his property to the victim and have his nose cut off.¹⁶ Ecclesiastical punishments for rape were also supposed to reflect the gravity of the offence. While these ranged from excommunication (social and spiritual death) and penance to imprisonment and money fines, canon law did not, in theory, regard rape lightly: it was classed as an *enormis delicta* along with assassination and treason, so much so that French canon lawyers opined in the sixteenth century that it was no sin for a woman to kill in self-defence a man who raped her. Indeed, in 1541, the (secular) Parlement de Paris pardoned Agnès Fauresse for doing just that.¹⁷ Yet not all forms of sexual coercion, even those involving physical force, were treated as ‘rape’. Distinctions between ‘persuasion’, ‘seduction’ and ‘rape’ were particularly muddy. The offence of ‘persuading’ a virgin or widow to have sexual intercourse in parts of Reformation Germany was punishable by one month’s imprisonment.¹⁸ In Catholic Europe, the highest penalties imposed on priests who raped women during confession (a sacrament, after all) were the same as those for seduction without force and even solicitation: they were prohibited from hearing confession, removed from their parishes, and sometimes sent to live in a monastery.¹⁹ In Venice, the rape of a nun was not differentiated from entering convent grounds without official approval.²⁰ Sexual violence and

rape in early modern Europe thus has more than one history, none of which can be other than sketched here. Let us turn nevertheless to an aspect of rape that was common enough everywhere.

Evidence, proofs and culpability

In early modern Europe, formal prosecutions for rape were few in absolute and relative terms. Between 1562 and 1695, tribunals in Frankfurt dealt with only two rape trials, while those in Geneva heard no more than two or three each decade. In seventeenth-century Delft and Rotterdam, a mere 14 men were prosecuted for rape or sexual assault, and only eight for rape in Amsterdam in the seventeenth and eighteenth centuries. In Ireland, about 12 rape cases were tried each year, grand juries having already thrown out over half of those initiated.²¹ The Parlement de Paris, with jurisdiction as a court of appeal over one half of the land mass and population of France, heard fewer than three every ten years during the sixteenth and seventeenth centuries.²² If formal charges of rape were few, convictions were fewer. Producing proof of the legal criteria for rape, penile-vaginal penetration, force (actual or threatened violence), and the victim's non-consent, was extremely difficult. Witness testimony was crucial in both inquisitorial legal systems based on Romano-canon law and in accusatorial systems such as English common law. Yet even eye-witnesses (uncommon in rape cases) or ear-witnesses (perhaps less so) to an alleged rape could seldom declare confidently whether these criteria were present. Describing rape necessarily involved a description of sex. This worked to the advantage of accused men, who were able to deflect an accusation of rape by asserting that they *had* enjoyed sexual intercourse but with the consent of the woman concerned. Consent was thus the central issue.

For early modern courts to accept that a woman had been raped, her non-consent had clearly to have been communicated to her assailant at the time and to others afterwards. During the assault she had to shout or scream and resist physically. If her cries brought no one to the scene she should alert others as soon as possible, thereby creating witnesses to her physical resistance – demonstrated by bruises, cuts, and lacerations in the genital area and elsewhere, torn or soiled clothing, dishevelled hair, and emotional distress. Proof of rape thus required female bodies to reveal truths about their experiences. Yet adult or post-pubescent women's bodies, or rather other people's readings of them, were apt to betray them (for child rape, see below). It simply was not the case that 'the display of a mutilated body trumps testimony every time'.²³ It depended on whose body, whose testimony. Even mutilated bodies had to be interpreted, and midwives and surgeons' expert opinions were valued over victims' first-hand accounts of what had happened. Moreover, an initially convincing tale might be negated in the later light of pregnancy, for conception was widely taken to signify consent. Women who reported a rape only after finding themselves pregnant were doubly damned, for the legal time limit within which rape could be disclosed had by then long passed. In the Duchy of Württemberg, for instance, this was a month; under English statute law, 40 days; in the Italian city-state of Ferrara, 15.²⁴ A woman's silence was interpreted as a form of collaboration with her assailant, suggesting her consent after the act if not before.

In practice, cases frequently boiled down to one person's word against another's. If a man denied that penetrative sex had occurred or claimed it was consensual, there was little a woman could do to persuade legal officials that it was he and not she who was lying.

Men's testimony was generally privileged over women's, adults' over children's, masters' over servants', those of higher over those of lower social status. This was particularly relevant in rape given that alleged victims were always female, and often maidservants or children, and defendants were adult males often in positions of authority over them. In late seventeenth- and early eighteenth-century Geneva, for example, nearly two-thirds of rape victims were domestic servants.²⁵ It is no coincidence that young, unmarried low-born women had the poorest chance of successfully prosecuting rape.

