

Victims and Survivors of Rape  
in Late Medieval France and Burgundy



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### Short Abstract

This thesis examines victim/survivor experiences of rape and other sexual violations in late medieval France and Burgundy. Though scholars have studied rape in medieval France, few have considered what it was like for the women who endured rape, and none have explored how victims/survivors thought about their own consent. This thesis addresses that gap in the scholarship, proposes new methods for how we might examine victim/survivor experience in medieval documents, and argues that the only ethical study of rape is one that foregrounds such experiences. When rape was violent, women often resisted violently, and understood their ability to consent as something worth physically defending. The discourse of consent had great rhetorical power, and it was used to justify the victim's/survivor's violent actions in the face of rape, reinscribing them with personhood. But other, non-violent sex acts could also be harmful, such as marital promises used to coerce women into sex. Women in medieval France understood that their husbands might perpetrate sexual abuse against them, and that these acts were violative, even if they were not termed rapes. Victim/survivor experience was shaped by the community they lived in, and how others responded to the rape. Dijon was a community with a culture of rape and a culture of resistance. Its rape culture was characterized by physical violence, gang rapes, and the victimization of marginalized and/or vulnerable women. The culture of resistance was characterized by the anger and fear that victims/survivors felt and the defence they mounted against the rapists, but also by the community support they received in the form of testimony and direct intervention. Sex workers were extremely vulnerable to rape due to the nature of their employment, their social status, and the manner in which men tended to treat them. But despite this vulnerability they too had community ties and access to the courts.



## Long Abstract

This thesis examines victim/survivor experiences of rape and other sexual violations in late medieval France and Burgundy. Though scholars have studied rape in medieval France both in legal and literary sources, few have considered what it was like for the women who endured rape, and none have considered how victims/survivors thought about their own ability to consent and not consent to sex. This thesis addresses that gap in the scholarship and proposes new methods for how we might examine victim/survivor experience in medieval documents.

The 'Introduction' begins by laying out the ethical aims of the thesis. Rather than a study of rape in the Middle Ages, this thesis is intentionally a study of the people who endured rape in the Middle Ages. The grounding methodology of this project holds that it is only by foregrounding the victim/survivor perspective that medievalists will be able to discern anything new about medieval rape. Further to this, it holds that not only were there rape cultures in the Middle Ages, but that these cultures shaped victim/survivor experience. It presents a review of scholarship on medieval rape thus far, points out flaws and oversights within it, and highlights those scholars who have used a victim/survivor-centred approach.

'Chapter 1: Methods for Understanding Victim/Survivor Experience' outlines the methodological strands that I use to explore victim/survivor experience: trauma and emotions, the social and cultural understanding of rape, diversity of experience and life stories, and theories of consent. While trauma cannot be diagnosed in the past, it is possible to determine which experiences were harmful, and potentially traumatic. The field of emotions history is then used to argue that victim/survivor emotions would have been influenced by the culture they lived in, which was a rape culture. The existence of a medieval rape culture, and the impact it might have

had on women, is understood through the comparison of medieval and modern rape myths and scripts.

However, this rape culture would not have affected all women in the same way. The most marginalized women had the most to fear from rape culture, and a victims/survivor's experience of rape was shaped by her class, occupation, age, and marital status. Experience was also shaped by the production of court documents themselves, which could have had either a negative or positive impact on rape victims/survivors. Remission letters in particular offered one way for people to create coherence in their lives after traumatic events. Finally, recent theories and debates around consent are used to demonstrate that while it was an important aspect of medieval victim/survivor experience, consent was sometimes weaponized against victims/survivors and used to rhetorically reframe rapists' actions as innocent.

'Chapter 2: Consent Defined' argues that rape was understood as a physically violent act that should be met with physically violent resistance. Customary law books defined rape as a gendered crime that included force, resistance, and a violation of consent. These law books also detailed how women should resist rape, the critical components of which were screaming so that someone else heard, being able to describe the force that had been used, and trying to escape. Women internalized this to a degree, and understood that they should and could react violently when their consent was violated.

These dynamics come to the forefront in several letters of remission that were written for women who sought pardons after being held accountable for murdering the men who raped them. In one, a young woman's steadfast virtue underpins her reasoning for killing the rapist. In another an impoverished pregnant woman is framed as deserving of pity and grace despite her

violent actions towards the man who threatened her. These stories portray rape and rapists as dangerous and threatening to women, who act morally in defending themselves. The women in these letters not only understood that their non-consent should have been respected, but they also felt as if those choices were worth protecting.

Violent non-consent was also described as an appropriate reaction to rape in the works of Christine de Pizan. In particular, her versions of the legends of Lucretia and the Galatian Queen in the *Livre de la Cité des Dames* could have provided her readership with a way of understanding that both the emotions of extreme pain and anger were appropriate responses to rape, and that women were not wrong for themselves enacting violence against men. When read together, Christine's *Cité* and these letters of remission form an alternative rape script in which women not only should be allowed to not consent to sex as they see fit, but should also have the right to defend that choice if need be.

However, victims/survivors not only each had their own subjective response to rape—which in the letters examined here was often one of fear, resistance, and conviction—but they also had to contend with a culture of rape that often minimized their non-consent, blamed them for being raped, and protected perpetrators. Furthermore, violent resistance to rape was meant to prevent a rape from happening in the first place, underscoring how women were held responsible for protecting themselves. Letters written for rapists who sought grace betray the fact that consent was often ignored and violated, and that verbal non-consent was not enough to protect women from rape by men who were unwilling to respect their choices.

Finally, remission letters that feature victims/survivors who reacted to rape violently demonstrate that consent held great ideological and rhetorical power. In turn, the remission

process may have offered them a way to understand their experiences, and potentially heal from the pain. In each of the letters examined in 'Chapter 2', consent forms a significant part of the narrative, ultimately justifying the victim's/survivor's violent actions in the face of rape, and reinscribing them with personhood.

Using a wide variety of sources, 'Chapter 3: Consent Questioned' examines those sex acts which were not labelled rape but which women deemed violative or otherwise harmful. In examining those sex acts that fell somewhere in the middle between consensual and non-consensual, I probe how medieval rape culture affected and shaped heterosexual relations, often making women's choices in sex and marriage less free and equal than those of their male partners.

First, cases of future promises to marry followed by sexual intercourse from the records of the fourteenth century Paris officiality are used to examine how sex could become coercive when it featured as a key element in making a marriage. These cases include men and women with unequal knowledge of the laws around making marriages and different expectations of what would happen when they had sex, that often fell along gendered divisions. Further, there are cases in which the combination of defloration and pregnancy had potentially devastating social effects. Women thought of defloration as harmful, especially when it was followed by broken promises of marriage and the financial difficulty of raising a child.

Next, letters of remission that contain instances of spousal abuse are used to analyse how the conjugal debt shaped heterosexual marriages and created spaces in which wives were sexually abused by their husbands. What comes to the forefront in these letters is that both married women and their communities understood that marriages could in fact be sexually

abusive, and that this abuse was harmful and wrong. Finally, I turn to the miracle play *L'enfant donné au diable* to explore how medieval audiences might have understood the conjugal debt as harmful in certain situations and thus may have been more understanding of couples who shirked their conjugal duties.

Rape may have been defined narrowly in the Middle Ages and signified by certain actions—abduction, forceful intercourse, violence, locale, crying out and so on—but these actions were not the only things that medieval women believed to be harmful. The way that marriages were contracted created spaces in which sex and marriage could more easily be leveraged and coerced, and women were at a disadvantage to their male partners. Similarly, within marriage women understood that they were meant to adhere to the conjugal debt, but they also understood that their husbands could be sexually abusive. Medieval women thus conceived of the men closest to them—their chosen sexual partners and husbands—as having the potential to be sexually abusive and harmful, and of even consensual sex as having the potential to be dangerous.

Chapters 2 and 3 broadly explore how women and teenage girls understood rape, sexual violations, and their own right to consent. Using conclusions drawn from these chapters; namely that many types of sex acts, including violent rape, were conceived of as harmful, and that women and teenage girls sought to draw and enforce their own boundaries around consent to sex, ‘Chapter 4: A Culture of Rape and Resistance: The Case of Dijon,’ focuses more strictly on the question of experience, and explores which social, cultural, and community factors had a hand in shaping it.

The sources used are testimonies from the municipal criminal justice of Dijon. Each rape case is presented as a study of individual victim/survivor experience, though their experiences have much in common, and are analysed in conjunction with one another. The testimonies reveal the fear, distress, and anger that women felt in response to rape, and their desire to seek out justice after it had occurred. Dijon was a community in which rape was signified by physical violence, both on the part of the attacker and on the part of the victim/survivor. Victim/survivor experiences in Dijon, much like those case studies presented in Chapter 2, were thus shaped by what they knew was expected of them: resistance, defending oneself, and trying to prevent the rape from happening.

But their experiences were also shaped by the degree of support they received from the community. These documents reveal that not only were neighbours often key witnesses in rapes, but that residents of Dijon were also willing to intervene in rapes, especially when they involved teenage girls. Analysis of witness testimony further demonstrates that women were very much aware of the rape culture they lived in and the threat it posed to them, and how they in turn pushed back against it. Finally, experience of rape in Dijon was shaped by the status of the attacker relative to that of the victim/survivor. Two cases demonstrate how men of noble status abused their power to kidnap and rape teenage girls with little to fear from the court.

Ultimately, this chapter argues that Dijon had both a culture of rape and a culture of resistance. Its rape culture was characterized by physical violence, gang rapes, and the victimization of marginalized and/or vulnerable women. The culture of resistance was characterized by the anger and fear that victims/survivors felt and the defence they mounted against the rapists, but also by the community support they received in the form of testimony and

direct intervention. The chapter concludes by suggesting that because Dijon was a place that supported victims/survivors, it may have accepted them back into the community after the rape had occurred, and helped them heal.

Experiences of rape in medieval France and Burgundy were primarily influenced by two factors: knowledge of rape and rape culture, and social status. 'Chapter 5: Sex Workers and the Right to Consent', argues that sex workers were extremely vulnerable to rape due to the nature of their employment, their social status, and the manner in which men tended to treat them, but that because they often lived with or near one another, they also had access to a base of knowledge about rape, sex, rape culture, and male perpetrated violence. The legal records contain evidence of sex workers experiencing sexual violence, naming it as such, and then accessing the legal system after it had occurred.

Sex work was tolerated widely in medieval France, though it was regulated through laws and the creation of districts and municipally-run brothels. The laws that regulated sex work shaped sex worker experience and livelihoods, as did the attitudes and biases of those around them. Furthermore, sex workers were engaged, to a degree, in advocating against regulations that harmed them, demonstrating that they knew how to access and interact within legal systems and that they could act collectively. Because sex workers were subject to gendered sexual violence while working, understanding the regulations they were subject to while working and how they built communities based around that work is key to understanding sex worker victim/survivor experiences.

This chapter examines three sex worker experiences of rape, and analyses them as occurring within the wider context of medieval rape culture and as being shaped by the women's

occupation and marginalization. A letter of remission written for a group of men who were accused of raping a sex worker whom they paid demonstrates that sex workers did not view their consent as being linked to payment, and that money given after a rape did not transform a violent rape into consensual sex for the sex worker in question. A second letter, again written for the rapist, establishes that sex workers did not believe they had to accept all clients, and that they possessed firm boundaries around their own consent. Analysed together, these letters reveal hints of the community connections that sex workers relied on for knowledge and access to the court system. Finally, a case from Dijon involving a woman who turned to sex work due to poverty demonstrates that sexual experience and knowledge informed how sex workers viewed rape and their own consent, but that they were nevertheless subject to the worst that rape culture had to offer.

Within a rape culture that limited the rights of sex workers, men perpetrated sexual violence against them as if they were not individuals capable of giving or denying consent. The women studied here, however, did not view themselves in this manner. Sex workers, just like every other group of women studied here, including teenage girls, servants, and married women, had a nuanced understanding of their own consent.

The thesis concludes by reflecting on the many ways that women understood consent and rape in medieval France and suggests that analysing victim/survivor experiences from the Middle Ages can teach us much about how to contend with our current rape culture

*For victims and survivors, past and present.  
Your story matters.*

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## Abbreviations

AN	Paris, Archives Nationales
ADCO	Archives Départementales de la Côte d'Or
CdPC	Louis Douët-d'Arcq, <i>Choix de pièces inédites relatives au règne de Charles VI</i> , volume 2.
DMF	<i>Dictionnaire du Moyen Français</i>
TACB	<i>Le très ancienne coutume de Bretagne</i>
TACN	<i>Le très ancien coutumier de Normandie</i>

This thesis is written using British English style conventions and referenced using the Chicago Manual of Style, 17<sup>th</sup> edition.



## Introduction

This dissertation explores the experiences of women who endured rape in late medieval France and Burgundy. Throughout, I use the term victim/survivor in order to describe those women who either experienced rape and/or other sexual violations and those who were threatened with it. Though I use the term victim/survivor in order to allow for both types of experiences to exist simultaneously within the theoretical framework of this project, I am aware that in using it I highlight the failure of language to encompass the experience of rape. Modern feminists often use the term survivor rather than victim, as it communicates a sense of strength, personhood, and life after rape that victim does not. I use both terms because while survivor communicates an aftermath that victim does not, victim underscores the criminal aspect of rape in a way that survivor does not. I am also aware that I use victim/survivor in a highly gendered manner. Women figure as the victims/survivors of rape and men as the perpetrators exclusively within this dissertation. I define rape as a sexual act which occurred against the victim's/survivor's consent and which they believed was wrong. Where rape is an unsuitable term, I use the phrase sexual violation to refer to any sex act that may have violated consent.

Women, both modern and medieval, may not feel like either victims or survivors after experiencing rape, and yet these are the two terms most readily available to describe their experiences. I have never chosen to self-identify with either of them, though I could. To call myself a victim means I have been victimized by a crime perpetrated against me. To call myself a survivor means I have overcome something, outlived it, made it to the other side. Living in a rape culture as someone who has experienced rape feels more like a feat of endurance than

anything else.

In *Aftermath: Violence and the Remaking of Self*, Susan J. Brison explores her own experience healing from rape and contends that, ‘some topics...such as the impact of racial and sexual violence on victims, cannot even be broached unless those affected by such crimes can tell of their experiences in their own words’.<sup>1</sup> In other words, we cannot begin to understand the most important aspects of such topics unless we hear from the victims/survivors. In the discipline of philosophy, Brison argues that first person accounts of traumatic experiences like rape are necessary in order to ‘expose previously hidden biases in the discipline’s subject matter and methodology’ and ‘to facilitate understanding of (or empathy with) those different from ourselves’.<sup>2</sup> In the field of history, studying rape from the victim/survivor perspective does indeed uncover hidden biases in the discipline. In paying attention to what has often been ignored, we might end up with a radically different picture of what rape in the medieval world was like. And in approaching this topic as someone who is intimately familiar with it, I have been able to ‘broach’ the subject of rape because of my own experiences, and similarly, by making my starting point the medieval victims/survivor, I am able to elucidate something new, undiscovered, and truer about medieval rape than would otherwise be possible.

In *Writing History, Writing Trauma*, Dominick LaCapra states that experience ‘helps to define the subject position of the historian and may serve as an initial warrant to speak in certain voices’.<sup>3</sup> However, he continues, ‘being responsive to traumatic experience of others, notably the

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<sup>1</sup> Susan J. Brison, *Aftermath: Violence and the Remaking of a Self* (Princeton: Princeton University Press, 2002), 6.

<sup>2</sup> Brison, *Aftermath*, 26.

<sup>3</sup> Dominick LaCapra *Writing History, Writing Trauma* (Baltimore: Johns Hopkins University Press, 2014), 40.

victims, implies not the appropriation of their experience but what I would call empathic unsettlement...'<sup>4</sup> By empathic unsettlement, Lacapra means empathy that avoids full identification between the trauma victim and the person (or historian) listening to them. In remaining unsettled rather than presuming to feel what the victim felt, the listener is able to maintain appropriate distance. I have tried to approach the sources examined here from this perspective. Full identification with the victims/survivors here could not only lead me to conclusions based in my own experiences, but would also, I think, be impossible to do in truth. LaCapra's work reminds the historian of trauma that writing about trauma is not the same as living through that trauma, even if one has had a similar experience. I contend that my specific subject position makes me better equipped to do this research and to ask the most appropriate questions of the sources, but that the experiences of the victims/survivors I study are not my own.

It is further important to be honest about my own connection to the topic so that the reader is aware of the constant resonance between past and present that exists in these stories. The experiences I have studied and tried to faithfully narrate have not been neatly sewn into the fabric of the historical record. The pain continues to bleed from them; they have very often been forgotten about. In 'Venus in Two Acts' Saidiya Hartman asks the following of studying the lives of women aboard slave ships on the Middle Passage:

If 'to read the archive is to enter a mortuary; it permits one final viewing and allows for a last glimpse of persons about to disappear into the slave hold,'[quoting herself] then to what end does one open the casket and look into the face of death? Why risk the contamination involved in restating the maledictions, obscenities, columns of losses and gains, and

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<sup>4</sup> LaCapra, *Writing History, Writing Trauma*, 41.

measures of value by which captive lives were inscribed and extinguished? Why subject the dead to new dangers and to a second order of violence?<sup>5</sup>

The women I study have left behind far more evidence of their lives than those that Hartman studies in ‘Venus in Two Acts,’ and unlike women on slave ships, the very fact that stories of medieval victims/survivors appear in the legal record indicates that in some way they were able to speak about their experiences. But Hartman’s work reminds us that the dead once lived, and that they are deserving of our respect and careful treatment as we examine their afterlives.