Moreover, secular and religious campaigns to control and punish moral offences laid the burden of responsibility for sexual misconduct on women. At best, this might mean that judges dismissed cases where they deemed victims had by 'word or deed' encouraged defendants.²⁶ At worst, victims of sexual violence were themselves punished. In Catholic Europe, many were sent to asylums to undergo a programme of moral reform.²⁷ In Württemberg after 1646, unmarried pregnant women who claimed they had been raped by soldiers were to be punished for fornication on the grounds that they were probably liars.²⁸ Dutch women and girls who had allegedly not cried out for help during an attack were punished for fornication or adultery alongside their assailants, while children molested or raped by male relatives over a period of time were treated as accessories to incest. Some children (boys as well as girls) convicted of incest were subject to corporal punishment and life banishment.²⁹ In these regions, penalties for fornication included various terms of imprisonment, forced labour, monetary fines, even banishment. Those who spoke out about rape could also find themselves prosecuted for slander and defamation by the men they accused.³⁰

Confronted by this host of difficulties, it is hardly surprising that rape was seldom prosecuted. Many rapes were dealt with in other ways, as when a rapist was charged with simple assault, for example. In Venice such demotion of 'regular' rape cases involving adult women has been interpreted as evidence of Venetian government and society's contempt for women.³¹ Yet dealing with rape by alternative means also suggests women's determination to bring rapists to account. English and Welsh women, for instance, prosecuted sexual assailants for simple assault in lower criminal courts where sentences were light but where a conviction was almost guaranteed; others complained to magistrates out of sessions to secure a peace bond that kept their aggressor away from them in future.³² Meanwhile, successful civil actions against rapists resulted not only in financial compensation for victims but also a moral victory over an assailant whose reputation was by definition tarnished.³³ Both married and single women used these strategies.

Married women were generally better served by the legal process in cases of sexual violence (by men other than their husbands) than were unmarried women. This was not, as is commonly supposed, because early modern wives were viewed as their husbands' 'property', making husbands the legal and therefore more successful victims in such cases. Coverture in fact applied only in limited contexts. Wives, not their husbands, were the official victims in cases of violence and sexual violence. Rather, unless there was evidence to the contrary, a married woman's complaint of rape or sexual assault was not undermined by doubts about her chastity. Canon law jurists stated explicitly that a married woman who was raped was not guilty of adultery or other sin 'even if she voluntarily placed herself in the situation that led to the assault'. It was, tellingly, a married woman whom the Parlement de Paris pardoned in 1541 for inflicting a mortal wound on the man trying to rape her.³⁴ This was not, however, the experience of all married women. The Delft Assize court in 1658 sentenced Neeltje Cornelis to 40 years' imprisonment for

adultery and incest after she had been raped several times by her brother; in 1670, another married woman whose husband was absent, was banished for 50 years after she became pregnant by a neighbour whom she said had raped her; for his part, he was banished for ten years, for adultery.³⁵

One form of sexual violence, however, stands out from all others: the rape of girls under the age of consent (12). Child rape formed the largest category formally prosecuted, had the highest conviction rate, and resulted in the severest sentences. This may seem surprising given that the word of a child was not normally privileged over that of an adult – children’s sworn testimony was usually inadmissible in court because they were considered incapable of understanding the nature and significance of an oath. How was it, then, that children’s claims of rape were afforded greater credence than those of adult women or teenage girls? Above all else, the legal age of consent informed the ways in which courts dealt with child rape. Consent, as previously noted, was the key issue in rape cases of females of all ages. If a child had not attained the age at which the law recognized that she was capable of giving or withholding consent to sexual intercourse, the idea that she consented to sex with an adult was problematic. Some states formalized this in legislation: in England, it became statutory rape in 1576 even with the child’s consent.³⁶ Early modern children under the age of consent were widely considered not to have attained what we might term ‘the age of knowledge’, of which their presumed ignorance of the implications of perjury was just one instance. This had especial import in sexual offences. Sexual intercourse involved ‘carnal knowledge’, but the notion that a child could ‘know’ an adult in this manner was dubious. Children were also believed to lack sufficient understanding of rape as a sexual act and the physical capacity to experience it as such. It was on a similar premise that boys under the age of 14 (the male age of consent) were presumed in law not to be able to carry out a rape. Thus, the responsibility and complicity widely attributed to women for sexual encounters did not apply in the same way to little girls. Indeed, Luther’s interpretation of the rape of Dinah (Genesis 34) rested on this very point: as an ‘infant’ of no more than 11 or 12 years of age, Dinah’s experience of sex constituted no sin on her part, nor was she responsible in any way for it, for ‘at that age they do not even know they are alive or are girls’.³⁷ Although not everyone concurred with Luther’s standpoint, sixteenth- and seventeenth-century court records suggest a consensus that sexual language was not so incriminating when uttered by children. Girls aged 11 or younger typically gave more graphic accounts of sex than teenage or adult women. Mary Golding, an English labourer’s daughter aged 9, for instance, explained that her assailant had ‘thrust a great thing into her privy parts and hurt her grievously and then felt something wet to come from him’.³⁸ In sixteenth-century Venice, cases of child rape or incest were the *only* ones that gave much detail of the sexual act.³⁹

Child rape nonetheless had to be supported by evidence. Rapes and molestation of children were often discovered by a third party, usually the child’s mother or other adult, not revealed by the child’s spontaneous accusation. Questions were asked when children found it painful to sit down or walk, had bruised, swollen or torn genitals, or suffered vaginal bleeding or an unhealthy discharge. Immediately upon noticing her 7-year-old had a strange discharge, Caterina Brighenti took her to a midwife in Venice who confirmed that the discharge was a symptom of venereal disease; the little girl had been raped.⁴⁰ Such intervention of adults positioned children at one remove from their abusers, which perhaps contributed to children’s stories of rape being more readily accepted by the courts than those told by post-pubescent girls and women.

Absent from this account of child rape is the rape of boys. Early modern rape legislation did not apply to male victims of any age: forced sexual intercourse of men and sexual intercourse with boys was legally constituted as sodomy. As such, it comes within the purview of other sections of this volume. We might nonetheless note briefly some differences between legal attitudes to rape and sodomy. Although early modern culture clearly recognized that it was possible for a man or boy to be forced to have sexual intercourse by another man, and despite acknowledgement of distinctions between ‘active’ and ‘passive’ participants in male-on-male sex, both parties in an act of sodomy were legally culpable. This is of a different order to the culpability ascribed to women for sexual encounters because, unlike heterosexual activity, same-sex sexual activity, as defined legislatively, transgressed scripturally defined boundaries in all circumstances. Men and boys who countered accusations of sodomy with claims that they had been sodomized against their will rarely found themselves exonerated. In Spain, inquisitors’ definition of non-consent in sodomy cases was so narrow that there was scarcely any form of physical resistance strenuous enough to meet their criteria. Thus, an 18-year-old Valencian who accused a slave of attempting to sodomize him in 1581 was himself banished from the city for four years. Sodomizing little boys was clearly more shocking to early modern people, and was reflected in the punishments imposed: a 21-year-old shoemaker who ‘raped’ a young boy in Barcelona in 1575, for instance, was sentenced to an unknown number of lashes and to spend the rest of his life as a galley slave.⁴¹ In sodomy trials in Frankfurt am Main, the allegations about which the Lutheran authorities were most concerned were those where the defendants had forced young boys to have sex with them.⁴² In most parts of Europe, where sodomy was a capital crime, this meant, perhaps, that boys who had been raped were even less likely than girls or women to report the crime. The history of male rape is yet to be written.

Abduction, seduction and rape as property crimes

Histories of sexual violence often assert that before the ‘modern’ period, rape was a property crime, a form of theft, because women and children were effectively the property of men. The victim of rape was not the female who had been violated but rather her father or husband, the man to whom she ‘belonged’; it was damage to his honour, not hers, that was of primary concern.⁴³ In fact, this was not so, even where rape was conceptualized as the theft of honour, and although a woman’s honour was indeed central to that of her household and family. The *Carolina* of 1532, for example, expected women to be the complainants in rape cases precisely because the honour stolen was hers, not that of her male relatives. In Spain, and other parts of Europe, secular and ecclesiastical prosecutions that sued for coerced sex were frequently initiated by the women concerned, not by men on their behalves. Where the plaintiffs were husbands or married couples, the women were nonetheless perceived to be the wronged parties, and while adults, of course, had to prosecute cases where children had been violated, they did so not as victims of theft, but as parents or guardians of children in their care.⁴⁴