Dominick LaCapra notes that one ‘problematic, even impossible’ goal of historical understanding can be to ‘assist in the effort to restore to victims...the dignity perpetrators took from them—a restorative effort in which historical discourse is itself engaged to some extent in processes of mourning and attempts at proper burial...’<sup>6</sup> Caring for victim/survivor stories in the past is one legitimate goal of historical research even if we are not always able to achieve what we hope to accomplish.

It must also be noted that too often the only evidence of victim/survivor lives, and that they even existed at all, is that which attests to the painful, likely traumatic acts of overt or quiet violence they endured. Whether or not they felt as if they survived those acts or simply fell victim to them is not a determination I am interested in making. I hope to give these stories and experiences the space to breathe, finally, outside of the archive, and outside of the mere confines of pain. For most of the women studied here, I cannot know how they lived before and after the incident which saw their lives partially chronicled in a court record or letter of remission, but I can and do propose methods for how we might understand their healing after such pain, and how

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<sup>5</sup> Saidiya Hartman, “Venus in Two Acts,” *Small Axe: A Journal of Criticism* 12, no. 2 (2008): 4-5.

<sup>6</sup> LaCapra, *Writing History, Writing Trauma*, 95

we must treat them as full human beings despite only bearing witness to one part of their lives.

This work of humanization, of treating the victim/survivor of rape as a person rather than a number for a statistic, or as a body that can simply communicate the horrors men perpetrate against women, is work that desperately needs to be done in medieval sources and within the discipline of medieval history. This is because rape, perhaps more than any other crime, is that which is employed to discuss something else.<sup>7</sup> Rape, especially medieval rape, is often described as theft, allowing us to view women as objects that can be stolen and taken from one place to another, the sexual violence itself nearly elided by the presence of a wronged patriarch.<sup>8</sup> Fathers, husbands, and brothers can be gravely insulted by the rape of someone they believe they own, and they may also perpetrate this theft against other men.<sup>9</sup> Masculine honour is thus threatened by rape, and women may even use it to manipulate or dishonour a man whom they falsely accuse. Rape can tell us a great many things about female chastity, honour, strength, and death. Rape is a crime we imagine to be as violent as a murder, yet it produces for us a living victim we might speak to, or ignore. I propose that we speak to her, that we begin our study of rape with the victim/survivor, for it is she who bears the consequences of the act into the future beyond the moment of actual sexual violation, and thus she who can tell us what it means.

Though scholars of medieval studies have researched rape, they have generally studied it

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<sup>7</sup> Carissa Harris, *Obscene Pedagogies: Transgressive Talk and Sexual Education in Late Medieval Britain* (Ithaca: Cornell University Press, 2018), 105.

<sup>8</sup> For a discussion of medieval views of rape and abduction as theft, Caroline Dunn, *Stolen Women in Medieval England: Rape, Abduction and Adultery, 1100-1500* (Cambridge: Cambridge University Press, 2013), Chapter 2. On rape and abduction in French, see Kathryn Gravdal, *Ravishing Maidens: Writing Rape in Medieval French Literature and Law* (Philadelphia: University of Pennsylvania Press, 1991), 5-6.

<sup>9</sup> Christine M. Rose, "Reading Chaucer, Reading Rape," in *Representing Rape in Medieval and Early Modern Literature*, eds. Elizabeth A. Robertson and Christine M. Rose (New York: Palgrave, 2001), 45.

from external points of view: criminal, legal, literary, social, cultural. Rarely have they looked at it in terms of the personal, and the victim/survivor of rape has not been the explicit focus of any wide-ranging studies. LaCapra notes that ‘it is astonishing how little historians recognize the significance of individual and collective trauma even when they write of...genocides, wars, rape...’<sup>10</sup> Unease with trauma may be one barrier preventing medievalists from studying victims/survivors of rape, but my sense is that it is also due to both disbelief and fear. Disbelief because surely she has nothing to say, she who has already been silenced. And fear, because once we begin looking for the rape victim/survivor in the record we find her readily, and thus confront something about the period that we do not want to know. The presence of the victim/survivor in the archive both confirms and disrupts the idea of the subjugated woman of the medieval past. Moreover, as scholars who ourselves live in a rape culture—that is, the set of cultural, social, and political norms that work to silence victims/survivors, exonerate perpetrators, and perpetuate rape—what does it mean for our time and for ourselves that we can stare so far into the past and find such horrific resonance with the present? The medieval past may not be *just* like the present, but the commonalities are undeniable: rape was and is endemic in many societies.

Rape has been described by one scholar as the ‘Crime of Crimes,’ but it has also been cast as a mere evening of debauchery.<sup>11</sup> It has been construed as an act by which men understand

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<sup>10</sup> LaCapra, *Writing History, Writing Trauma*, p. x.

<sup>11</sup> Eric Jager, *The Last Duel: A True Story of Crime, Scandal, and Trial by Combat in Medieval France* (London: Century, 2005), 53, Louis Douët-d'Arcq, *Choix de pièces inédites relatives au règne de Charles VI* (Paris: Société de l'Histoire de France, 1863), 2:227. Hereafter CDdC.

their own identities and acquire masculine privilege.<sup>12</sup> Scholars have sought to understand how a famous, beloved author could have perpetrated rape, and how its place in his writing might thus exonerate him.<sup>13</sup> They have questioned what meaning rape had in medieval culture, and have determined from language what acts counted as a rape.<sup>14</sup> They have thought about rape in marriage and the meaning it had for spouses subjected to the conjugal debt.<sup>15</sup> Finally, they have sought to understand what the imagined victim/survivor found in various genres of medieval literature might have felt and thought, and what purpose stories of rape might have held for readers.<sup>16</sup> But we need not stop with the imagined victim/survivor, as the real one lived, and is there in the archive. Thus, this is intentionally not a study of rape in the Middle Ages—neither as a crime nor as a method of social control, neither as a literary trope nor a violent act—rather, it is instead a study of the people who experienced rape.

### Historiography

Though the field of sexual violence and sexual consent studies has advanced in leaps and bounds in recent years, scholars of the Middle Ages working on rape have returned to the same questions of terminology, law, and literary meaning, often at the expense of the victims/survivors

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<sup>12</sup> Jacques Rossiaud, *Medieval Prostitution* (Oxford: Basil Blackwell, 1988), 11-26.

<sup>13</sup> Christopher Cannon, “Raptus in the Chaumpaigne Release and a Newly Discovered Document Concerning the Life of Geoffrey Chaucer,” *Speculum* 68, no. 1 (1993): 74-94.

<sup>14</sup> Corinne J. Saunders, *Rape and Ravishment in the Literature of Medieval England* (Woodbridge: D.S. Brewer, 2001), Dunn, *Stolen Women in Medieval England*.

<sup>15</sup> James Brundage, “Implied Consent to Intercourse,” in *Consent and Coercion to Sex and Marriage in Ancient and Medieval Societies*, ed. Angeliki E. Laiou (Washington, D.C: Dumbarton Oaks Research Library and Collection, 1993), 245-256; Adrien Dubois, “La ‘grève’ féminine du sexe dans la France du xve siècle, un exemple de révolte impossible contre la domination masculine?,” *Genre, Sexualité Et Société* 1, no. 1 (2009).

<sup>16</sup> Harris, *Obscene Pedagogies*, 103-49.

they are studying. Scholars will continuously fail to generate any new conclusions from the medieval legal and literary record of rape without shifting their point of view.

In the late 1980s and early 1990s French legal historians sought to uncover rape within the criminal record and identify its essential elements. Annik Porteau-Bitker's 1988 'La justice laïque et le viol au Moyen Age,' offers the most thorough examination of the language of rape in medieval France, both in French and Latin. Porteau-Bitker draws primarily on letters of remission and cases from the Paris *parlement* court of appeals, and examines the sources for the terminology they use, what they can tell us about how rape was defined as a criminal act, and what they demonstrate about procedure in rape trial and punishment. She notes that rape had to include both sexual relations 'entre un homme et une femme'[between a man and a woman] and 'l'absence de consentement de la femme ou sa résistance a l'acte sexuel' [the absence of the consent of the women or her resistance to the sexual act] but that courts also looked for force and violence on the part of the perpetrator.<sup>17</sup> Consent was an important component of rape in medieval France, and it was expected that women express non-consent via verbal and physical resistance. However, Porteau-Bitker also finds that rapists presented a victim/survivor's desire and willingness to consent to sex as being the very thing that provoked them, thus meaning that consent could be wielded against victims/survivors.<sup>18</sup>

Nicole Gonthier's 1994 article 'Les victimes de viol devant les tribunaux à la fin du Moyen Âge d'après les sources dijonnaises et lyonnaises' presents a localized view of how the

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<sup>17</sup> Annik Porteau-Bitker, "La justice laïque et le viol au Moyen Âge," *Revue Historique De Droit Français Et Étranger* 66, no. 4 (1988): 491.

<sup>18</sup> Porteau-Bitker, "La justice laïque," 499.

municipal court of Dijon investigated rape. Gonthier makes the case that this court viewed rape as a serious threat to society and thoroughly investigated all complaints brought to them. However, their aggressive tactics usually meant that the victims/survivors of rape were tasked with bringing many types of proof to court and were subjected to long interrogations. Gonthier gives demographics of the victims (most often young serving girls who were no longer protected by familial connections), and the different methods through which the case made it to trial, which included local gossip and rumours, as often victims/survivors were not willing to come forward on their own.<sup>19</sup> She details how the victim/survivor was expected to act during and after the rape, and the types of questions the court asked them. Most of the Dijon records lack information about sentencing, and in trying to prove that the justice system dealt with rape cases seriously and rigorously, Gonthier is missing a rather important piece of the puzzle. Without sentences, it is difficult to determine if the court's thorough manner of questioning was meant to protect rapists or victims/survivors. Nevertheless, that these courts were interested in investigating rape is undeniable, and this in itself could have deterred men from perpetrating rape.

Jacques Rossiaud's *Medieval Prostitution* is broadly a history of medieval sex work, but it includes several influential ideas about medieval rape. It is methodologically distinct from Porteau-Bitker and Gonthier, as Rossiaud is more concerned with the culture that allowed rape to exist than he is its legal and criminal history. The conclusions about rape that Rossiaud draws

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<sup>19</sup> Nicole Gonthier, "Les victimes de viol devant les tribunaux à la fin du moyen âge d'après les sources dijonnaises et lyonnaises," *Criminologie* 27, no. 2 (1994): 13-15.

from the Dijon documents are less reliable than Gonthier's, as he often draws conclusions based on seemingly few examples with little to no direct analysis of the documents.<sup>20</sup> Much of his analysis is focused on the gang rape that was rampant in Dijon and its cultural foundations. He theorizes that it was the result of a violent and toxic masculine culture that indoctrinated youths into its ranks as a method of social control. Further to this, he proposes that gang rape was how young men in Dijon were responding to poor marriage prospects.<sup>21</sup> Even if his conclusions are somewhat unreliable, his work still represents a foray into exploring rape through its social and cultural elements rather than its criminal and legal aspects. However, Rossiaud does not offer much insight into the harm gang rape caused individual women, or how the women in Dijon responded to living in such a violent culture.<sup>22</sup>

Since the publication of Gonthier and Porteau-Bitker's seminal articles and Rossiaud's first book, French historical scholarship on medieval rape has not advanced much towards more methodologically or theoretically interesting grounds. And given that much of the criminal record for the Middle Ages in France is missing and fractured, new approaches are desperately needed in order to draw conclusions from the materials that we do have. One reason for this stagnation in the discipline is possibly borne of Claude Gauvard's reliance on quantitative analysis of letters of remission in *'De grace especial'*, the influence of which looms over the field. Gauvard's method is comprised of both a systematic analysis of 11 registers of letters of

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<sup>20</sup> Part of the problem is that the Dijon documents are not foliated, thus citing specific folios is impossible. Rossiaud rarely quotes from the documents, and when he does, it appears in a footnote with little background on the case. See for example Rossiaud, *Medieval Prostitution*, 21-2 n23.

<sup>21</sup> Rossiaud, *Medieval Prostitution*, 15-20.

<sup>22</sup> Rossiaud, *Medieval Prostitution*, 26. Rossiaud expanded on *Medieval Prostitution* in 2010's *Amours Vénales*, though he does not focus on rape in the same manner.

remission from the *Trésor des Chartes* at five-year intervals and general consultation of all the registers from Charles VI's reign, *Archives Nationales* JJ 118 to 172. For '*De grace especial*', she consulted over 7,000 letters in total.<sup>23</sup> She finds that rape makes up around 3% of crimes in letters of remission. Though she admits that this percentage cannot necessarily be trusted as many women likely did not report, she does not seem to take this into account in her analysis. Of Rossiaud's approach, which is to use modern statistics about the under-reporting of rape to theorize about medieval under-reporting, she says that 'prudence'[caution] is called for.<sup>24</sup> Gauvard is aware that rape likely disproportionately affected those women who were marginalized such as single women, poor women, sex workers, and older, widowed women, and that married women and virgins were more likely to be protected from it. However, she still concludes that given how few rapes exist in the record when compared to other male-dominated violence like homicide, 'on peut donc affirmer que la femme-objet est une notion inconnue en cette fin du Moyen Âge' [we can therefore affirm that woman as object is an unknown notion at the end of the Middle Ages].<sup>25</sup> This conclusion only seems possible if the category of 'femme' does not include the most marginalized, whom she readily admits were threatened by rape very often, and if she takes the 3% statistic to be factually correct.

Similarly, Gauvard seems to accept the medieval legal definition of rape as the one she should also be using in her analysis. For example, in discussing crimes committed between married couples, she does not create a separate category for marital rape. Thus, when analysing a

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<sup>23</sup> Claude Gauvard, '*De grace especial*': *Crime, État et société en France à la fin du Moyen Âge* (Paris: Publications de la Sorbonne, 2010), 62.

<sup>24</sup> Gauvard, *De grace especial*, 332.

<sup>25</sup> Gauvard, *De grace especial*, 339.

letter in which a 24-year-old man kidnapped and married an eight-year-old girl, Gauvard deems the union violent but does not term the sexual relations that resulted from it as being rape.<sup>26</sup> Both Gauvard and Rossiaud try to conclude something definitive about rape on the whole in medieval society, despite the patchiness of the legal record (which they both acknowledge), and in doing so ignore what the victim/survivor perspective can elucidate about rape. Gauvard concludes that it was not widespread and that rape was not an issue of gendered violence, while Rossiaud concludes that it was so widespread as to be an initiation ritual for young adult men. I seek to use the source material we do have to discern how individual women experienced and reacted to rape, and what this in turn can tell us about medieval constructions of consent and the nature of medieval rape culture.

Several scholars other than Gauvard have examined rape in French letters of remission including Myriam Soria and Adrien Dubois.<sup>27</sup> Soria's 2015 'Violences sexuelles à la fin du Moyen Âge: des femmes à l'épreuve de leur conjugalité?' examines how marriage afforded some women protection from violence as they were viewed as belonging sexually to their husbands, and conversely how being single or separated from one's spouse could lead to women being more easily victimized. Soria looks at those letters in which husbands murder the men who have raped their wives. Soria highlights the way the letters construct women as having 'corps inviolables' [inviolable bodies] due to their marital status and good reputation. Women who were not married have what Soria calls 'corps publics' [public bodies] and were thus more easily

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<sup>26</sup> Gauvard, *De grace especial*, 587.

<sup>27</sup> For rape in Burgundian letters, Peter J. Arnade and Walter Prevenier, *Honor, Vengeance, and Social Trouble: Pardon Letters in the Burgundian Low Countries* (Ithaca: Cornell University Press, 2015), 174-203.

constructed by the letters as potential victims of rape. Soria's use of these two broad categories for women reveals her willingness to adhere to medieval social categories in her analysis, as she never interrogates whether the victims/survivors in these letters viewed themselves as belonging to these categories. Moreover, the claims she makes are far too broad given that she studies only thirteen letters of remission from a period of over 150 years.

Adrien Dubois's recent scholarship represents a more theoretically interesting and feminist treatment of remission letters. Dubois examines how women, especially those who were married, were often constructed as incapable of denying consent to sex and how this in turn might have affected their perception of their own ability to consent. He concludes that despite the force that marriage exerted on many women to consent to sex with their husbands, they still resisted either in their conjugal duties or in their domestic lives, and this resistance demonstrates that masculine domination was not a perfect system with total control.<sup>28</sup> In 'Quitter son époux à la fin du Moyen Âge', he examines incidents of spousal abuse and rape that led to couples separating.<sup>29</sup> Dubois's work is important here because he centres spousal rape and marital relations in his examination of consent, marking a departure from Gauvard, Porteau-Bitker, and Gonthier. Furthermore, that Dubois acknowledges a difference between what women thought about consent and how they were then treated demonstrates his willingness to consider victim/survivor perspectives.

In 'Mariage aristocratique et doctrine ecclésiastique : Le témoignage du rapt au

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<sup>28</sup> Adrien Dubois, "La 'grève' féminine du sexe," 18.

<sup>29</sup> Dubois, "Quitter son époux à la fin du moyen âge," *Histoire & Sociétés Rurales* 45, no. 1 (2016): 7-42.

Parlement de Paris pendant la guerre de Cent ans' Geneviève Ribordy looks at how abduction, which often included rape, was used as a means of forcing a marriage. In particular, young noble girls were kidnapped and then coerced into agreeing to a marriage. She notes that though sexual relations between kidnapper and victim/survivor are often mentioned in these *parlement* cases, they are never framed as rape, and that the force used by the kidnapper, which would have been essential in a rape trial, also went ignored.<sup>30</sup> Consent figured as important in these cases only in terms of whether the kidnapping victim consented to the marriage, not if they consented to sex. Ribordy points out that if the marriage via abduction was proven to be valid, then any sex that may have occurred afterwards was by the church's definition consensual.<sup>31</sup> And if the marriage was not legally contracted, then the abduction became the primary crime with which *parlement* concerned itself. Though the sources may not call the sex acts which occurred rape, it is clear that the sex between kidnapper and victim was often non-consensual, and the sources include details of how the young women in question resisted their captors. Ribordy's work exemplifies the problem that plagues most French scholarship on rape and sexual violence, which is that different questions can and should be asked of the sources, as they often include rich details that give insight into victim/survivor perspectives and non-consensual sex acts that would not have been treated as illegal rape. Ribordy is not particularly clear on whether she considers the cases examined to include elements of rape. However she is careful to record the way that the young women themselves felt about the crimes and how they resisted.<sup>32</sup>

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<sup>30</sup> Geneviève Ribordy, "Mariage aristocratique et doctrine ecclésiastique: le témoignage du rapt au parlement de paris pendant la guerre de cent ans," *Crime, Histoire & Sociétés* 2, no. 1 (1998): 41.

<sup>31</sup> Ribordy, "Mariage aristocratique et doctrine ecclésiastique," 41.

<sup>32</sup> Ribordy, "Mariage aristocratique et doctrine ecclésiastique," 35.

Eric Jager is also careful to be sensitive to the victim/survivor perspective, if indirectly, in *The Last Duel: a True Story of Crime, Scandal, and Crime in Medieval France*. Though Jager's focus is in large part on the rivalry between Jean de Carrouges (husband of Marguerite de Thibouville) and Jacques le Gris (who Marguerite accused of rape), he never questions whether Marguerite was telling the truth, as did chroniclers in her own time and scholars in the nineteenth and twentieth centuries.<sup>33</sup> The chapter that deals with the rape itself is told from Marguerite's point of view and presented as a true narrative of what occurred. In contrast, Jacques's version of what happened is placed within the chapter about the judicial inquiry. There is no question as to whom Jager thinks the reader should believe, and if at times the story of the rape becomes obscured by the drama of the rivalry and duel, Marguerite's perspective still lies at the heart of the narrative Jager constructs.

Jager's work benefits from the fact that it is popular, rather than academic history (though he is a professor of English at UCLA and the book is meticulously researched), and he can therefore more easily frame Jacques Le Gris as definitely guilty and Marguerite de Thibouville as honest. But the task of determining whether a victim/survivor was telling the truth is not one with which this dissertation readily engages. When it is clear the victim/survivor herself believed that she had experienced rape or another type of sexual violation, I trust her. When things remain unclear, I have sought to allow the space for multiple versions of events to exist.

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<sup>33</sup> Michel Pintoin, *Chronique du religieux de Saint-Denys: contenant le règne de Charles VI, de 1380 à 1422* (Paris: Crapelet, 1839) 6: 462-7; Jean Juvénal des Ursins, *Histoire de Charles Vi. roy de France* (Paris: A. Pacard, 1614); 73-4, R.C. Famiglietti, *Tales of the Marriage Bed from Medieval France* (Providence: Picardy Press, 1992), 137-41; F.L.G. White, *Forgotten Seignors of the Alençonnois the Family of Le Grix* (Penrith, 1880), 55.

Literary Approaches: Are There Any Truly Fictional Rapes?

Literary scholarship on rape in medieval French and English literature has progressed more rapidly towards new theoretical and methodological lenses.<sup>34</sup> While historians have tended to adhere to the definitions of rape as presented by legal sources, literary scholars have been more willing to engage with other representations and meanings of rape. They have also been more alert to the layers of subjectivity within their sources and have engaged with ideas about readership, which has allowed them access to victim/survivor voices more readily.

Though scholarship prior to the later 1980s was often characterized by a willingness to ignore the presence and meaning of rape in medieval literature, since then, scholars such as Kathryn Gravdal and E. Jane Burns have confronted honestly the startling amount of rape in medieval literature. More recently, Suzanne M. Edwards and Carissa Harris have explored the victim/survivor perspective as represented in medieval English literature. I have covered here the scholarship that seems the most relevant to studying the victim/survivor perspective, either because it perpetuates harmful narratives about victims/survivors or because it actively seeks to mitigate that harm by contextualizing medieval literature within a medieval rape culture and listening to the fictional victim/survivor more attentively.

Literary approaches to medieval rape analyse fictional rapes. Carolyn Dinshaw draws a key distinction between ‘fictional rapes’ such as ‘the rape of Philomela, the rape of Helen, the rape of the maiden in the *Wife of Bath’s Tale*’ and ‘real rapes’. One exists in the text, and the

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<sup>34</sup> I have included scholarship on English sources because it offers important examinations of medieval rape culture, as well as perspectives on victims/survivors.

other in reality, which has real impact on the victim/survivor. But Dinshaw readily acknowledges that literary activity ‘has actual social consequences’.<sup>35</sup> There are, perhaps, no *truly* fictional rapes, because there are no fictional rapes that do not have the power to cause real life harm. There are multiple layers to that harm. First, there is the fact that medieval literature contained so much rape. This perhaps reflects the misogynistic views of the authors as well as, to an extent, the amount of *real* rape that was occurring at the time. Secondly, rape in medieval literature was part of a medieval rape culture, and therefore had the potential to change how real people viewed rape, and even perpetrated and responded to it. Finally, the study of rape in medieval literature has itself been influenced by rape culture, and thus has had the potential to affect a readership of victims/survivors.

Early scholarship on the *pastourelle* is a good example of this. Most scholars would not now contest rape as being one of the *pastourelle*’s stock narrative devices, given the work done most notably by Kathryn Gravdal and most recently by Carissa Harris.<sup>36</sup> Gravdal in particular has demonstrated that the French *pastourelle* often framed what was in actuality sexual violence as merely a step on the way towards happy, pleasurable relations between knights and poor, working women. However, the rape that is enacted by knights against women in the *pastourelle* has not always been accepted for what it is, or, rather, it has been analysed by scholars who themselves do not seem to think rape is particularly bad. For example, in ‘The Medieval Pastourelle as a Satirical Genre,’ William T. H. Jackson describes the encounters between

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<sup>35</sup> Carolyn Dinshaw, *Chaucer's Sexual Poetics* (Madison: University of Wisconsin Press, 1989), 11-12.

<sup>36</sup> Gravdal, *Ravishing Maidens*, 104-121; Harris, *Obscene Pedagogies*, 103-149.

knights and peasants as ‘love passages’ and the intent as undoubtedly satirical. Even if these poems contain sexual violence, by Jackson’s measure we are not meant to take it seriously. Even still, his own description of the acts reveals their violence: ‘The knight was...in a superior position in any bargaining with the girl...It described...his success, sometimes achieved by the use of more brutal measures, and his final mocking departure’. He also readily admits that the ‘peasant girl was regarded as fair game’.<sup>37</sup> That Jackson will not call these acts rape reveals just as much about him—and his time, as the article was published in 1954—as it does the genre itself. Jackson does discuss the peasant woman in terms of class and how her ‘naiveté’ allows her to be easily swayed by the knight, but because he does not view the acts as rape, there is therefore no discussion of the peasant woman as a victim/survivor. In this vein, in *La Pastourelle*, Michel Zink explains the sexual aggression of the genre by framing the woman who appears in the natural landscape in the *pastourelle* as a ‘femme sauvage’. The only way to interact with such a woman is to have sex with her, and this marks her as distinct from a ‘dame courtoise’ and in fact makes her dangerous.<sup>38</sup> Zink does not name the sexual violence that occurs as rape and by Gravdal’s measure uses the concept of the ‘femme sauvage’ to ‘neatly justify’ it.<sup>39</sup> Jackson’s and Zink’s scholarship on the *pastourelle* minimizes the importance of rape, nearly eliminating its existence in the texts they study. In ignoring the impact of rape within a fictional universe, the impact of rape in real life, in the past and in the present, so too is minimized. Furthermore, though the peasant girl and knight of the *pastourelle* are fictional characters, the

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<sup>37</sup> William T. H. Jackson, “The Medieval Pastourelle as a Satirical Genre,” *Philological Quarterly* 31 (1952): 156.

<sup>38</sup> Michel Zink, *La pastourelle: poésie et folklore au moyen âge* (Paris: Bordas, 1972), 99.

<sup>39</sup> Gravdal, *Ravishing Maidens*, 166 n6.

fact that so many of these poems undermine the impact of sexual violence by portraying it as a mere seduction both contributed to and was representative of a culture in which real women were subject to rampant sexual violence, and in which sexual scripts were characterized by male dominance and female submission. Readers of medieval *pastourelle* poems themselves lived in this rape culture and could have been impacted and influenced by, and/or even critical of these stories. As Harris points out, ‘the pastourelles spoke to different audiences in different ways’.<sup>40</sup> As is apparent in all of the cases of rape studied here, women in particular were aware of the impact of rape, as well as which types of men and scenarios to avoid.<sup>41</sup> Not all medieval readers of the *pastourelle* would have accepted scenes of sexual violence as satirizing love—there is no reason that we should either.

In the genre of courtly love, the prevalence of rape was similarly long overlooked, though this was in part due to the way the texts create a ‘cult of the lady’ in their lauding of noble women.<sup>42</sup> Rather than taking seriously the depictions of sexual violence in courtly literature, scholars ignored it and according to Gravdal, often interpreted the gender dynamics in courtly literature, which placed the woman on a pedestal, as reflecting ‘unanimous social consensus’.<sup>43</sup> In 1988 Dietmar Rieger began untangling the interplay between rape in courtly reality and rape in courtly literature with a focus on both French and German laws.<sup>44</sup> Since then, as E. Jane Burns

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<sup>40</sup> Harris, *Obscene Pedagogies*, 115.

<sup>41</sup> See my Chapter 4, 223-224.

<sup>42</sup> Gravdal, *Ravishing Maidens*, 11.

<sup>43</sup> Gravdal, *Ravishing Maidens*, 11 and see introduction for a succinct summation of how previous scholarship failed to identify sexual violence in courtly literature.

<sup>44</sup> Dietmar Rieger, “Le motif du viol dans la littérature de la France médiévale: entre norme courtoise et réalité courtoise,” *Cahiers de Civilisation Médiévale* 31, no. 2 (1988): 241.

explains in her 2001 piece, much has been done by scholars to move away from viewing the courtly lady, and thus the medieval woman, as being treated well because she is/was idealized, and towards viewing her as ‘eroticized, idealized, fantasized, and fetishized’.<sup>45</sup> Furthermore, courtly literature and *fin amours* are not only capable of telling stories of sexual violence from a masculine-centric point of view. As Burns points out, non-canonical, lesser-known works allow scholars to access different constructions of the gender binary and representations of female pleasure, perspective, and power.<sup>46</sup>

Fictional rapes in medieval literature, having long gone ignored, are now firmly acknowledged and given appropriate attention. But literary scholars have been, at times, unable to ethically engage with extra-textual, real rapes. This can be seen clearly in the early scholarship produced by literary critics studying Geoffrey Chaucer and the quitclaims that implicate him as a perpetrator of *raptus* against Cecily Chaumpaigne. While Jackson and Zink ignore the fictive victim/survivor voice to the detriment of their readership, worse still is the treatment of Cecily by more modern literary scholars. Both types of work ignore rape and seek to eliminate it from the object of study, but in the case of Geoffrey Chaucer, Cecily Chaumpaigne was a *real* person who endured real pain. Her story should not be so easy to sweep under the rug.

The 1380 quitclaim from Cecily released Geoffrey of anything relating to ‘raptu meo’ [my rape/abduction].<sup>47</sup> First discovered in 1873, the quitclaim has generated much controversy

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<sup>45</sup> E. J. Burns, “Courtly Love: Who Needs it? Recent Feminist Work in the Medieval French Tradition,” *Signs: Journal of Women in Culture and Society* 27, no. 1 (2001): 27.

<sup>46</sup> Burns, “Courtly Love,” 44.

<sup>47</sup> Martin Michael Crow and Clair Colby Olson eds., *Chaucer Life-records* (Oxford: Clarendon Press, 1966), 343. I use first names here because I do throughout and in order to transform Geoffrey Chaucer from Chaucer the beloved author and into Geoffrey, a man who was likely guilty of rape and/or abduction.

among legal and literary scholars alike, from Theodore Plucknett, to Christopher Cannon, Carolyn Dinshaw, Richard Firth-Green, and most recently, Marion Turner. The debate has primarily focused on the exact meaning of ‘de raptu meo’. Was Geoffrey released from raping Cecily, or did ‘raptu’ refer to abduction? The question of whether he was guilty of anything (the document is a release, after all) has generally been settled to most scholars' satisfactions, given that ‘he would scarcely have needed such a guarantee [the quitclaim] were the accusation itself unthinkable’.<sup>48</sup> Caroline Dunn asserts that without more qualifiers attached to ‘raptus,’ such as ‘abduxit’[abducted] or ‘cognovit carnaliter contra suam voluntatem’[knew carnally against her consent], it is impossible know if it meant rape or abduction. And Dunn's own avoidance of classifying Geoffrey's crime as being solidly either rape or abduction is telling given that she is the foremost authority on the terminology.<sup>49</sup> However, both T.F.T Plucknett and Richard Firth Green take ‘raptu’ to mean rape, the latter agreeing with the former that if the quitclaim only addressed abduction then it would have come from the ‘injured party,’ i.e., Cecily’s father or husband.<sup>50</sup> But even if Geoffrey abducted Cecily, rather than raped her, what purpose did he have? He must have wanted to do something with her, or to her, and it cannot have been something she entirely consented to given the existence of the two unique quitclaims. In other words, the quitclaims were necessary and some non-consensual act occurred between Geoffrey and Cecily.

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<sup>48</sup> Richard Firth-Green, “Cecily Champain V. Geoffrey Chaucer: A New Look at an Old Dispute,” in *Law and Sovereignty in the Middle Ages and the Renaissance*, ed. Robert S. Sturges (Turnhout: Brepols Publishers, 2011), 261.

<sup>49</sup> Dunn, “The Language of Ravishment in Medieval England,” *Speculum* 86, no. 1 (2011): 91.

<sup>50</sup> Firth-Green, “Cecily Champain V. Geoffrey Chaucer,” 277; T.F.T. Plucknett, “Chaucer's Escapade,” *Law Quarterly Review* 64 (1948): 34.

However, were Geoffrey Chaucer not such a beloved figure within the canon of English literature, it's unlikely that much page space would have been devoted to the Cecily Chaumpaigne quitclaims. Susan S. Morrison sums up the scholarship on this matter prior to 1999 succinctly, stating:

A document is cited—the famous 1380 Cecily Chaumpaigne text—and then abandoned in order to promote another text: a life of Chaucer palatable to the critic. The historical document is no longer privileged, but a projected context for that document which features Chaucer, rather than Cecily Chaumpaigne, as its subject.<sup>51</sup>

Literary scholars have at times been interested in the document only in terms of how it affects them, and their readings of Geoffrey Chaucer the man and Chaucer the text. It is not that such a biographical detail of Geoffrey's life should be irrelevant to interpretations of his work, but that in their quest to unravel its meaning, many literary scholars have not engaged with it in a way that ethically acknowledges the very real pain Cecily Chaumpaigne might have felt. To this end, Christopher Cannon's 'Chaucer and Rape: Uncertainty's Certainties' frames Geoffrey Chaucer and his understanding of the term as being of the most central importance.<sup>52</sup> Who Cecily was, and what she might have felt, becomes obscured by untangling the meaning of *raptus* within the Statutes of Westminster and the meaning of rape, or something akin to rape, in Geoffrey's own work. Cannon even ventures so far as to muse that the Saint Cecelia of the *Legend of Good Women* may have figured as an apology of sorts to Cecily Chaumpaigne herself.<sup>53</sup> Corinne Saunders notes that given how 'uncertain' the *raptus* accusation against him is, to apply it as a

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<sup>51</sup> Susan S. Morrison, "The Use of Biography in Medieval Literary Criticism: The Case of Geoffrey Chaucer and Cecily Chaumpaigne," *The Chaucer Review* 34, no. 1 (1999): 69.

<sup>52</sup> Christopher Cannon, "Chaucer and Rape: Uncertainty's Certainties," *Studies in the Age of Chaucer* 22, no. 1 (2000): 88.

<sup>53</sup> Cannon, "Chaucer and Rape," 88.

‘biographical lens’ to his work would be ‘reductive’.<sup>54</sup> Dinshaw, on the other hand, mentions the Champaigne release as a way to bridge the distance between ‘literary’ rape and ‘real’ rape, and similarly the real harm misogynistic literature can have on women’s lives.<sup>55</sup> It does not figure as a ‘biographical lens’ through which we should analyse his work, but rather a reminder of the ‘transgressive reality of rape’.<sup>56</sup> I argue that even if the *raptus* accusation were confirmed as denoting sexual violence, it would still be entirely plausible for Geoffrey to adopt a sympathetic tone towards rape victims in his work. The difficulty Chaucer scholars wrestle with is that they do not know how to judge the poet morally, and they would very much like to believe, I think, that he did not rape Cecily Champaigne. The uncertainty of the term *raptus* further allows this type of debate to proceed unimpeded; because literary scholars can never be sure if Geoffrey was a rapist, they do not then contend with the very real trauma and violence Cecily may have suffered.

Marion Turner, whose 2019 biography *Chaucer: a European Life* certainly affords the space to discuss what it means for Geoffrey to have been a rapist, neither includes a thorough analysis of the quitclaims nor integrates the very real possibility that he was a rapist into her analysis of rape in the *Canterbury Tales*, which themselves are rife with rape. She determines that what happened between them must remain ‘unknowable’, not mentioning the various debates on this issue had by Firth-Green, Plucknett, and Dunn. She devotes but a few paragraphs to the issue directly, and even goes so far as to include Cecily among the women in Geoffrey’s

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<sup>54</sup> Corinne Saunders, *Rape and Ravishment*, 266.

<sup>55</sup> Dinshaw, *Chaucer’s Sexual Poetics*, 11-12.