The supposition that rape was a property crime is based partly upon the conflation of rape and abduction, a related – yet distinct – offence. The confusion is understandable: not only was the term for abduction *rapt*, but abduction was a criterion in late medieval canon law definitions of rape. Moreover, secular abduction laws did focus primarily on ‘the protection of ... property and not the welfare of women’.⁴⁵ This, however, was not because

women were constituted legally or socially as male property. The ‘property’ that the laws were designed to protect was not the body of the woman or child abducted but rather any inheritance, dowry or other financial settlement that could be claimed by the abductor or other person who married her. Heiresses and heirs were viewed as the transmitters of property stolen, yet medieval jurists nonetheless classed *raapt* not as a property crime, nor even a sexual offence, but a crime of violence against the person. While abduction laws were not identical throughout Europe, common categories existed: abduction and forced marriage; abduction and rape intended to result in the marriage of the abductee and rapist; clandestine marriage following the cynical seduction of the bride by the ‘abductor’, and elopement. Punishments ranged from execution, imprisonment and corporal punishment to fines, compensation and – to our eyes shockingly – marriage to the girl abducted, often taking account of the abductee’s age and the degree of physical violence and deception used by the abductor.⁴⁶ Where abduction laws were concerned with property transmitted by marriage, it was prosecuted by the wealthy and in some jurisdictions pertained exclusively to the abduction and subsequent marriage of heiresses and sometimes also male heirs under the age of consent. It is certainly possible to argue that many elite women and children were treated as commodities in both the open marriage market and the illicit one in which abduction played a role.⁴⁷ However, this is not evidence that rape itself was a property crime, nor that women generally were, or were treated as if they were, men’s property.

The subject position of abductees is potentially ambiguous. The offence of abduction entailed the carrying away of a woman or child against someone’s will – always against that of her parent or guardian but, paradoxically, not necessarily against the will of the ‘abductee’. In most jurisdictions, abduction was defined by its purpose: marriage without the consent of the latter’s parents or guardian. Many women and girls were undoubtedly coerced into marrying, but not all. An abducted girl might be the victim of sexual violence before and/or after marriage, but equally she might give her full and free consent to such pre- or post-nuptial fornication and the incident still come within the remit of abduction. It is in this context, and not that of ‘woman as property’, that the notions both of consent *after the fact* of rape and of the marrying rapist are best understood.⁴⁸

By 1500, the canon law option of marriage between rapist and victim (permissible only after the offender had undergone penance and with the full and free consent of the girl and her family) provided a loophole allowing young people to marry despite parental opposition. Abduction legislation developed to counter clandestine marriage, whether preceded by elopement, ‘seduction’, ‘persuasion’, or defloration, by removing the financial incentive: the bride’s dowry or inheritance. The focus was therefore not sexual violence *per se* but rather the validity and potentially disastrous consequences of clandestine marriage.⁴⁹ For instance, despite ecclesiastical injunctions to the contrary, secular French legislation defined *all* unions that took place against parents’ wishes as *raapt* even when they were consensual and involved no violence or other coercion. An edict of 1557 permitted parents to disinherit children who married covertly, and in 1579 marrying a minor of either sex without parental consent became potentially capital, although in practice pardons were routinely issued and, after the mid-seventeenth century, payment of damages was increasingly the sentence imposed.⁵⁰ Nor did abduction cases always involve heiresses to substantial fortunes (except where stipulated by law): in later eighteenth-century Ireland, for example, cases arose where non-elite parents had contested plans for marriages desired by their children.⁵¹

Similar concerns underlie some rape, seduction and defloration cases. In southern Europe, families of girls who had been raped took assailants to court in attempts to secure marriage between them, or at least to gain compensation to fund a generous dowry for a future marriage to someone else.⁵² More startling from our perspective, perhaps, is the evidence of young women who, for the same ends of marriage or a dowry, themselves prosecuted men who had allegedly raped them or deceived them into sexual intercourse. Girls bringing suits to the Governor's Court in Rome for *stuprum* or defloration, including those in which rape was alleged, spoke from a range of subject positions, notwithstanding legal constraints on what could be said for a successful legal outcome: 'The girls spoke with differing language and with differing emphases ... not only dismay, fear, and anger, but also love and ambition, that is, personal feelings and intentions which fitted only in part with what their world would have had them say'.⁵³ Another study relates a case pursued there in 1570, in which the defendant, the complainant and her stepfather each modified their position until they reached a mutually agreeable outcome. The appositely named Innocentia prosecuted a young man called Vespasiano for *stuprum* as a means of securing marriage, claiming that he had courted, then raped and deflowered her, and afterwards promised marriage before changing his mind on discovering the paltry dowry her stepfather was prepared to provide. Vespasiano admitted to wooing her, three nights of consensual sex, and a betrothal, but insisted that he was not guilty of *stuprum* because Innocentia was no virgin. After the judge negotiated a better dowry with Innocentia's stepfather, Vespasiano publicly retracted his earlier claim and asserted that he had indeed deflowered his now-intended bride.⁵⁴

The notion that young women or their families pressed for marriage only because non-virgins were too badly tainted to attract any other suitor is, therefore, misplaced. Nor was this known only in Italy.⁵⁵ In Basel, the Reformation ordinance of 1529 had mandated that men had to marry women whom they had 'deceived ... in a seductive manner' to have sex with them, albeit with the proviso that the women had not 'provoked' them in any way, and four years later was abolished by authorities that feared it encouraged rather than discouraged fornication. Nonetheless, at the end of the sixteenth century, Maria Verborgen and her father evoked this ordinance (as well the *Carolina* and Exodus 22:16) to compel the fellow who had raped her after inviting her to meet him in a secluded garden.⁵⁶ In the 1680s, a Muscovite nobleman was ordered to give 500 roubles to Mavrutka Ventysleevea for her dowry as well as being sentenced to a beating and exile to a monastery; in another case, the sum of one-third of the rapist's property was claimed.⁵⁷ As we saw above, women of the lower orders were in an extremely weak position when it came to avoiding or seeking justice for physical, emotional and sexual violence to which they were subjected. Yet despite this, some women successfully negotiated the law from a position of weakness. For lower-class girls especially, Elizabeth Cohen argues,

[e]ven in the aftermath of experiences in which standard morality and parental expectations, on the one hand, and the persistent demands and even physical force of would-be lovers, on the other, left girls scant room for manoeuvre, some of them spoke to the judges not as passive victims but as participants in the making of their own fate.⁵⁸

In early modern Europe, then, the 'property' that was lost and/or acquired in abduction, seduction and even rape and their prosecution was not simply or exclusively that of

women's bodies, and the 'ownership' of such was not always someone other than the woman or girl herself.

Conclusion: sexual violence, rape and 'progress'

Many aspects of sexual violence and rape in early modern Europe outlined above may seem familiar. We could add to this endemic reports of rape by soldiers in wartime,⁵⁹ and the vulnerability of ethnic groups to sexual violence, such as that perpetrated by Inquisitors on Morisco women in sixteenth-century Spain.⁶⁰ Yet – as Jonathan Burton and Antoinette Burton discuss later in this volume – the early modern period, with European invasions and colonization of the New World, marked the beginning of generations of indigenous women being subjected to sexual violence on 'an unprecedented scale', with women and girls as young as 12 being raped, kept as concubines, or forced into prostitution by Europeans.⁶¹ Such phenomena do not sit easily with teleological views of history as progress. Evidence of changes regarding sexual violence and rape in Europe itself also problematizes such a position. In eighteenth-century France, trials for child rape increased in absolute and relative terms, but in England prosecutions for rape (including child rape) decreased, while at the same time the acquittal rate increased. Yet historians have explained these as consequences of the *same* thing: the emergence of modern sensibilities. In England, this allegedly made it unthinkable for children to describe their own abuse in sexual language and so silenced children who had been abused, while in France, the same historical phenomena fostered a 'keener sensibility towards sexual violence' and 'a new sensibility to child rape' in particular, and so more child rapes were reported than ever before.⁶²

Changes in punishments available for rape between the fifteenth and eighteenth centuries similarly demand that we scrutinize value judgements attached to a teleological view of the past. On the one hand, one might associate 'mild' corporal or monetary punishments for rape with the 'traditional' or 'backward' values of a society in which violence against women was not taken seriously. Rape was not a capital offence in all of England's North American colonies, for instance, in the seventeenth century: in Massachusetts and New York, adultery and incest were de-capitalized in the later seventeenth century, while rape *became* a hanging offence in the eighteenth.⁶³ The hardening of sentences for rape may be viewed as evidence of the development of modern sensibilities, an indication that violence against women was becoming less tolerated. Yet, from a related perspective, establishing the death penalty for rape could be seen as going *against* the trend of modernization. In sixteenth-century France, the rape of a prostitute was legally recognized, but in 1555 it was declared so insignificant a crime that it was no longer worthy of punishment – again, it is not entirely clear where this fits in a conventional account.⁶⁴ Change did not move in only one obvious or inevitable direction, nor did apparently unchanging phenomena always mean the same thing.

Notes

- 1 Susan Brownmiller, *Against Our Will: Men, Women, and Rape*, New York: Simon and Schuster, 1975. See also Kate Millett, *Sexual Politics*, New York: Doubleday, 1970; Susan Griffin, 'Rape: the all-American crime', *Ramparts* 10:3, 1971, pp. 26–35; Andrea Dworkin, *Woman Hating*, New York: E. P. Dutton, 1974.