<sup>56</sup> Dinshaw, *Chaucer’s Sexual Poetics*, 11.

life who were ‘independent’, stating that, ‘Cecily Champaigne sued him, in her own name, and it paid off. She didn’t retreat and keep silent out of shame’.<sup>57</sup> However, we do not have documents that attest to Cecily suing Geoffrey, though the quitclaims imply that she wanted to or had good reason to seek legal action against him. Turner’s assertion that it ‘paid off’ is also strange given that we do not have record of Geoffrey directly paying Cecily, rather we have record of him paying a Goodchild and Grove, who then paid Cecily.<sup>58</sup> And if Geoffrey did rape Cecily, then it is doubtful that she felt like the event ‘paid off’ for her in any positive way. Furthermore, the quitclaims signal that Geoffrey sought to silence Cecily; if she did not at first ‘retreat and keep silent’ then the quitclaims assured that she would in the future. Turner attempts to use Cecily Champaigne as a way to demonstrate that Geoffrey was surrounded by a certain type of woman, but does not then in turn use the fact that he likely raped her as a way into a more critical analysis of his character.<sup>59</sup>

This is not unique to Turner, as even Richard Firth Green, whose rigorously researched article concludes that the two quitclaims are in fact unique documents and not copies, still does not want us to fully condemn Geoffrey:

‘Attempts on the one hand to demonize Chaucer as a heartless exploiter of female vulnerability and on the other to exonerate him as a careless philander who had gotten himself into ‘a bit of a scrape’ are equally unwarranted, and those who search his poetry for evidence will find that in this, as in all things, Chaucer is irredeemably elusive’.<sup>60</sup>

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<sup>57</sup> Marion Turner, *Chaucer: A European Life* (Princeton: Princeton University Press, 2019), 212.

<sup>58</sup> For an analysis of this issue, see Firth-Green, “Cecily Champain V. Geoffrey Chaucer,” 261-285. Mary Flannery assesses Turner’s discussion of Cecily Champaigne as modelling a way of ‘pushing back’ against problematic scholarship on this issue. While Turner does avoid lengthy speculation, her framing of Cecily is irresponsible and not supported by the historical documents, Mary C. Flannery, “Good Fun: Cecily Champaigne and the Ethics of Chaucerian Obscenity,” *The Chaucer Review* 56, no. 4 (2021): 373.

<sup>59</sup> Turner, *Chaucer*, 212.

<sup>60</sup> Firth-Green, “Cecily Champain V. Geoffrey Chaucer,” 288.

But to search his poetry for evidence, to meditate on the poet and what his work might tell us about him and his presumed innocence or guilt, is to return to a space in which male creativity must be allowed to exist at the expense of female pain.

Several pieces of very recent scholarship have proposed new methods for ethically engaging with Geoffrey Chaucer's work.<sup>61</sup> Mary Flannery identifies the connection between critics' enjoyment of the often misogynistic obscenity in Geoffrey's work and the discipline's treatment of Cecily, arguing that scholars ought to curb their enjoyment or at the very least, critically examine it.<sup>62</sup> Samantha Katz Seal and Nicole Sidhu firmly label Geoffrey as a 'rapist, racist, and anti-Semite' and note that it may be the time to 'move past Chaucer' and onto a 'a new object of study'.<sup>63</sup> However, the piece figures as the introduction to a special issue of *The Chaucer Review* titled 'New Feminist Approaches to Chaucer', and seemingly reproduces the dynamic described by Morrison above. Geoffrey's status as a rapist is acknowledged frankly, yet the special issue still dedicates seven articles to discussions of his work. Approaches to Geoffrey's work can of course be feminist, but examining his work, or his intentions in his relationship with Cecily, certainly cannot tell us anything about Cecily herself and how the incident affected her. A true feminist reading of Geoffrey Chaucer might be to stop reading him all together.

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<sup>61</sup> See Sarah Baechle and Carissa M. Harris eds., "The Ethical Challenges of Chaucerian Scholarship in the Twenty-First Century," *The Chaucer Review*, volume 56, no. 4 (2021); Samantha Katz Seal and Nicole Sidhu, eds., "New Feminist Approaches to Chaucer," eds. Samantha Katz Seal and Nicole Sidhu, *The Chaucer Review*, 54, no. 3 (2019).

<sup>62</sup> Mary C. Flannery, "Good Fun: Cecily Chaumpaigne and the Ethics of Chaucerian Obscenity," *The Chaucer Review* 56, no. 4 (2021): 377.

<sup>63</sup> Samantha Katz Seal and Nicole Sidhu, "New Feminist Approaches to Chaucer: Introduction," *The Chaucer Review* 54, no. 3 (2019): 229.

Yet regardless of debate around *raptus* in the Cecily Champaigne quitclaim and the misogyny of early scholarship on the *pastourelle*, both of which marginalise victim/survivor experience, the literary discipline has produced several essential, enlightening works on rape culture. Scholars, including Corinne Saunders and Kathryn Gravidal have studied rape through medieval cultural artifacts in order to discern its social meaning. Understanding rape culture and its effects is vitally important to understanding victim/survivor experience of and response to rape. For England, Corinne Saunders's 2001 *Rape and Ravishment in the Literature of Medieval England* remains the most thorough study. Saunders's approach is to study medieval rape as distinct from its modern cultural meaning. She actively avoids using the medieval past to demonstrate progress in the present, and she understands rape in the Middle Ages as containing ravishment and abduction as well as sexual violence. She states: 'a definition of the medieval understanding of 'rape'' might be 'the exercise of the will to control and possess another human being', the various portrayals of this exercise of the will of men over women, either through sexual violation, abduction or enforced marriage, are the subject of this book'.<sup>64</sup> She studies these 'exercises of will' in secular and canon law, saints' lives, the legends of Lucretia and Helen of Troy, Malory's *Mort Darthur*, and Chaucer.

She demonstrates that there was no 'fixed law of rape applicable in England' during the whole of the Middle Ages, and that rape law was influenced by cultural ideas about women's bodies, virginity, pregnancy, abduction, and marriage.<sup>65</sup> Her analysis of English secular laws is

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<sup>64</sup> Saunders, *Rape and Ravishment*, 21.

<sup>65</sup> Saunders, *Rape and Ravishment*, 75.

thorough, (though has since been updated by Dunn in *Stolen Women In Medieval England*), but she seems to readily accept how these laws merged rape and abduction. So while she is correct in her assertion that the language of rape in medieval England, in particular *raptus*, *ravysement*, and *rap*, conflated rape and abduction to such a degree that they were inseparable, she does not then make a distinction between how the law defined *raptus* and what medieval women were actually experiencing. Like Gauvard, she accepts the medieval definition of rape. She very clearly rejects the idea that rape is a transhistorical category in her discussion of modern feminist conceptions of rape: ‘the temptation is to assume the transhistorical nature of contemporary premises and therefore to fit the evidently ‘misogynist’ structures of, in this instance, the Middle Ages into a pattern to be censured and exposed, to take for granted the modern understanding of rape as an issue of female freedom and the woman’s body’.<sup>66</sup> By contrast, in this thesis I argue that rape *is* transhistorical insofar as there have always been sex acts that have been perpetrated against someone else’s consent. If a medieval woman believed her consent to have been violated, then this dissertation contends that her story is worth studying when we are studying rape. Saunders does not, however, study whether or not the medieval meaning of rape affected the way that women felt about and interpreted their experiences of it. As I suggest in Chapter 3, the construction of defloration as a sexual crime did in fact affect how women interacted with their sexual partners and negotiated consent. Saunders’s work is thus useful because her careful discussion of what rape was considered to be in medieval England allows us to question whether or not victims/survivors viewed such things as abduction, virginity, pregnancy, and marriage as

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<sup>66</sup> Saunders, *Rape and Ravishment*, 13.

pertinent to their experiences with rape.

Kathryn Gravdal's 1991 *Ravishing Maidens: Writing Rape in Medieval French Literature and the Law*, which remains one of the most oft-cited texts in the field, makes great use of modern, feminist readings of rape for interpreting the past. Gravdal's intent is to examine rape culture (though she does not use the phrase) in legal and literary texts. She writes that it is not a history of rape, rather that her 'first purpose is to scrutinize the cultural ideology that supports rape as a stock narrative device in various medieval genres'.<sup>67</sup> The texts she analyses for this cultural ideology include lay and canon law, ecclesiastical and lay court registers, the *pastourelle* genre of poetry, saints' lives, the romances of Chrétien de Troyes, and *Le Roman de Renart*. Gravdal understands rape as sexually violent act, even as the texts she examines seek to eroticize and romanticize it under the guise of ravishment. As she states in the Introduction, and what serves as a thesis for the entire book, 'the cultural habit of conceptualizing male violence against women as a positive expression of love is both evoked and grounded in these texts'.<sup>68</sup>

One of the book's greatest contributions is Gravdal's analysis of the *pastourelle*, in combination with her analysis of the lay court criminal register of Saint-Martin-des-Champs (1332-1357). Positioning herself in opposition to scholars who discount rape in the *pastourelle*, Gravdal analyses the poems for how class and gender collude to create a space in which rape has the potential to titillate.<sup>69</sup> In thinking through how peasant women were cast as automatically sexually available to men of higher status, Gravdal hints at a victim/survivor centred approach,

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<sup>67</sup> Gravdal, *Ravishing Maidens*, 1.

<sup>68</sup> Gravdal, *Ravishing Maidens*, 20.

<sup>69</sup> Gravdal, *Ravishing Maidens*, 110.

or at least one that acknowledges how a woman's social identity could shape her experience with gendered violence.<sup>70</sup> Further to this Gravidal analyses criminal records which provide her with real victims/survivors and real rapists, though her focus remains on the cultural meaning that one can discern when comparing literature with legal texts. Gravidal compares entries from the Saint-Martin register with excerpts from *pastourelle* poems, and finds that the rape trials contain attention to narrative development and 'detail used to chilling effect'.<sup>71</sup> This stands in contrast to the way that the same scribe wrote about other crimes, where only the basic details were included. She concludes that 'the Saint-Martin records focus on the same elements found in *pastourelle* rapes: the rapist's effort to pull the woman to the ground; the victim's cries for help; the name of the garments that are pulled away; the rapist's attempts to silence the victim; the force necessary to violate the victim'.<sup>72</sup> Gravidal views the court scribe's use of the *pastourelle* to frame rape narratives as unsurprising given that the genre 'both obeys and establishes the medieval conception of rape'.<sup>73</sup> Her point is that rape in literature and rape in legal practice were not entirely distinct, and that literature in fact informed the way scribes and legal audiences understood rape. While the scribes of Saint-Martin-des-Champs accessed their knowledge of the *pastourelle* when writing about rape cases, victims/survivors and women so too may have accessed their knowledge of medieval rape culture to understand their experiences with gendered sexual violence.

Saunders positions herself in opposition to Gravidal, criticizing her as a 'revisionist

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<sup>70</sup> Gravidal, *Ravishing Maidens*, 105.

<sup>71</sup> Gravidal, *Ravishing Maidens*, 135.

<sup>72</sup> Gravidal, *Ravishing Maidens*, 136-7.

<sup>73</sup> Gravidal, *Ravishing Maidens*, 140.

historicism' who makes contradictory conclusions: 'on the one hand, she suggests that dramatic legal writing functions through eroticisation and rhetoric to collude with rape, but on the other that through understated reportage 'rape is minimized almost to the point that its violent character is dismissed through clinical and distant summary'.<sup>74</sup> Though I agree that the weakness of Gravidal's book lies in the narrow range of legal sources she uses, Saunders does not acknowledge that Gravidal's apparently contradictory conclusions are in fact separate conclusions drawn from the analysis of the lay court register of Saint-Martin and the ecclesiastical court register of Cerisy, which are unique and distinct sources. Saunders also contends that both strands of her argument need to be grounded more firmly in the cultural debate over the issue of rape in the Middle Ages, and specifically in the idea that rape was viewed in terms fundamentally different from our own... variation becomes irrelevant because the entire period is essentialised as...misogynistic, anti-feminist, violent, and colluding with a set of undesirable assumptions regarding class and gender.<sup>75</sup>

With this, Saunders rejects Gravidal's feminist analysis of the literary texts and what she views as Gravidal's desire to demonstrate that the present has done better than the past, or at least that modern feminist readings of rape are the only correct readings.

Though I agree with Saunders in that we should not reduce the entire medieval period to its anti-feminist and misogynistic tendencies, those tendencies certainly defined its culture in many ways, and she fails to acknowledge that the strength in Gravidal's work lies in demonstrating the resonances between past and present when it comes to rape. An understanding of modern rape culture, for example, allows one to see that rape is quite often both diminished and dismissed, eroticized and lauded, within the same culture. There are also, of course, people

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<sup>74</sup> Saunders, *Rape and Ravishment*, 18-19.

<sup>75</sup> Saunders, *Rape and Ravishment*, 19.

who dissent, and as shown in this thesis those people were very often women. Saunders would like medieval rape to be studied as *medieval rape*, and not analysed using modern feminist theory. However, rather than using the present to critique the past, we can use the past to critique the present, at least in terms of striking down narratives of progress: in both the Middle Ages and the twenty-first century, Western society has both allowed rape to be perpetuated and has used it as one of its most fundamental cultural building blocks.

Since Gravdal and Saunders, scholars have turned their attention more explicitly to victim/survivor perspectives in medieval literature and culture. Suzanne M. Edwards's *The Afterlives of Rape in Medieval English Literature* is a study of 'discourses of survival' in medieval texts, which are distinct from 'discourses of sexual violence' in that they 'set aside the question of whether an act would be considered rape'. Instead, the discourses of survival that Edwards identifies 'elaborate how sexual violence reconfigures a victim's understanding of corporeality, the will, temporality, and community' and 'emphasize life after rape as both desirable and ethically important'.<sup>76</sup> Conceptualizing rape outside of the confines of pain and violence, and thinking instead about the aftermath in which the victim/survivor is still alive and can participate in life is a strength of Edwards's book, and one which asks her readers to reconsider their own assumptions about the meaning of rape both now and in the past. Her book serves as an important reminder that victims/survivors had lives outside of the documents we access them through and that there are many aspects of their experience of rape—namely how

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<sup>76</sup> Suzanne M Edwards, *The Afterlives of Rape in Medieval English Literature* (Basingstoke: Palgrave Macmillan, 2016), 1-2.

they dealt with it after the fact—that are exceedingly difficult to study.

Beginning first with Augustine's Lucretia, and then moving to saints' lives, anchoritic literature, the statutes of Westminster, and stories of ravished wives, Edwards argues that these texts provided 'gendered subjects with a model for thinking through the difficulty of reconciling human circumstances with spiritual or civic ideas'.<sup>77</sup> Where I find Edwards's approach lacking is in her complete reliance on male-authored, and non-survivor authored texts to tell us about these discourses. She contends that despite her use of male authored texts, she is not 'more concerned with men's assessments of survival than with women's' because 'medieval discourses of survival tell us something about the conceptual tools available to all those whose sought to make sense of the aftermath of rape'.<sup>78</sup> I find this point persuasive to a certain extent, especially given the pervasive effect that rape culture has on victims/survivors, but Edwards does not really demonstrate that these texts were in fact used as conceptual tools or how this might work in terms of textual reception. For example, when she analyses the story of Lucretia in Augustine's *City of God* in the introduction, she contends that 'in *City of God* to survive rape is to have a heightened awareness of what it means to be human' because survivors understand that humans (and themselves) are not as self-possessed as they once believed.<sup>79</sup> This is an apt reading of Augustine, but Edwards does not then reflect on what such a message might convey to the real survivor reading *City of God* or similar texts. Augustine's focus on the rape victim's/survivor's chastity, shame, and higher understanding of human experience is a potentially harmful one that

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<sup>77</sup> Edwards, *Afterlives*, 10.

<sup>78</sup> Edwards, *Afterlives*, 3.

<sup>79</sup> Edwards, *Afterlives*, 8.

might add to a victim's/survivor's feelings of pain if she did not feel the way he described.<sup>80</sup> It seems irresponsible to introduce a text as pervasive and influential as *City of God* and then not reflect on the very real harm the dissemination of its ideas may have caused victims/survivors. It may form a 'discourse of survival', but it was not necessarily a positive one for victims/survivors, depending on how it was interpreted.

Christine de Pizan's version of Lucretia, discussed here in Chapter 2, does form a positive discourse of survival, and Edwards might have contrasted the two. Though Edwards succeeds in studying textual representations of survival, it is difficult not to wonder about the impact these texts might have had on actual people, especially since the idea of texts as 'conceptual tools' is part of her own reasoning for using male authored works. Ultimately, medieval literature only ever allows us to study representations of an imagined victim/survivor and to then theorize about how readers may have responded to these texts. The study of discourses of survival is important, but it can and should be linked to lived experiences.