- 2 Edward Shorter, 'On writing the history of rape', *Signs* 3, 1977, pp. 471–82 (474).
- 3 Randy Thornhill and Craig T. Palmer, *A Natural History of Rape: Biological Bases of Sexual Coercion*, Cambridge, MA: MIT Press, 2000.
- 4 Jean-Louis Flandrin, *Sex in the Western World: The Development of Attitudes and Behaviour*, trans. Sue Collins, London: Routledge, 1991, p. 262; first published in French in 1981.
- 5 Martin J. Wiener, 'The Victorian criminalization of men' in Pieter Spierenburg (ed.), *Men and Violence: Gender, Honor, and Rituals in Modern Europe and America*, Columbus, OH: Ohio State University Press, 1998, pp. 197–212 (199–200, 206).
- 6 Anna Clark, 'Rape or seduction? A controversy over sexual violence in the nineteenth century' in London Feminist History Group (ed.), *The Sexual Dynamics of History: Men's Power, Women's Resistance*, London: Pluto Press, 1983, pp. 13–27.
- 7 Tim Hitchcock, *English Sexualities, 1700–1800*, London and New York: Palgrave Macmillan, 1997, pp. 101, 108.
- 8 James A. Brundage, *Law, Sex and Christian Society in Medieval Europe*, Chicago: University of Chicago Press, 1990, p. 530; Elizabeth S. Cohen, 'No longer virgins: self-presentation by young women in late Renaissance Rome' in Marilyn Migiel and Juliana Schiesari (eds), *Refiguring Woman: Perspectives on Gender and the Italian Renaissance*, Ithaca: Cornell University Press, 1991, pp. 169–91.
- 9 Flandrin, *Sex in the Western World*, pp. 273–74; Edward Muir, *Ritual in Early Modern Europe*, 2nd edn, New York: Cambridge University Press, 2005, pp. 34–35; Susan C. Karant-Nunn, *The Reformation of Ritual: An Interpretation of Early Modern Germany*, London and New York: Routledge, 1997, p. 38.
- 10 Manon van der Heijden, 'Women as victims of sexual and domestic violence in seventeenth-century Holland: criminal cases of rape, incest, and maltreatment in Rotterdam and Delft', *Journal of Social History* 33:3, 2000, pp. 623–44 (624–25, 639 n. 22).
- 11 Geoffrey Parker, 'Crisis and catastrophe: the global crisis of the seventeenth century reconsidered', *American Historical Review* 113:4, 2008, pp. 1053–79 (1061–62).
- 12 Marino Sanudo, *Venice, Città Excelentissima: Selections from the Renaissance Diaries of Marin Sanudo*, ed. Patricia H. Labalme and Laura Sanguineti White, trans. Linda L. Carroll, Baltimore: Johns Hopkins University Press, 2008, pp. 130–31.
- 13 Ruggiero, *Boundaries of Eros*, p. 95; Brundage, *Law, Sex and Christian Society*, p. 531.
- 14 Heijden, 'Women as victims', p. 625; Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression from a Preindustrial Metropolis to the European Experience*, Cambridge: Cambridge University Press, 1984, p. 124.
- 15 Heijden, 'Women as victims', p. 625.
- 16 Nancy Shields Kollmann, *By Honor Bound: State and Society in Early Modern Russia*, Ithaca: Cornell University Press, 1999, pp. 43, 74–76.
- 17 James A. Brundage, 'Rape and seduction in the medieval canon law' in Vern L. Bullough and James A. Brundage (eds), *Sexual Practices and the Medieval Church*, Buffalo, NY: Prometheus Books, 1982, pp. 141–48 (143, 145–46); Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France*, Bloomington: Stanford University Press, 1990, pp. 81, 96–97.
- 18 Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe*, London and New York: Routledge, 2003 [1994], p. 62.
- 19 Merry E. Wiesner-Hanks, *Christianity and Sexuality in the Early Modern World: Regulating Desire, Reforming Practice*, London and New York: Routledge, 2000, p. 119.
- 20 Mary Laven, 'Sex and celibacy in early modern Venice', *Historical Journal* 44:4, December 2001, pp. 865–88 (885).
- 21 Julius R. Ruff, *Violence in Early Modern Europe, 1500–1800*, Cambridge: Cambridge University Press, 2001, p. 141; Heijden, 'Women as victims', p. 625; Michael Durey, 'Abduction and rape in Ireland in the era of the 1798 Rebellion', *Eighteenth-Century Ireland/Iris an dá chultúr* 21, 2006, pp. 27–47 (34–35).
- 22 Georges Vigarello, *A History of Rape: Sexual Violence in France from the Sixteenth to the Twentieth Century*, trans. Jean Birrell, Oxford: Polity, 2001, p. 54.
- 23 Quoting Frances Ferguson, 'Rape and the rise of the novel', *Representations* 20:1, 1987, pp. 88–112 (90).

- 24 Ulinka Rublack, *The Crimes of Women in Early Modern Germany*, Oxford: Oxford University Press, 2001, pp. 184; 1275 Statute of Westminster; Brundage, *Law, Sex and Christian Society*, p. 484.
- 25 Ruff, *Violence in Early Modern Europe*, p. 142.
- 26 Joel Francis Harrington, *Reordering Marriage and Society in Reformation Germany*, Cambridge: Cambridge University Press, 1995, p. 256; Ulinka Rublack, 'State formation, gender and the experience of governance in early modern Württemberg' in Ulinka Rublack (ed.), *Gender in Early Modern German History*, Cambridge: Cambridge University Press, 2002, pp. 200–220 (205).
- 27 Wiesner-Hanks, *Christianity and Sexuality*, p. 125.
- 28 Rublack, *Crimes of Women*, pp. 239, 184.
- 29 Heijden, 'Women as victims', pp. 629–32.
- 30 Steve Hindle, 'The shaming of Margaret Knowsley: gossip, gender and the experience of authority in early modern England', *Continuity & Change* 9, 1994, pp. 391–419.
- 31 Ruggiero, *Boundaries of Eros*, pp. 95–96.
- 32 Garthine Walker, *Crime, Gender and Social Order in Early Modern England*, Cambridge: Cambridge University Press, 2003, pp. 49, 55–63; Garthine Walker, 'Re-reading rape and sexual violence in early modern England', *Gender & History* 10, 1998, pp. 1–25.
- 33 Brundage, 'Rape and seduction', p. 145.
- 34 Davis, *Fiction in the Archives*, pp. 189 n. 11, 96–97; Brundage, *Law, Sex and Christian Society*, pp. 396–97.
- 35 Heijden, 'Women as victims', pp. 630–31, 628.
- 36 The age set by this statute was 10 years, causing inconsistency in practice as the age of consent was 12 – as it was elsewhere in Europe.
- 37 Joy A. Schroeder, 'The rape of Dinah: Luther's interpretation of a biblical narrative', *Sixteenth Century Journal* 28, 1997, pp. 775–91.
- 38 Cited in Laura Gowing, 'Bodies and stories' in Margaret Mikesell and Adele Seeff (eds), *Culture and Change: Attending to Early Modern Women*, Cranbury, NJ, and London: Associated University Presses, 2003, pp. 317–32 (327–28).
- 39 Walker, 'Re-reading rape'; Ruggiero, *Boundaries of Eros*, p. 90.
- 40 Nadia Maria Filippini, 'The church, the state and childbirth: the midwife in Italy during the eighteenth century' in Hilary Marland (ed.), *The Art of Midwifery: Early Modern Midwives in Europe*, London and New York: Routledge, 1993, pp. 153–76 (153).
- 41 Cristian Berco, 'Producing patriarchy: male sodomy and gender in early modern Spain', *Journal of the History of Sexuality* 17, 2008, pp. 351–76 (361–63).
- 42 Maria R. Boes, 'On trial for sodomy in early modern Germany' in Tom Betteridge (ed.), *Sodomy in Early Modern Europe*, Manchester: Manchester University Press, 2002, pp. 27–46.
- 43 Julia Rudolph, 'Rape and resistance: women and consent in seventeenth-century English legal and political thought', *Journal of British Studies* 39:2, 2000, pp. 157–84; Marcia L. Welles, *Persephone's Girdle: Narratives of Rape in Seventeenth-Century Spanish Literature*, Nashville: Vanderbilt University Press, 2000; Gayle K. Brunelle, 'Review of Georges Vigarello, *A History of Rape: Sexual Violence in France from the 16th to the 20th Century*', trans. Jean Birrell, Cambridge: Polity Press, 2001', *The Historian* 65:3, 2003, pp. 773–74.
- 44 Isabel V. Hull, *Sexuality, State and Civil Society in Germany, 1700–1815*, Ithaca: Cornell University Press, 1997, p. 62; Abigail Dyer, 'Seduction by promise of marriage: law, sex, and culture in seventeenth-century Spain', *Sixteenth Century Journal* 34, 2003, pp. 439–55.
- 45 Quoting Nazife Bashar, 'Rape in England between 1550 and 1700' in London Feminist History Group (ed.), *The Sexual Dynamics of History: Men's Power, Women's Resistance*, London: Pluto Press, 1983, pp. 28–42 (30).
- 46 Garthine Walker, "'Strange kind of stealing": abduction in early modern Wales' in Michael Roberts and Simone Clarke (eds), *Women and Gender in Early Modern Wales*, Cardiff: University of Wales Press, 2000, pp. 55–62; James Richard Farr, *Authority and Sexuality in Early Modern Burgundy (1550–1730)*, Oxford and New York: Oxford University Press, 1995, p. 90; Brundage, 'Rape and seduction', pp. 141–42.
- 47 For abduction and marital strategies among the European elite, see Henk van Nierop, *The Nobility of Holland: From Knights to Regents, 1500–1650*, Cambridge: Cambridge University Press, 1993, pp. 82–92; Sanudo, *Venice, Città Excelentissima*, pp. 132–34; Walker, 'Strange kind of stealing'.