Despite the limitations of using literature to study medieval victims/survivors, Carissa Harris's *Obscene Pedagogies: Transgressive Talk and Sexual Education in Late Medieval Britain* avoids many of the pitfalls by using an intentionally intersectional, feminist framework to analyse the sources. Harris's book is essential reading for anyone who wants to begin thinking about using intersectionality in studying medieval literature. She is upfront about her own positionality as a mixed-race woman of colour descended from slaves in Texas, writing that, 'I

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<sup>80</sup> Edwards remarks on the feminist critiques of Augustine's misogyny, but ultimately attributes them to a misunderstanding of his points. Edwards, *Afterlives*, 13.

was always aware of race-based sexual violence's insistent presence in my family history, and I bring that keen awareness of violence's manifold forms to my analysis here'.<sup>81</sup> She reads the sources with her own history in mind, and through a Black feminist framework that emphasizes the importance of 'fighting violence against women made vulnerable by intersecting structural inequalities' in order to 'show how shared harms and inequalities have the capacity to create affective connection across time among marginalized individuals'.<sup>82</sup>

Harris's victim/survivor centred approach is focused on the Middle English and Middle Scots *pastourelle*.<sup>83</sup> Harris's study of the poems illuminates how they 'emphasize the intersectional violence faced by young, unmarried peasant women who are multiply disadvantaged' and she is intentional in her focus on the way that the victims/survivors in these poems speak, and how their speech possibly served to educate female readers about the danger of 'heterosexual encounters in a rape culture' and how to 'navigate life...in a world where assault is an ever-present possibility'.<sup>84</sup> The male characters in these poems are 'powerful, well-off' and the women are 'young, poor, single and alone'.<sup>85</sup> This imbalance in power sets the stage for sexual violations and rapes that are perpetrated via coercion rather than physical force, in a similar manner to the French *pastourelle*. Harris argues that the texts provided methods of education to readers, both male and female. Because the poems present a variety of scenarios, readers might come away from the texts understanding that rape does not follow one particular

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<sup>81</sup> Harris, *Obscene Pedagogies*, 5.

<sup>82</sup> Harris, *Obscene Pedagogies*, 6.

<sup>83</sup> The Middle English and Scots corpus of *pastourelle* is smaller than the Old French by far; Harris categorizes just 19 poems as being part of the *pastourelle*. Harris, *Obscene Pedagogies*, 107.

<sup>84</sup> Harris, *Obscene Pedagogies*, 105.

<sup>85</sup> Harris, *Obscene Pedagogies*, 108.

script.<sup>86</sup> Additionally Harris considers how real medieval women might have been exposed to threats of rape due to working outdoors, in a similar manner to the women represented in the *pastourelle*. The peasant women in these poems could easily be real peasant women, as the ‘habitual, widespread’ abuse of such women is apparent in the legal record.<sup>87</sup> She proposes ways through which scholars might think about real, lived experiences of rape, and how these experiences both informed and were influenced by popular literature.

Despite the existence of work by Gravdal, Edwards, and Harris, literary studies cannot entirely fill in the gaps left by the historical scholarship. Studying the experiences of historic victims/survivors who actually endured rape rather than imagined, fictional rapes is necessary if we wish to progress the field. New approaches to medieval historical sources are necessary if we want to produce work that goes further than stating where and how rape exists in the legal archive, and instead truly examines what rape was and what rape did to the victims/survivors who endured it.

### The Sources

This dissertation uses three main source types: letters of remission from 1349-1458 (including one from 1500) in the French Chancellery, records from the diocese of Paris in the late fourteenth century, and records produced by the municipal criminal justice in Dijon from

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<sup>86</sup> Harris, *Obscene Pedagogies*, 109, 147.

<sup>87</sup> Harris, *Obscene Pedagogies*, 108.

1409-1447.<sup>88</sup> Utilized less frequently are French *coutumiers* which recorded customary law, and literary works including *Le Livre de la Cité des Dames* by Christine de Pizan and the miracle play *L'enfant donné au diable*.

### Letters of Remission

Letters of remission are contained in the *Trésor des Chartes*, the record of the king's chancellery court, and form an unbroken series from 1304 when the first letter was recorded.<sup>89</sup> Over fifty thousand letters of remission are extant from the fourteenth through sixteenth centuries, making them an excellent source base for quantitative analysis and sampling.<sup>90</sup> The letters were written for those who had been accused of or charged with a crime and thus sought the king's grace. An *ordonnance* from 1357 defined which crimes were irremissible, including rape and arson, but in reality even these could be pardoned.<sup>91</sup> If remission was successfully granted by the Chancellery and then verified by a local judge, the letter would prevent lower

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<sup>88</sup> Letters of remission are found in the *Trésor des Chartes*, series JJ, Paris, Archives Nationales, cited here as AN JJ. Most of these registers are digitized online at HIMANIS, <http://himanis.huma-num.fr/app/>, and all letters used here have been consulted online unless otherwise noted. Some letters have been transcribed in CdPC. Criminal cases from Dijon are series BII from the *Archives Départementales de la Côte-d'Or*, cited here as ADCO BII. The records of the Paris officiality are Paris, Archives Nationales Z10 26, but I have used the printed edition, Joseph Petit, *Registre des causes civiles de l'officialité épiscopale de paris, 1384-1387* (Paris: Imprimerie Nationale, 1919).

<sup>89</sup> Gauvard, *De grace especial*, 64.

<sup>90</sup> See Michel Francois "Note sur les lettres de rémission transcrites dans les registres du trésor des chartes," *Bibliothèque de l'école des chartes* 103, no. 1 (1942): 321-4. Aleksandra Pfau counted 38,860 letters in the chancellery between the years 1364 and 1498, Aleksandra Pfau, "Crimes of Passion: Emotion and Madness in French Remission Letters," in *Madness in Medieval Law and Custom*, ed. Wendy J Turner (Leiden: Brill, 2010), 102. Claude Gauvard's method is to analyse one register every 5 years. For *De grace especial*, she looked at 7,500 letters from the reign of Charles VI. Gauvard, *De grace especial*, 62.

<sup>91</sup> Sara McDougall, "Pardoning Infanticide in Late Medieval France," *Law and History Review* 39, no. 2 (2021): 15. Quintin Verrycken, "The Power to Pardon in Late Medieval and Early Modern Europe: New Perspectives in the History of Crime and Criminal Justice," *History Compass* 17, no. 6 (2019): 6, Gauvard, *Condamner à mort au Moyen Âge: pratiques de la peine capitale en france, xiiiè-xve siècle* (Paris: Presses universitaires de France, 2018), 206.

courts from holding the supplicant accountable, grant the supplicant a pardon in the eyes of the law, and in theory restore their reputation in their community as well.<sup>92</sup>

Claude Gauvard, the authority on letters of remission, contends that they served a large swath of the population, and were reasonably affordable and efficient compared to other routes to justice, though the process was by no means easy.<sup>93</sup> Supplicants or their family members would first travel to either the Grand Chancellery in Paris or one of the other chancellery offices and petition for a letter of remission—this marked the first time in the remission process that a supplicant would provide details of the crime and tell their ‘pardon tale’.<sup>94</sup> Then the supplicant (or again, their family) would have to go to a royal notary and have the letter drafted, after which it would be read at one of the chancellery courts. If it met the criteria for remission, then it was signed and sealed.<sup>95</sup> Supplicants had to pay for the letter, and the price was fixed at 32 *sous* at the end of the fourteenth century. This price included 6 *sous* to receive the letter, 6 *sous* to obtain a seal, and a further 20 *sous* if one wanted the letter copied in the Chancellery.<sup>96</sup> Finally, the letters had to be ratified by a royal judge, either in the jurisdiction where the crime had occurred or before the *parlement*. The judge would verify the facts of the letter and whether or not the

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<sup>92</sup> Gauvard, *De grace especial*, 63.

<sup>93</sup> Gauvard, *De grace especial*, 71.

<sup>94</sup> Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-century France*, (Cambridge: Polity, 1987), 8.

<sup>95</sup> Gauvard contends that in practice no crime was irremissible. Gauvard, *De grace especial*, 75.

<sup>96</sup> Gauvard, *De grace especial*, 68-9. See Octave Morel, *La grand chancellerie royale et l'expédition des lettres royaux de l'avènement de philippe de valois a la fin du xive siècle* (Paris: Picard, 1900), 332 for registering letters in the Chancellery, and 355-78 for cost of letters. All letters of the JJ series are those which supplicants paid to have registered. Registering one's letter was important as it meant that there was an official record of the remission.

supplicant had lied or omitted essential information.<sup>97</sup> The opposing party was supposed to be present to lodge any complaints or disagree with the letter's facts in order to prevent ratification. If they could not be there in person, they would be sent a copy of the letter.<sup>98</sup> This meant that letters had to be mostly truthful in their details, as false information could lead a judge to deny ratification. If letters were not verified by a royal judge and were deemed 'subreptice', they could be taken before the *parlement* of Paris; Gauvard finds that 8% of the offences recorded in *parlement* were a 'contestation de remission'.<sup>99</sup> The *parlement* also struggled with the Chancellery over letters written for crimes that should have been irremissible.<sup>100</sup> Unfortunately, the copies of the letters that we have in the *Trésor* do not often give details of their ratification. Davis finds that they occasionally list conditions for ratification, such as compensation or banishment.<sup>101</sup> She is able to gain some understanding of the rate of ratification based on the lists of prisoners from the Conciergerie prison in Paris, which indicate that ratification was very often obtained without further criminal proceedings. These same lists of prisoners do not exist prior to the fifteenth century, but it is possible to cross check medieval letters of remission with indexes of the Paris *parlement* registers to determine if the letter was so contested that it was taken before

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<sup>97</sup> Leah Otis-Cour, "Les limites de la grâce et les exigences de la justice: l'entérinement et le refus d'entériner les lettres de rémission royales d'après les arrêts du Parlement de Toulouse à la fin du Moyen Âge," *Recueil des Mémoires et travaux de la Société d'Histoire du Droit*, 17 (1996): 76.

<sup>98</sup> See Gauvard *De grace especial*, 913 for examples of this. In particular, lawyers would argue that the king's will applied to all crimes and areas in the kingdom, and should not be over ruled.

<sup>99</sup> Gauvard, *De grace especial*, 65 table 36, 68 for discussion. She indicates that false remissions were called 'subreptice,' which is defined by the DMF as relating to a document that was obtained under false information or authenticated falsely. It related specifically to letters obtained falsely. DMF, entry for "subreptice."

<sup>100</sup> Gauvard, *Condamner à mort au Moyen Âge*, 208.

<sup>101</sup> Davis, *Fiction in the Archives*, 155 n19.

the *parlement*.<sup>102</sup> In regards to letters brought before the *parlement* of Toulouse, which was the royal appeals court for the south of France from 1444, Otis-Cour states that judicial confirmation or *entérinement* was ‘far from being automatic’ and that ‘it was not rare for the court to reject a letter of pardon’.<sup>103</sup>

Urban municipalities cared a great deal about letters being truthful and had their own conditions for ratification, especially in cities in the north such as Abbeville, Tournai, Douai, and Amiens.<sup>104</sup> In Abbeville, for example, the facts of the letter were verified outside of the city so that those who had been banished could not return until the letter was approved.<sup>105</sup> Douai released an *ordonnance* that explicitly stated which crimes they deemed irremissible, including the rape and abduction of women.<sup>106</sup> It is nearly impossible to determine if a letter was contested at the local level, and McDougall points out that ‘scholars have so far found only scattered evidence of local challenges to pardons that, after being granted, were rejected as false, or as unacceptable on the grounds that the crimes in question were somehow unpardonable’.<sup>107</sup> We can perhaps conclude that rather than automatically accepting the letter and by extension the innocence of the supplicant, the ratification process, which often took place at the local level, applied further scrutiny to the letter, the supplicant, and the story being told. Remission was thus

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<sup>102</sup> This is possible using the Institut Histoire du Droit index for the *parlement* registers. *Bases de données*, compiled by *Le centre de documentation des droits antiques and le centre d’étude d’histoire juridique*, distributed by *Institute histoire du droit*, <https://www.ihd.cnrs.fr/spip.php?rubrique3&lang=fr>.

<sup>103</sup> Otis-Cour, “‘De jure novo’: Dealing with Adultery in the Fifteenth-Century Toulousain,” *Speculum* 84, No. 2 (2009): 359.

<sup>104</sup> Gauvard, *Condamner à mort*, 203.

<sup>105</sup> Gauvard, *De grace especial*, 67, for examples of Amiens and Tournai.

<sup>106</sup> Gauvard, *Condamner à mort*, 206. The wording used in Douai was the same as used in the 1357 royal *ordonnance* on irremissible crimes.

<sup>107</sup> McDougall, “Pardoning Infanticide,” 15.

neither a straightforward, easy, or inexpensive process, nor was it guaranteed to work.

It is not possible to determine which of the letters studied here were definitely ratified by royal judges, though none of them appear to have been contested in *parlement*.<sup>108</sup> It matters less that the letters were certainly ratified and more that the information contained in them was a somewhat factual, if embellished, presentation of the crime. I follow Davis's use of the word 'fictional' to mean the methods of storytelling that the letters employ rather than as a judgment on whether they contain false information. It behoved the supplicants and/or their family to be honest about such things as dates, names, places, and the general events, as this was the path to having the letter ratified and the criminal proceedings against the supplicant halted. However, it is important to keep in mind that the very point of a remission letter was to attain grace for the supplicant. McDougall contends that, 'pardons cannot be treated as faithful accounts of events, but rather as plausible accounts of what might make a crime seem more forgivable'.<sup>109</sup> There are some letters which do appear more wilfully to deceive than others, especially those that do not mention the specific crime the supplicant allegedly committed. In one glaring example of this, a letter narrates how a group of men had sex with a supposed sex worker and that she then reported them to the *prevost* of Paris. The crime, which was obviously a gang rape, goes unmentioned.<sup>110</sup>

The grounding methodology of this dissertation is that victims/survivors who reported rape did so because it actually happened, and though I am aware that not everything in the letters of remission or other sources is a factual representation of how the events occurred, I begin,

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<sup>108</sup> Supplicants and their families would have had to pay for legal counsel to argue their cases before *parlement*, meaning that only certain people attempted to appeal remission letters.

<sup>109</sup> McDougall, "Pardoning Infanticide," 15.

<sup>110</sup> AN JJ 126, f.170r, no 273, 1385, see my Chapter 5, 272-80.

always, from a place of believing victims/survivors. This is important from an ethical standpoint in order to push back against rape cultures which have historically sought to silence victims/survivors and undermine the validity of their experiences. Given that this is a dissertation concerned chiefly with victim/survivor experiences, I must take them seriously if I want to learn anything from them. If information then stands out as not making sense, or as being too convenient to be certainly true, I have attempted to integrate that into my analysis. With a crime like rape, whose occurrence is perpetuated by a deeply ingrained system of beliefs and social practices, the stories told about it—the story the victim/survivor told herself, that which she told the local justice, that which was told about her within the community, the story that the perpetrator used to defend himself, etc.—are important and an integral part of victim/survivor experience. Remission letters allow us to study how ordinary, non-elite people conceived of stories about rape and other sexual violations that featured themselves as some of the main characters. The remission letters selected for this project include those told from victim/survivor perspectives and perpetrator perspectives, those which detail sexual abuses not labelled rape but which were clearly non-consensual, and those which do name the crime committed as rape.

### *The Officiality of Paris: Marriage Cases*

While remission letters offer insight into violent sexual violations—because these were the assaults which were considered criminal—not all sexual violations are or were violent. In order to study sexual violations that were not criminal, but which were non-consensual and/or harmful, I use marriage and defloration cases from the court of the bishop's official in Paris.

These cases offer insight into how people were consenting and what they were consenting to, though that consent was often undefined, uneasily given, or mutually unclear. The people who appear in the Paris register had complex ideas about how they wanted to consent to sex and marriage, and they often possessed knowledge of how they were supposed to be consenting in order to form a legal marriage. Yet often their attempts at matrimony and sex were complicated by the rules of the church court or made impossible by its decisions. The register gives insight into how a single community dealt with issues of defloration, illicit sex, marriage, and rape, and how consent, both to sex and marriage, underpinned, hindered, and complicated these experiences.

Few records from the medieval diocese of Paris have survived and these are limited to a single register of mixed civil and criminal cases covering November 1384 through September 1387, accounts of the auditor of the court, and acts of the court.<sup>111</sup> The register of the officiality contains 3,250 entries in total and 432 cases pertaining to marriage.<sup>112</sup> Of those cases, 37 include future promises to marriage followed by sexual intercourse. These are the cases most relevant here, especially since out of 37 cases, 31 were brought to court by women. This is in contrast to those cases of future promises not followed by sexual intercourse, in which men made up the majority of the plaintiffs.<sup>113</sup> Women also make up the majority of plaintiffs in cases of separation and divorce. The entries are no more than a few sentences of Latin each, and contain little

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<sup>111</sup> Charles Donahue, *The Records of the Medieval Ecclesiastical Courts: Reports of the Working Group on Church Court Records* (Berlin: Duncker & Humblot, 1989), 2: 106.

<sup>112</sup> Donahue, *Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007), 304, 307.

<sup>113</sup> Donahue, *Law, Marriage and Society*, 310, 345.

information about the plaintiffs and defendants beyond names. The status and/or wealth of the plaintiffs and defendants can be discerned from the amount the court ordered them to pay and whether or not they could afford legal counsel. There are no depositions in this register and a separate book was used to record sentences, of which we have very little left. Finally, it is clear that not everything was recorded by Jean de Villemanden, the court notary, as cases disappear without a conclusion or are missing previous entries. The court may have charged a fee for the recording of one's case.<sup>114</sup> Thus, though we have the fundamental information for each case of who was accused and of what, we do not have the complete story.

Marriage cases came to the Paris court in one of two ways, either from an individual involved in a marriage dispute or by a promoter of the court. Marriage cases with named plaintiffs far outweigh those brought by the court (*ex officio*), which were generally made up of spousal abuse, bigamy, adultery, concubinage, and other crimes that the court had an active interest in controlling.<sup>115</sup> Plaintiffs bore the burden of proof, and witness testimony was considered the best type of proof. But if a plaintiff did not have witnesses, or the court was not satisfied with them, they could defer the decisory oath to the defendant. Once the plaintiff deferred it to the defendant, the defendant could then swear on their soul that they had not committed the offence, thus deciding the case. Sometimes, defendants referred the oaths to plaintiffs, or they went back and forth. The plaintiff would defer the oath, and the defendant, not wanting to swear on their soul, would refer it back.<sup>116</sup> The presence of the oath in these cases

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<sup>114</sup> Donahue, *Law, Marriage and Society*, 303, 310.

<sup>115</sup> Donahue, *Law, Marriage, and Society*, 308.

<sup>116</sup> On the decisory oath, Donahue, *Law, Marriage, and Society*, 311, and Ruth Mazo Karras, "Telling the Truth about Sex in Late Medieval Paris," *Reading Medieval Studies*, XL (2014): 71.

allows insight into whether or not the plaintiff was able to prove their case with witnesses to the satisfaction of the court.

Once they decided to take their case to court (or the court decided to investigate) the plaintiffs and defendants were subject to a process into which the Paris register gives us little insight into, though this is not unusual. As Karras notes, the same is true for the register of the archidiaconal court, in which it is clear that prior to the interrogations that appear in the register a previous investigation had taken place.<sup>117</sup> People did not necessarily navigate the legal process alone and if they could afford to do so they hired advocates to advise them outside of court and proctors to represent them in court. Luckily, the Paris register tends to mention legal counsel by name, so we know who could afford one and who could not. Despite our limited access to the specific procedure to which each person was subject to (and both Karras and Donahue admit that we must rely on law treatises for most of it), it is important to think about what they might have gone through. Someone like Florie la Closiere, who had access to an advocate and a proctor, likely navigated the system with far more ease than did someone like Cassotte la Joye, who had no legal counsel, no witnesses, and no family beside her in court.<sup>118</sup> Though we do not know which people were subject to the lengthy inquisitorial process that is found in the archidiaconal records, or what the testimonies of their witnesses contained, or how they might have struggled to pay the various court fees, keeping such factors and questions in mind grounds the few sentences of each entry in the diocesan register more firmly in a lived experience.

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<sup>117</sup> Karras, "Telling the Truth," 68. For more on procedure, see Brundage, *Medieval Canon Law* (London: Longman, 1995), chapter 6.

<sup>118</sup> Both cases discussed here in my Chapter 3, 163-166, 158-161.

## Dijon

The final set of documents used comes from the municipal criminal court in Dijon, from 1404-1447. These appear in Chapters 4 and 5, and yield unparalleled and rich insight into what rape looked like in a small medieval city. Dijon was part of the Duchy of Burgundy, but the city's municipal charter ensured that it retained jurisdictional authority over civil and criminal cases. Though there were often struggles for power between the Duke of Burgundy and the town hall over who had the authority to oversee the most violent and serious crimes, it is clear that the municipal justice both prosecuted and sentenced in cases of rape. Jacques Rossiaud counts 125 cases of rape in the Dijon registers between 1436 and 1486.<sup>119</sup> I counted 11 for the first 30 years of the fifteenth century; the registers for the first few decades of the fifteenth century are far less robust than for the second half. Though an exact number of rapes in the Dijon registers cannot yet be determined, I am confident from my own time with the documents, and Rossiaud's and Gonthier's work on them, that they are numerous.<sup>120</sup>

It is difficult to tell if the case files are complete or if portions have been lost—it is also often impossible to discern what the sentence was. A selection of sentences were recorded in the *Papier Rouge*, named because of its red leather cover. The *Papier Rouge* covers the period from 1358 to 1479, but it is not inclusive of all sentences, nor is in chronological order.<sup>121</sup> There are two sentences for rape during the period studied here, and further to this, two more cases include

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<sup>119</sup> Rossiaud, *Medieval Prostitution*, 11-12. Rossiaud is unclear on how and what he counts as rape so it is not easy to verify his numbers.

<sup>120</sup> Due to the Covid-19 pandemic, I was unable to go back to the archives in Dijon to establish more accurate numbers.

<sup>121</sup> Rudi Beulant, *Criminalité et justice échevinale à Dijon au XVe siècle (1433-1441)* (Dijon, Editions universitaires de Dijon: 2020), 33.

either a release or attached letter of remission. While it would be useful for my investigation of victim/survivor experiences to know the outcome of every case, that outcome would not change the theoretical basis for this project, which centres victim/survivor experience and accounts. The testimonies from Dijon are valuable regardless of whether or not we know the outcome, as they present the closest thing we have to victims/survivors communicating in their own words.

Rape victims/survivors did not necessarily have to make a formal complaint for the municipal justice to investigate; often, rumours were enough, or community intervention lead to rapists being apprehended.<sup>122</sup> But the justice did need the victims/survivors to come forward eventually to confirm the identities of their rapists and to testify. Gonthier argues that women felt confident that the justice would take them seriously, and that the justice served even the most vulnerable members of the community. Certainly, the Dijon documents do feature poor women such as servants and day laborers, and even sex workers.<sup>123</sup> However, the court was also wary of false accusations, and investigated the victim's/survivor's reputation thoroughly in order to avoid them, as well as collecting witness testimony from neighbours and anyone who might have seen or heard the rape.<sup>124</sup>

The victim/survivor testified at length, answering an arduous series of questions and recounting the rape in specific, often graphic detail. These testimonies are what make the Dijon documents so valuable, as they provide insight into how women described their own experiences, how they felt before and after the rapes, and how burdensome the legal process

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<sup>122</sup> Gonthier, "Les victimes de viol," 14.

<sup>123</sup> See case ADCO BII/360/1/4-9, 1432, Richote was a servant, and ADCO BII 360/1/2-5, Jehanotte de Briefville was a sex worker, see my Chapter 4, 225-29, and Chapter 5, 286-91 respectively.

<sup>124</sup> Gonthier, "Les victimes de viol," 15-16 ADCO B II 360/1/2-3, 1404, case of Marguerite Damnee.

itself was. Though the testimonies were guided by the questions asked by the mayor or *procureur*, this did not preclude victims/survivors from furnishing their answers with details and emotions. Sometimes they are recorded as simply answering ‘ouy’ or ‘non’ to questions, but frequently they answered questions with long descriptions. The scribe did not record this as direct speech, but did take great pains to make it abundantly clear who was speaking, writing, for example, ‘elle qui parle’ [she who speaks] or saying that the person testifying had responded.<sup>125</sup> Thus while the testimonies are not unmediated accounts from victims/survivors, they are still perhaps the best, most direct evidence of medieval victim/survivor experience that is available.

Collectively, these three source groups offer multiples angles of insight into victim/survivor experience and conceptualizations of consent. Letters of remission, examined throughout, demonstrate how rape was narrativized in ways which both helped and hindered victims/survivors. Marriage cases from fourteenth century Paris provide essential information on how people negotiated consent in their sexual relationships. And the criminal cases from Dijon are integral to understanding how victims/survivors felt in as close as possible to their own words.

‘Chapter 1: Methods for Understanding Victim/Survivor Experience’ draws together works from various disciplines, including the emotions history, social psychology, and theories of consent to answer the question of *how* we can analyse medieval documents for victim/survivor experience. Additionally, I propose that legal documents, and in particular letters of remission, are themselves integral parts of victim/survivor experience. Victim/survivor conceptualizations

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<sup>125</sup> See for example, ADCO BII/360/1/8-8, 1431, the case of Jehanotte de Vaults, discussed in my Chapter 4, 232-243.

of consent and what they believed constituted a sexual violation form the primary analytical thrust of the second and third chapters. In ‘Chapter 2: Consent Defined’, I look at how women in letters of remission and literature clearly rejected rape and fought back against it, thus defining for themselves their own sexual boundaries despite the threat and reality of sexual violence. Along with these letters, I use the writings of Christine de Pizan to argue that there was a cultural basis for resistance and firm boundaries around consent. In ‘Chapter 3: Consent Questioned’ I turn towards marriage cases from the diocesan court in Paris which demonstrate the existence of a space between consensual sex and rape in which disputes over betrothals, consummation, and defloration played out. Then, I use letters of remission that detail instances of spousal abuse to highlight that way that women resisted sexual intercourse with their husbands despite social pressure to submit. Finally, I use the fourteenth century miracle play *L’enfant donné au diable* to question how widely accepted the conjugal debt actually was. In ‘Chapter 4: Cultures of Rape and Resistance’ I turn to trial documents from Dijon to explore how one tight-knit community dealt with instances of rape, and to determine how Dijon’s specific cultures of rape and resistance affected both victim/survivor experience and women’s lives. I examine the community links closely, and interrogate the role that noble men played in the abduction and rape of lower-class women. In the final chapter, ‘Chapter 5: Sex Workers and the Right to Consent’, I explore how sex workers, who were some of the most marginal members of society but who also lived as part of a distinct community and were familiar with the threat of sexual violence, experienced and reacted to rape.





## Chapter 1: Methods for Understanding Victim/Survivor Experience

Studying victim/survivor experience of rape in medieval sources presents two methodological problems. First, there is the fact that the representation of rape in medieval sources varies from explicit to suppressed. It is not always obvious whether a rape or other sexual violation occurred. Then, there is the larger, more complex problem of determining how the victim/survivor felt about the rape or sexual violation and what her experience of it encompassed. Determining whether or not a rape occurred can usually be done by careful, close analysis of language and, in the case of letters of remission, narrative form. As will be discussed in Chapter 2, Middle French had both a clear legal definition of rape and clear language for describing it, meaning that many of the sources studied here discuss rape explicitly. However, there are also sources that seek to obscure rape, such as letters of remission written for the perpetrator (see Chapter 5). There are also sources that discuss something that clearly was rape, but would not have been labelled so, such as spousal rape (see Chapter 3). Finally, there are sources that deal with acts on the margins between consensual and non-consensual (see Chapter 3). I do not always firmly label what is happening in such sources as rape, and make use of the term sexual violation when the harm perpetrated is unclear. What is clear, though, in nearly all of the sources studied here, is that by seeking out systems of justice, women identified a variety of actions as harmful.

When I read historical sources that contain rape or sexual violations, I ask three questions: 1) did the victim/survivor believe the experience to be rape or another type of sexual violation, 2) how did the victim/survivor feel or how is she characterized as feeling? and 3) how was the victim/survivor affected by rape, both at the time it occurred and afterwards? Not every

source provides the answers to each of these questions, and rarely do any of them provide the answers readily. Often, multiple, conflicting interpretations of the victim/survivor's experience are present in the sources, but I contend that it in fact makes a great deal of sense that women might have experienced multiple conflicting emotions surrounding rape and its aftermath.<sup>1</sup>

Traumatic experiences of rape are complex, tangled knots within the mind and body, and thus when the sources themselves offer multiple possible interpretations of the experience of rape, I have tried to allow the space for all to exist.

Answering the three questions articulated above requires a methodology that integrates aspects of several disciplines and theoretical strands. Though this dissertation analyses literary sources, it is first and foremost concerned with the lives of real people documented by medieval French legal sources. It makes use of the works of historians of emotion and trauma, as well as social, legal, and cultural historians. It is grounded in the feminist critique of historical and/or medieval sources, including the works of Carissa Harris, Kathryn Gravdal, and Saidiya Hartman, discussed in the introduction.<sup>2</sup> I have also integrated research from the fields of experimental and social psychology, though rather than aiding in any form of 'back diagnosing' these studies serve to help me ask new questions of the medieval sources and gain an understanding of the variety of possible victim/survivor response.<sup>3</sup> Finally, I have used theoretical work done in the field of

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<sup>1</sup> For more on this, see Nicola Gavey, *Just Sex?: The Cultural Scaffolding of Rape* (London: Routledge, 2005), 180.

<sup>2</sup> Gravdal, *Ravishing Maidens*; Harris, *Obscene Pedagogies*; Hartman, "Venus in Two Acts."

<sup>3</sup> For 'back diagnosing' see Wendy J. Turner and Christina Lee, "Conceptualizing Trauma for the Middle Ages," in *Trauma in Medieval Society*, eds. Turner and Lee (Leiden, Boston: Brill, 2018), 9. Experimental and social psychology literature: Rebecca Campbell, *Emotionally Involved: The Impact of Researching Rape* (New York: Routledge, 2002); Rebecca Campbell, et al, "Preventing the 'Second Rape': Rape Survivors' Experiences With Community Service Providers," *Journal of Interpersonal Violence* 16, no. 12 (2001): 1239-59; Gavey, *Just Sex?*; Kathryn M. Ryan, "The Relationship between Rape Myths and Sexual Scripts: The Social Construction of Rape," *Sex Roles* 65, (2011): 774-782; Sharon M. Wasco, "Conceptualizing The Harm Done By Rape: Applications of Trauma Theory to Experiences of Sexual Assault," *Trauma, Violence & Abuse* 4, no. 4 (2003): 309-22.

sexual consent in order to untangle the complexities associated with defining an act within the medieval sources as being rape, a sexual violation, or otherwise.<sup>4</sup>

### Emotions and Trauma

It is necessary to consider the history of emotions, a field that exists at the intersection of history, anthropology, neuroscience, and psychology, in a victim/survivor-centred approach because rape elicits a variety of complex, often difficult emotions.<sup>5</sup> Trauma probably comes to mind most frequently when we discuss the emotional effects of rape, though trauma is in itself not an emotion, but rather a response to something that is emotionally, psychologically, and often physically distressing.<sup>6</sup> In the field of psychology, trauma is most often associated with Post Traumatic Stress Disorder (PTSD), though something can be traumatic without necessarily causing PTSD, and trauma is relative.<sup>7</sup> What is traumatic to me is not necessarily traumatic to you, and what is traumatic now was not necessarily traumatic then, and what is traumatic in one culture is not necessarily traumatic in another. Trauma does not always equate to a diagnosis of PTSD and the PTSD model does not, by some psychologists' measures, adequately cover the range of responses women experience to sexually abusive acts.<sup>8</sup> For example, rape does not always shatter the victim's/survivor's world view.<sup>9</sup> If one agrees with Gravdal's view that there

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<sup>4</sup> Joseph Fischel, *Screw Consent: a Better Politics of Sexual Justice* (Oakland: University of California Press, 2019); Catharine MacKinnon, "Rape Redefined," *Harvard Law & Policy Review* 10, no. 2 (Summer 2016): 431-478; Carole Pateman, "Women and Consent," *Political Theory* 8, no. 2 (1980): 149-68; Amia Srinivasan, *The Right to Sex*, (London: Bloomsbury, 2021).

<sup>5</sup> Wasco, "Conceptualizing The Harm Done By Rape," 311-315.

<sup>6</sup> For the many meanings and uses of the word trauma see Walton O. Schalick III, "Foreword," in *Trauma in Medieval Society*, eds Turner and Lee, xi-xvii.

<sup>7</sup> Donna Trembinski, "Trauma as a Category of Analysis," in *Trauma in Medieval Society*, eds Turner and Lee, 17.

<sup>8</sup> Wasco, "Conceptualizing the harm done by rape," 310; Gavey, *Just Sex*, 182.

<sup>9</sup> Wasco, "Conceptualizing the harm done by rape," 312.

was a distinct culture of sexual violence present in medieval France, it is then easy to imagine how rape and the threat of it might fit into a woman's world view quite comfortably rather than shatter it. Furthermore, social and cultural factors that encourage women to self-blame and excuse the actions of rapists can cause victims/survivors to be re-traumatized, or to experience what is known as a second rape. Undeniably, rape victims/survivors experience extremely high rates of PTSD and other psychological issues—but it is not possible to demonstrate that they did in the Middle Ages.<sup>10</sup>

I say an event was traumatic when the sources make clear that it could have had lasting, negative impact on someone's life and mental health. Specifying those impacts and the symptoms of trauma is impossible given that I cannot follow the victims/survivors beyond the written page and through the course of their lives. I follow Donna Trembinski in thinking of trauma as a 'category of analysis' rather than as something that can be universally understood with universal indicators. As a category of analysis, Trembinski argues that trauma has the 'explanatory power to shift and nuance our perceptions of the past' because it 'injects ambiguity and complexity into the thoughts, emotions, and actions of historical actors'.<sup>11</sup> Thus in the case of Jehannette la Charronne, who is said to have reported a gang rape at someone else's instigation rather than her own, I do not simply accept the implication that Jehannette did not want to report the crime and was thus not in fact raped. Instead, applying trauma as a category of analysis allows me to consider whether Jehannette was so traumatized or upset by the event that she was only able to report it with the encouragement and help of her community.<sup>12</sup> The potential

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<sup>10</sup> Emily R. Dworkin, et al. "Understanding PTSD and Sexual Assault," in *Handbook of Sexual Assault and Sexual Assault Prevention*, eds. William T. O'Donohue and Paul Schewe (Cham: Springer, 2019), 293-307.

<sup>11</sup> Trembinski, "Trauma as a Category of Analysis," 31.

<sup>12</sup> AN JJ 126, f.170r, no 273, 1385, see Chapter 5, 272-80.

for trauma to exist in the sources opens them up to more generative ways of thinking.

Furthermore some of the incidents of rape and sexual violation I study here include moments of sharp, distressing fear and expression of pain from the victims/survivors, which make the psychological effect that rape had undeniable.<sup>13</sup>

LaCapra writes that trauma is ‘a disruptive experience that disarticulates the self and creates holes in existence’.<sup>14</sup> Trauma thus presents the historian with multiple difficulties if they are looking for factual accounts, especially when it comes to testimony. LaCapra uses the example of Holocaust survivor testimonies to demonstrate the way that traumatic memories of events differ from how the events have been historically recorded as happening. For instance, a woman remembers four chimneys being blown up at Auschwitz, when in reality only one was blown up. LaCapra contends that in some ways her testimony is accurate because it reflects her experience and memory of the past.<sup>15</sup> But for an historian attempting to put together an empirical account of events, such testimonies are not easily dealt with. LaCapra encourages the historian to find ‘a tense interplay between critical, necessarily objectifying reconstruction and affective response to the voices of victims’ and thus balance both their search for empirical accounts of the past with the ethical treatment of historical subjects.<sup>16</sup> Waxman cites a testimony by Olga Lengyel in which she details how Nazis at Auschwitz would train dogs to rape women, and how this was a ‘favourite form of amusement’. Waxman contends that even if this cannot be verified as factually true, ‘the very fact that it has been narrativized in Lengyel’s testimony gestures to the extreme forms of sexual violence and violation that were potentially possible in the

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<sup>13</sup> ADCO BII 360/3/17-212, 1442, case of Jehanotte le Bonnet, discussed my Chapter 4, 243-51.