- 48 Brundage, 'Rape and seduction', pp. 141–43.
- 49 Daniela Lombardi, 'Intervention by church and state in marriage disputes in sixteenth- and seventeenth-century Florence' in Trevor Dean and K. J. P. Lowe (eds), *Crime, Society and the Law in Renaissance Italy*, Cambridge: Cambridge University Press, 1994, pp. 142–56; Harrington, *Reordering Marriage*.
- 50 Flandrin, *Sex in the Western World*, p. 65; Wiesner-Hanks, *Christianity and Sexuality*, p. 121; Stuart Carroll, *Blood and Violence in Early Modern France*, Oxford: Oxford University Press, 2006, p. 241; Farr, *Authority and Sexuality*, p. 108.
- 51 Durey, 'Abduction and rape in Ireland', p. 33.
- 52 Thomas Cohen, 'Bourdieu in bed: the seduction of Innocentia (Rome, 1570)', *Journal of Early Modern History* 7:1–2, 2003, pp. 55–85 (70).
- 53 Elizabeth S. Cohen, 'No longer virgins', p. 176.
- 54 Thomas Cohen, 'Seduction of Innocentia'.
- 55 Elizabeth S. Cohen, 'No longer virgins', p. 174.
- 56 Susanna Burghartz, 'Tales of seduction, tales of violence: argumentative strategies before the Basel Marriage Court', *German History* 17:1, 1999, pp. 41–56 (47–48).
- 57 Kollmann, *By Honor Bound*, pp. 73, 75–76.
- 58 Elizabeth S. Cohen, 'No longer virgins', pp. 177.
- 59 Brian Sandberg, "'Generous Amazons came to the breach": besieged women, agency and subjectivity during the French Wars of Religion', *Gender & History* 16:3, 2004, pp. 654–88 (662–65); Parker, 'Crisis and catastrophe', p. 1066; C. Arnold Snyder and Linda Agnès Huebert Hecht (eds), *Profiles of Anabaptist Women: Sixteenth-Century Reforming Pioneers*, Hecht Waterloo, Ontario: Wilfrid Laurier University Press, 1996, pp. 215–18.
- 60 Ronald E. Surtz, 'Morisco women, written texts, and the Valencia Inquisition', *Sixteenth Century Journal* 32:2, 2001, pp. 421–33 (429–32).
- 61 Karen Vieira Powers, *Women in the Crucible of Conquest: The Gendered Genesis of Spanish American Society, 1500–1600*, Albuquerque, NM: University of New Mexico Press, 2005, p. 95; John F. Chuchiak, 'The sins of the fathers: Franciscan friars, parish priests, and the sexual conquest of the Yucatec Maya, 1545–1808', *Ethnohistory* 54, 2007, pp. 69–127; Matthew Restall, *The Maya World: Yucatec Culture and Society, 1550–1850*, Stanford, CA: Stanford University Press, 1997.
- 62 Vigarello, *History of Rape*, pp. 78, 80–81; Bashar, 'Rape in England', p. 38; Elizabeth A. Foyster, *Marital Violence: An English Family History, 1660–1875*, Cambridge: Cambridge University Press, 2005, p. 148.
- 63 Stuart Banner, *The Death Penalty: An American History*, Cambridge, MA: Harvard University Press, 2003, pp. 6–10.
- 64 Sara F. Matthews Grieco, 'The body, appearance and sexuality' in Arlette Farge and Natalie Zemon Davis (eds), *A History of Women: Renaissance and Enlightenment Paradoxes*, Cambridge, MA: Belknap Press, 1993, pp. 46–84 (66).