<sup>14</sup> LaCapra, *Writing History, Writing Trauma*, 41.

<sup>15</sup> LaCapra, *Writing History, Writing Trauma*, 88.

<sup>16</sup> LaCapra *Writing History, Writing Trauma*, 10.

concentration camps'.<sup>17</sup> This balancing act between testimony and fact is made more complex by the fact that sexual violence during the Holocaust has often been disregarded in order to prioritize a view of the Holocaust as unique, and thus not subject to the usual gender dynamics.<sup>18</sup>

I navigate the difficulties of studying historical trauma by making my study specifically about victim/survivor experience and perspective, rather than searching for strictly factual accounts of rape. Similarly, I am not looking to determine how one event or set of events occurred, rather, I seek to understand a multiplicity of experiences that share a common feature of being sexually violative. Historians must acknowledge that a true experience of trauma can both diverge from an empirical account and yet still be true, and that these experiences are themselves a part of history. I contend that the experience of rape known by the victim/survivor is in fact that which should be preserved by history.

Being alert to the role of trauma in the legal sources used here requires reliance on few verbal and emotional cues. However, I am *starting* from the premise that rape had the potential to be emotionally upsetting and was a harmful act, rather than working towards it. Because in nearly all of the incidents studied here, the victim/survivor told someone about the rape or sexual violation, and because very often they mark the experience as something they did not want, the sources do not always need to tell us exactly how the non-consensual act was damaging in order for us to understand that it was. Many of the sources presented here attest to women at a time when they would have been quite emotionally vulnerable and distressed: in court answering questions about an act that was at worst extremely violent and traumatizing and at best still

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<sup>17</sup> Zoe Waxman, "Testimony and Silence: Sexual Violence and the Holocaust," in *Feminism, Literature and Rape Narratives: Violence and Violation*, ed. Zoë Brigley and SORCHA Gunne (London: Routledge, 2010), 124-5.

<sup>18</sup> Waxman, "Testimony and Silence," 118-9.

extremely intimate. An approach that considers rape as having the capability to cause great emotional harm, combined with the seeking and finding of emotional clues within the sources, renders detecting moments of psychological pain possible.

Defining and determining emotions in the past is widely regarded as a fraught and difficult task. The debate on what emotions are can be broadly split into two groups: clinical psychologists and neuroscientists who view emotions as predominantly biological, and anthropologists who view them as socially constructed entities.<sup>19</sup> A biological approach generally contends that emotions are cognitively processed and bodily expressed. A purely social-constructivist approach to the study of emotions would argue that no emotional reaction is universal, and that human nature itself is not universal, as we are products of culture. In *The Navigation of Feeling: a Framework for the History of Emotions*, William Reddy proposes a bridge between these two, and draws on psychological studies and philosophy to theorize that cognitive processing is in fact an act of ‘translation’ that is, of relating the world through language.<sup>20</sup> He contends that emotions are ‘largely’, but ‘not entirely’ learned, leaving space for both ‘cultural variation’ and ‘a core concept of emotions...that allows one to say what suffering is’.<sup>21</sup> This understanding of emotion and suffering is essential for studying rape and humanizing its victims/survivors. Rape might in fact mean something emotionally different and distinct to the victims/survivors of it depending on the cultural and social context in which they lived, but it would not be fair to take, for example, the *pastourelle* genre and argue that the subdued and sated shepherdess accurately represents the way that medieval victims/survivors felt about rape.

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<sup>19</sup> William Reddy, *The Navigation of Feeling*, (Cambridge: Cambridge University Press, 2001), p. x.

<sup>20</sup> Reddy, *The Navigation of Feeling*, 64.

<sup>21</sup> Reddy, *The Navigation of Feeling*, p. xi.

It might have influenced how they conceived of their own experience, but no amount of eroticized literary rape can transform the trauma of real rape into pleasure. Despite the amount of immense cultural pressure that dictated and dictates victims/survivors be silent about rape, then and now they still spoke and speak up. Suffering demands to be voiced. Still, rape culture is a behemoth that undeniably shapes the way victims/survivors feel about their experiences, and medieval victims/survivors were likely also shaped by a medieval rape culture. The tension between the two—the cultural pressure to remain silent and deny the self, and the internal suffering that demands to be felt and voiced—lies at the heart of much victim/survivor experience.

Barbara Rosenwein's definition of emotion found in *Emotional Communities in the Early Middle Ages* is useful here as it allows for differences in individual experience, while still accounting for social context: 'if emotions are assessments based on experiences and goals, the norms of the individual's social context provide the framework in which such evaluations take place and derive their meaning'.<sup>22</sup> This is particularly useful for thinking about a medieval rape culture, and how it in turn provided a 'framework' for the way victims/survivors felt about and responded to rape. If, for example, a medieval woman's model of behaviour or 'conceptual tools' came from hagiographies in which virginal women go to extreme lengths to evade rape and marriage and thus remain virgins, then perhaps she would (in part) understand rape as something within the victim's/survivor's ability to avoid, but also as something incredibly dangerous and

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<sup>22</sup> Barbara Rosenwein, *Emotional Communities in the Early Middle Ages* (Ithaca: Cornell University Press, 2006), 15.

potentially damaging.<sup>23</sup> Medieval sources so often do not include enough emotional information to determine how exactly someone was feeling, but we can more readily understand the societies and communities people lived in and how this might have influenced how and what they felt. However, this is not only a medievalist's problem, rather, it is a problem anyone might face when reading or listening to an explanation of someone else's emotions. Rosenwein notes, 'always I miss what historians would look at first in the modern period—diaries, memoirs, interviews—though it may well be that we wrongly think of these as accessing emotion better than other sources: it is our own emotional community that values them for conveying intimate and sincere emotional expression' and continues that, 'while emotions may be expressed more or less dramatically, they are never pure and unmediated drives or energies'.<sup>24</sup> There is no unfiltered, perfect source for emotions.

In order to identify and describe emotional communities in early medieval texts, Rosenwein begins by finding and identifying 'emotion words'. By this, Rosenwein means those words which specify or mark an emotion within a language and text; emotional communities may share emotion words and draw from the same lexicon. In discussing emotion words in the Western world from the time of Antiquity to Augustine, Rosenwein suggests that there is much continuity, and that even modern emotion words and concepts are similar to those of pre-modern eras.<sup>25</sup> This continuity, she argues, enables the historian to share some common understanding of emotions with their medieval subjects. The practice of identifying emotion words is useful here

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<sup>23</sup> See, for example, the life of Saint Christina of Markyate, *The Life of Christina of Markyate: A Twelfth Century Recluse*, ed. C.H. Talbot, (Oxford: Oxford University Press, 2019). See Saunders, *Rape and Ravishment*, 147-150. "Conceptual tools," from Edwards, *Afterlives*, 3.

<sup>24</sup> Rosenwein, *Emotional Communities*, 26.

<sup>25</sup> Rosenwein, *Emotional Communities*, 55-6.

because they are so few and far between in the sources. While the stories told in letters remission are certainly emotive, they do not contain many direct references to emotion. When the sources do contain emotion words I have made a point to highlight them, as they allow me to explore how victims/survivors may have actually been feeling, and how they were presented as feeling in order to construct a successful legal narrative. Experience is made up of more than just emotion though, and I am equally interested in what these women *thought* about an incident of rape or sexual violation as I am in what they felt. Verbs such as *vouloir* [to want] and nouns like *volonte* in Middle French, which describe what one wills or desires, appear often in victim/survivor testimony and remission letters. Other phrases and words of will and consent, such as *malgre quelqu'un* [against the will of someone], *de son bon gre* [of her own consent] and even occasionally, *consentir* [to consent] were also used.<sup>26</sup> Though these words are not entirely distinct from emotion words, they more nearly indicate cognition than emotion.

Rosenwein uses emotion words to help identify certain emotional communities, which are places in which people ‘have a common stake, interest, value, and goals’.<sup>27</sup> She also theorizes that emotional communities in the early Middle Ages existed within somewhat concentric and overlapping circles. By this she means that there were larger emotional communities that contained within them smaller emotional communities, and these smaller communities could be subdivided further.<sup>28</sup> The circles did not always overlap perfectly, so that a smaller emotional community would not necessarily share all of the traits of the larger. Thinking about victims/survivors as being part of emotional, or even perhaps pedagogical and cognitive

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<sup>26</sup> *Dictionnaire du Moyen Français*, (Analyse et Traitement Informatique de la Langue Française (ATILF), 2020), <http://zeus.atilf.fr/dmf/>, entries for “volonté”, “gré,” and “consentir.” Hereafter cited as DMF.

<sup>27</sup> Rosenwein, *Emotional Communities*, 24.

<sup>28</sup> Rosenwein, *Emotional Communities*, 24.

communities in which they shared similar thoughts about rape, allows me to consider whether or not they shared knowledge of survival, resistance, and life after rape with one another, especially when comparing the experiences of women from the same locale. Additionally, this moves us away from the idea that women who spoke out about rape were exceptional and towards the possibility that, as emphasized by Harris in her analysis of the *pastourelle*, women were in fact learning from one another about how to manage rape and the threat of it in their daily lives.<sup>29</sup>

### Voices in the Archives

However, even if the historian is able to identify emotion words in legal documents, the problem still remains of whether these emotions can accurately be ascribed to their subjects. Legal documents are not merely mediated by language, but by the legal process and all it entailed. In Dijon, the *procureur* and the mayor who were in charge of the investigation, the alderman who decided the case, and the scribes who committed the proceedings to paper, all contributed to the shaping of the legal narrative. So too did defendants and plaintiffs, who were certainly aware of how the courts worked, and were thus able to present their stories convincingly. A single letter of remission often required the input of legal counsel, multiple family members, a notary, the opposing party, and a judge.

John Arnold has argued that there are both multiple discourses (such as gender, sexuality, spirituality, and penitence), and multiple voices at work in testimonies, and that they cannot be separated. Nor do voices exist ‘in their particular textual enunciation’ ‘prior to the record in any

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<sup>29</sup> Harris, *Obscene Pedagogies*, 119.

fashion' and thus the historian cannot 'recover' or 'stabilize' the subject by analysing them.<sup>30</sup>

But Arnold is also concerned with the ethical consideration of what happens to the subject when they are analysed for the 'voices' of different discourses, the subject themselves thus dissolved.<sup>31</sup>

His answer is to construct the subject as having some agency amongst these competing discourses and to look for the 'conflicts, oppositions, and ruptures' that occur between them. In trying to excavate the experience of victims/survivors in Dijon, the ruptures between discourses that Arnold identifies are present in both the tension and harmony between what type of rape narrative the courts were interested in prosecuting and what type of story a victim/survivor would tell. Often, the two were closely aligned, suggesting that victim/survivor experience was both shaped by certain cultural and legal narratives and that women were aware of how they should present their experience with rape to the court.

Still, rather than try and extract the voice of the common person from legal documents, many historians choose to extract different social discourses as represented within legal documents. Tom Johnson critiques historians who have done so because this 'presumes that premodern witnesses were simply conduits of discourse' who were 'decisively shaped' by the legal counsel. He argues that medieval people were in fact capable of 'manipulating such discourses' and crafting their testimony specifically for the court.<sup>32</sup> Similarly, historians should cease with their separation of the legal world from the social, as the courts played a large role in

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<sup>30</sup> John Arnold, "The Historian as Inquisitor: The Ethics of Interrogating Subaltern Voices," *Rethinking History* 2, no. 3 (1998): 382.

<sup>31</sup> Arnold, "The Historian as Inquisitor," 383.

<sup>32</sup> Tom Johnson, "The Preconstruction of Witness Testimony: Law and Social Discourse in England Before the Reformation," *Law and History Review* 32, no. 1 (2014): 127-8

society and ordinary medieval people had a good sense of how to navigate them.<sup>33</sup> Given their legal knowledge, discourses such as ‘gender’ or ‘charity’ could be ‘reconstituted’ by witnesses to fit a ‘legal’ discourse, meaning that ‘medieval testimonies might thus be rather accurate representations of these ambiguous tangles of people, words, and ideas’.<sup>34</sup>

However, despite the fact that testimonies contain accurate representations of people and their ideas, it is still difficult to determine whether the emotions in testimonies and other legal documents are accurate representations of how real people felt. Merridee Bailey avoids a line of inquiry that asks whether or not petitioners in the English court of chancery actually felt the emotions they spoke of by investigating instead ‘when and where emotional language was employed, what this tells us about the emotional norms of the period, and why invoking certain emotions was perceived to help the petitioner’.<sup>35</sup> Petitioners and counsellors chose to emphasize certain emotions as a way of managing how they were perceived, and in choosing these emotions ‘created and reinforced selective memories of past situations and relationships’.<sup>36</sup> In remission letters discussed in Chapters 2 and 3, victims/survivors, their families, and legal counsel chose to emphasize the emotion of fear. Under Bailey’s methodology, the emphasis on fear reflects the way they presented their emotions and selves after the fact and/or how they remembered the incident. Fear might indicate their innocence, and communicate to the Chancellery that they had not wished for the rape to take place. I do not believe this type of analysis does a disservice to victims/survivors, especially given that we describe how we felt in past moments using the tools

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<sup>33</sup> Johnson explores this in more depth in *Law in Common: Legal Cultures in Late-medieval England* (Oxford: Oxford University Press, 2020).

<sup>34</sup> Johnson, “The Preconstruction of Witness Testimony,” 145-7.

<sup>35</sup> Merridee Bailey, “‘Most Hevynesse and Sorowe’: The Presence of Emotions in the Late Medieval and Early Modern Court of Chancery,” *Law and History Review* 37, no. 1 (2019): 6-7.

<sup>36</sup> Bailey, “‘Most Hevynesse and Sorowe,’” 7.

and language available to us. The emotions described in a court room setting or during the creation of legal documents are not necessarily false—it is simply that we cannot resurrect the subject at the moment of the crime and determine how they felt. However, we must, as Reddy stipulates, be able to know suffering when we see it.

The emotions in the documents studied here may in fact have been created for the legal system. In the case of remission letters that is almost certainly true. The testimonies from Dijon were taken quite close to the time of the rape, sometimes even during the next morning, and did not involve the same number of authors as a remission letter did. They possess an emotional immediacy that other sources do not. But regardless of the type of document, when victims/survivors report a crime of rape, I consider that they may have felt afraid, distressed, and traumatized. Though the sources cannot offer unmediated access to the subject, they offer windows through which we can make sense of what emotions the subject was likely to have felt. I cannot know exactly how these women felt at the time of the assault, but I can know suffering when I see it, and be attentive to its impact.

### *Towards a Social and Cultural Understanding of Rape*

The effect that rape culture has on victim/survivor responses and experience has been most insightfully explored by social psychologist Nicola Gavey in *Just Sex?: The Cultural Scaffolding of Rape*. Gavey begins by discussing rape as a social problem and as a widespread epidemic, and goes on to examine how heterosexual relations and norms create the ‘cultural scaffolding’ for rape. Social constructionism underpins much of Gavey’s argument, as she understands rape and its prevalence as a result of social and cultural norms that influence sexual

scripts. However, she makes the case that we can be both socially-constructed beings and also capable of making individual choices. Our choices are constrained by ‘cultural conditions of possibility and by personal contingencies of those choices within our cultural and interpersonal contexts’, but she also believes that people are able to ‘pull at the same time [they] are pulled’ and thus make individual choices.<sup>37</sup> This use of post-structuralist theory allows her to examine how rape culture is constructed while also allowing her to treat the women she interviews as individual subjects capable of making independent decisions. Within this dissertation, I also seek to balance the cultural pressures affecting a woman’s ability to consent and not consent to sex with her ability to make her own decisions.

Gavey goes on to discuss how heterosexuality, and in particular the normalization of non-consensual heterosex, underpins rape culture.<sup>38</sup> She analyses significant excerpts from interviews she conducted with women who found themselves having sex that they did not necessarily enjoy but to which they could not forcefully say ‘no’. Their experiences often involved committed partners or men they knew quite well, and Gavey seeks to interrogate why these women, and those like them, do not forcefully resist unwanted sex. Quite common in many of the interviews is the presence of cultural and social pressure to say ‘yes’, or at the very least not to say no’. Chloe, for example, felt as if she could not resist sex, ‘because, you know, that person wanted me, and I was in a relationship, we were going out together and, isn’t that what everybody does?’<sup>39</sup> Marilyn asked herself, in regards to her current relationship, ‘how long ago was it [sex]

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<sup>37</sup> Gavey, *Just Sex?*, 94.

<sup>38</sup> Gavey uses heterosex to mean sex had between a man and a woman. I use it in a similar manner, though would not apply the term to sexual relationships that involve, for example, a bisexual woman and a bisexual man, although such relationships can still be influenced by heteronormativity and follow the same patterns of heterosexual relationships that Gavey identifies.

<sup>39</sup> Chloe as quoted by Gavey, *Just Sex?*, 132.

um, and, and so how long can we sort of acceptably put it off for?’ If she didn’t have sex with her partner regularly enough Marilyn felt ‘guilty’ and ‘bad’.<sup>40</sup> Similarly Pat, as a woman sleeping with a man who was married, felt as if she could never say ‘no’ to him because her prescribed role in their encounters was to always say yes.<sup>41</sup> All of these women felt as if it was incumbent upon them to have sex, and Gavey posits that this is because, ‘some sort of sexual imperative was woven into her [Marilyn’s] cultural knowledge about what having a boyfriend or being a girlfriend meant’.<sup>42</sup> This point is important to keep in mind when considering those acts which medieval victims/survivors perhaps did not enjoy or want to happen but which they did not label rape, and it will similarly be important to keep in mind the types of ‘sexual imperatives’ woven into medieval culture as discussed by Gravdal, Saunders, and Harris.

The women Gavey interviewed were able to articulate aspects of the sexual encounters that they disliked, and yet they still either consented or did not make their non-consent heard very loudly. For Gavey, such interactions are due to ‘dominant discourses’ that ‘provide implicit cultural knowledge and strong norms that guide us in knowing how to be and act in everyday life’. This is particularly important when studying heterosex because ‘these processes of social construction and subjectivity help to explain actions or behaviours that look like compliance with or submission to social arrangements that seem unjust and not in a woman’s own best interests’.<sup>43</sup> Without acknowledging the pull of social norms, one might initially assume that labelling as rape situations that women are hesitant themselves to term rape is a denial of agency. Women are, or should be, individuals who can make decisions about their own lives. If they are

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<sup>40</sup> Marilyn as quoted by Gavey, *Just Sex?*, 141.

<sup>41</sup> Gavey, *Just Sex?*, 132.

<sup>42</sup> Gavey, *Just Sex?*, 138.

<sup>43</sup> Gavey, *Just Sex?*, 143-4.

consenting to sex, for whatever reason, even if it is sex that they do not in fact want, then does questioning the interaction or calling it non-consensual ultimately undermine that choice? Gavey considers this point of view, but ultimately arrives at the conclusion that all choices are not equal, especially so when it comes to heterosex. She describes the process of how a woman might come to the decision to have unwanted sex by unconsciously or consciously weighing the outcomes of each action, and often under pressure by her male sexual partner to act in a certain way and to make a certain choice.<sup>44</sup> Women who make the wrong choice and reject sex are punished for it. Perhaps their partner becomes angry or aggressive with them, or perhaps they are labelled as sexually uptight.<sup>45</sup> I have tried to balance how medieval victims/survivors describe their own experiences with the fact that not all choices were equal, and thus even if a woman did not want to call her experience a sexual violation or rape, we still might consider it such. Similarly, I have tried to pay attention to how, as Gavey articulates, women might have complied with unjust arrangements that were against their best interests because of their limited choices. Furthermore, using the term sexual violation allows me to consider a spectrum of non-consensual and harmful sex acts rather than just rape. In Chapter 3, I discuss several instances of women who refused to have sex with their husbands and thus apparently shirked their conjugal duty. Though the dominant discourses around marriage dictated that spouses owed one another sex, medieval women certainly did ‘pull’ back against these discourses during episodes of violence and coercion in intimate personal relationships. Wives were often subject to violent abuse by their husbands when they refused sex, experiencing the type of punishment for decision-making

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<sup>44</sup> Gavey, *Just Sex?*, 155.

<sup>45</sup> Gavey, *Just Sex?*, 151.

that Gavey discusses in respect of modern women.

In addition to Gavey's work on rape culture, the present historical analysis is also informed by the concepts of rape myths and rape scripts, which allow us to understand the way specific social and cultural pressures influence victim/survivor experience. Rape myths are 'attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify male sexual aggression against women'.<sup>46</sup> Commonly held modern rape myths include 'husbands cannot rape their wives', 'women enjoy rape', 'women ask to be raped', and 'women lie about being raped'.<sup>47</sup> These myths allow both men and women to distance themselves from the reality that they may either become or already are the perpetrator or victim of a rape.<sup>48</sup> Rape myths may offer comfort to women, allow men to justify their own behaviour, provide women with cautionary tales, and provide would-be perpetrators with the guidelines for acceptable perpetrations. As we have seen in Gavey's work, the myths that committed partners cannot rape one another and that committed partners deserve sex from one another often stop women from withholding consent, or prevent them from believing that these experiences are violative or rape. Acceptance of rape myths has been measured using various scales and methods. One study demonstrated that between 25% and 35% of participants believed in and subscribed to rape myths. Another found that 66% of participants, who were both male and female college students, accepted some combination of rape myths.<sup>49</sup> University students in

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<sup>46</sup> Kimberly A. Lonsway, and Louise F. Fitzgerald, "Rape myths: In review", *Psychology of Women Quarterly*, 18 (1994): 134.

<sup>47</sup> Katie M. Edwards, et al., "Rape Myths: History, Individual and Institutional-Level Presence, and Implications for Change," *Sex Roles* 65 (2011): 762.

<sup>48</sup> Kathryn M. Ryan, "The Relationship between Rape Myths and Sexual Scripts: The Social Construction of Rape," *Sex Roles* 65, (2011): 775.

<sup>49</sup> Edwards, "Rape Myths," 762-3.

the United States were less likely to agree with rape myths in 2017 than they were in 2010, though male students endorsed rape myths more than female students in both years.<sup>50</sup> This suggests that education and rape prevention on campuses has a measurable, positive impact. Data from modern studies cannot tell us how often people in the past accepted or rejected rape myths, nor do they tell us what every modern person believes to be true about rape either, especially given that rape myths ‘often operate implicitly rather than explicitly’ and are thus not reflected in studies.<sup>51</sup> But they do demonstrate that while the rate of rape myth acceptance varies and is changing over time, acceptance is still significant. It is important to think about what medieval rape myths might have consisted of, based on what we know about the representation of rape in law and literature, and how widely accepted these might have been.

Medieval and modern conceptualization of rape have much in common, and even share similar rape myths. Until 2012, the Federal Bureau of Investigation still defined rape as ‘the carnal knowledge of a female, forcibly and against her will’.<sup>52</sup> This bears startling similarity to medieval French definitions and descriptions of rape, which often emphasized the force used, carnal knowledge, and consent.<sup>53</sup> A modern rape myth that we can easily see evidence of in medieval sources is ‘husbands cannot rape their wives’. Psychologist Katie M. Edwards traces the legal origins of this myth, as it pertains to modern American rape myth acceptance, to eighteenth century English common law. Edwards states that this myth was codified into American law via two cases, in 1857 and 1905 respectively, while Freedman traces its

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<sup>50</sup> Sarah Beshers and Margaret DiVita, “Changes in Rape Myth Acceptance Among Undergraduates: 2010 to 2017,” *Journal of Interpersonal Violence* 36, no. 19–20 (October 2021): 9382-85.

<sup>51</sup> Edwards, “Rape Myths,” 763.

<sup>52</sup> Estelle B. Freedman, *Redefining Rape: Sexual Violence in the Era of Suffrage and Segregation* (Cambridge: Harvard University Press, 2013), 1.

<sup>53</sup> See my Chapter 2, 97-104.

codification back further, to the colonial period, stating, ‘as in England, early American law defined rape as the carnal knowledge of a woman when achieved by force and against her will by a man other than her husband’.<sup>54</sup> Neither Freedman nor Edwards relates this rape myth back to medieval canon law and the conjugal debt. In an article published in 1993, however, James Brundage made explicit the connection between the conjugal debt and the enduring idea that husbands cannot rape their wives (discussed in Chapter 3). He states that ‘modern common law and civil law traditions have both inherited these teachings from medieval canonists in slightly modified forms’, and that this inheritance ‘justifies what we now call spousal rape’. He concludes that ‘this remains...one of the less fortunate residues of our heritage from medieval canon law’.<sup>55</sup> Since 1993, laws in the United States have changed significantly towards making spousal rape illegal. In France, marital rape has been criminalised since 1990.<sup>56</sup>

The myth that women enjoy rape is also apparent in medieval texts, especially in the *pastourelle*. Gravdal shows how many *pastourelle* poems contain rape scenes which are then retroactively turned into enjoyable sex, and identifies twelve poems in which a ‘scene of forcible rape is interrupted by coos of female pleasure or followed by the victim’s thanks and request for more of the same’.<sup>57</sup> Violent rape becomes transformed into enthusiastic female pleasure as the shepherdess pretends to ‘resist rape in order to salve her conscience’.<sup>58</sup> The shepherdess is characterized as resisting because she believes it is the morally correct thing to do; she even secretly, perhaps, wishes to be raped in the first place. Rather than depicting consensual sex that

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<sup>54</sup> Freedman, *Redefining Rape*, 4.

<sup>55</sup> James Brundage, “Implied Consent to Intercourse,” 255-6

<sup>56</sup> Paul Bensussan, “Marital Rape According to French Law: Desire, Need and Consent,” *Sexologies: European Journal of Sexology* 18, no. 3 (2009): 183.

<sup>57</sup> Gravdal, *Ravishing Maidens*, 111.

<sup>58</sup> Gravdal, *Ravishing Maidens*, 112.

is also pleasurable, the poems' authors depict rape that occurs and is then legitimized by the woman's subsequent pleasure—not consent—during and after coitus. Non-consent and rape are therefore explicitly linked to pleasure. Further, Gravdal argues that even though only 18% of the poems depict rape, the genre as a whole works 'intertextually' to sustain and justify the sexual violence present in some of the poems via the stock character of Marion, who very often 'eagerly agrees to have sex with the knight'. When she is then raped in other poems, any reader familiar with the genre, might then more easily view her as a 'plucky wench' who changes her mind frequently.<sup>59</sup>

Modern rape myths have the power to influence how rape is perpetrated, how victims/survivors feel about themselves, and how they are perceived when they report. Victim blaming is a particularly potent rape myth that has numerous ill effects. One study found that police officers who subscribed to the rape myths of 'she wanted it' and 'he didn't mean to' exhibited a higher degree of victim blaming.<sup>60</sup> Another examined clergy from various faiths and found a similar correlation between rape myth acceptance and victim blaming.<sup>61</sup> As both police officers and clergy are tasked with supporting rape victims/survivors, the level of victim blaming and rape myth acceptance they ascribe to has the power to cause victims/survivors real harm. Rape myths can cause problems when rape cases go to trial, as studies done with mock juries

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<sup>59</sup> Gravdal, *Ravishing Maidens*, 115.

<sup>60</sup> Emma Sleath and Ray Bull, "Comparing Rape Victim and Perpetrator Blaming in a Police Officer Sample: Differences Between Police Officers With and Without Special Training," *Criminal Justice and Behavior* 39, no. 5 (May 2012): 659.

<sup>61</sup> Jane P. Sheldon and Sandra L. Parent, "Clergy's Attitudes and Attributions of Blame Toward Female Rape Victims," *Violence Against Women* 8, no. 2 (February 2002): 246.

show that jurors may be more likely to blame victims/survivors rather than perpetrators.<sup>62</sup> We can't know if medieval rape myths had such a direct and measurable impact on victim/survivor experience, though Gravdal has theorized that the *pastourelle* influenced the way that scribes wrote about real instances of rape brought to court.<sup>63</sup> Rather than searching for direct correlation, I use the concept of rape myths as a way to ask better questions of the sources, and to think through how victims/survivors might have viewed their own experiences, and what type of support their community provided them with when they disclosed (Chapter 4 and 5).

Kathryn M. Ryan has studied how rape myths affect sexual scripts, which provide individuals with 'prototypes for how events normally proceed' and contain 'predictable patterns of behaviour (e.g., male persistence), methods of consent (usually clear and direct), and methods of non-consent (often polite and indirect)'.<sup>64</sup> These scripts are 'culturally produced' and learned, rather than biological.<sup>65</sup> Chief among the scripts that Ryan analyses is the 'real rape' script. In the 'real rape' script an unsuspecting, lone woman is violently attacked by a male party who is generally a stranger to her. Her resistance is physical, but she may not resist due to fear, and 'there is no doubt that the victim was raped—her only mistake was being in the wrong place at the wrong time'. Afterwards, the woman is devastated.<sup>66</sup>

The concept of a real rape script is important here because it allows us to interrogate which types of assaults medieval women would have labelled rape, and which types of assaults

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<sup>62</sup> Kathryn R. Klement, Brad J. Sagarin, and John J. Skowronski, "Accusers Lie and Other Myths: Rape Myth Acceptance Predicts Judgments Made About Accusers and Accused Perpetrators in a Rape Case," *Sex Roles* 81, (2019): 16–33.

<sup>63</sup> Gravdal, *Ravishing Maidens*, 136-7.

<sup>64</sup> Ryan, "The Relationship between Rape Myths and Sexual Scripts," 775.

<sup>65</sup> Miranda Horvath and Jennifer Brown, *Rape: Challenging Contemporary Thinking* (Cullompton: Willan, 2009), 100.

<sup>66</sup> Ryan, "The Relationship between Rape Myths and Sexual Scripts," 776.

they did not label or report as rape but may have still found harmful and/or violative. However, it is not always clear whether victims/survivors reported rape in a certain manner in order to satisfy what they knew courts were looking for or whether they only reported instances of assault that adhered to these conditions. Furthermore, medieval women may have internalized rape scripts, reporting only those instances of sexual violation that they believed were rape and remaining silent when they experienced other violations that did not fit a 'real' rape script. What is clear, though, is that when a victim/survivor sought legal action over a rape, the assault tended to include the following elements: force and violence on the part of the perpetrator, forceful resistance on the part of the victim/survivor, and other demonstrations of non-consent such as crying out. By and large, both rape and resistance were conceived of as forceful and physical. Other types of assaults, were happening, however, and women were aware that something did not have to be illegal rape in order to be harmful. Acts such as defloration, broken promises of marriage, and spousal sexual abuse were all considered harmful and possibly violative in the later Middle Ages (Chapter 3).

### *Experience and Life Stories*

The key to discussing victim/survivor experience is to avoid universalizing. Not all people experience rape and understand it in the same way, nor are all people, or even women, threatened by the same level of sexual violence. It is important to explore what specific social factors, privileges, and disadvantages shaped the experience of medieval victims/survivors. This both allows us to gain insight in how their lives might have been affected by rape or a sexual violation and also supplements those documents which do not attest directly to experience. In

doing so, I follow Carissa Harris's use of an intersectional framework in *Obscene Pedagogies*. The term intersectionality was coined by Kimberlé Crenshaw in 1989 to 'denote the various ways in which race and gender interact to shape the multiple dimensions of Black women's employment'.<sup>67</sup> Harris uses intersectionality to 'examine the violence inflicted on women disadvantaged by gender, class, age, profession, and unmarried status', including '“wenches”, brewhouse workers, milkmaids, and penniless peasant girls'.<sup>68</sup> I analyse the sources here for similar information about the victim/survivor experience, though I do not always have verifiable details of a woman's profession, age, and class. For example, when looking at medieval sex workers in Chapter 5, I think about them not just in terms of profession but also in terms of socio-economic status, relative access to a community, and gender. This type of analysis is particularly important for studying sex workers given how stratified the profession was, especially in cities like Dijon where it was legalized in public brothels but nowhere else.<sup>69</sup> For example, a woman working in a public brothel may have had far more job safety and housing security than did a *fille secret* who was not doing sex-work legally; these differences in privilege might in turn have affected the way they experienced the threat of sexual violence and rape.<sup>70</sup> However, it is not my intention to argue that any of these women had a *better* experience of rape than any other. While some women might have in fact had more access to resources—family, community, money—after the fact, my point is simply that the different social conditions they

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<sup>67</sup> Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review* 43, no. 6 (1991): 1244. See also, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1 (1989): 139-167.

<sup>68</sup> Harris, *Obscene Pedagogies*, 5.

<sup>69</sup> Rossiaud, *Medieval Prostitution*, 5-7.

<sup>70</sup> See Chapter 5, 259-261, for a discussion of terminology.

lived should be presumed to have produced *different experiences of rape* and moreover, *different boundaries around consent*. The diversity of documentary evidence used here, including letters of remission, testimonies, and criminal court registers from both lay and ecclesiastical courts, in addition to key pieces of medieval literature, means that I am able to demonstrate a diversity of victim/survivor experience.

Some may find the almost exclusively documentary evidence base for this project to be a drawback—why have I not sought to include more emotionally affective writing on rape from the medieval period? Why turn to a few lines of Latin scribbled about a marriage suit to think about how women felt about their right to consent to sex when I might, as Gravdal, Harris, and Edwards do, turn to those texts in which rape is both explicit and the emotional reactions to it intense? However, if we want a sense of what medieval rape was really like, and how medieval rape culture affected the individuals who lived in it, contributed to it, and were shaped by it, we must turn to studying victims/survivors. Their stories as they exist in the legal record are valuable on their own, but they also have the power to tell us something that literary sources cannot. The particular benefit of using legal records to study victims/survivors lies in considering how the production of that record might have affected them, both negatively and positively. Rather than consider the archival document a hindrance to accessing the voice of the medieval victim/survivor or an imperfect representation of her experience, I consider the process through which the document came to be an integral part of the victim's/survivor's experience. In choosing, as the women in these documents often did, to seek legal mediation for a crime, they also chose to submit themselves to a process that was far from easy and which would not necessarily yield them the results they wanted.

It is widely acknowledged that rape victims/survivors are often retraumatized or otherwise adversely affected by having to narrate their story to multiple people, and that the response of the people or institutions to whom they do report has the power to negatively or positively affect their mental health.<sup>71</sup> Positive support for victims/survivors when they disclose can ameliorate psychological distress and even aid in preventing the development of PTSD and depression. Unsupportive responses can prevent victims/survivors from seeking medical or mental health aid.<sup>72</sup> Thus the trauma of rape is not restricted to the incident itself, but has the potential to be magnified and extended when victims/survivors disclose, often to the very people who are meant to be helping them. In ‘Preventing the ‘Second Rape’: Rape Survivors’ Experiences With Community Service Providers’, researchers evaluated victims’/survivors’ contact with community systems (legal, medical, mental health, rape crisis centres, religious communities) in terms of whether they were healing or hurtful. Contact with the legal system was the most hurtful for victims/survivors, especially for those who did not have their case prosecuted. Medical help also had the potential to be harmful, but mental health services, rape crisis centres, and religious communities were more likely to be considered healing.<sup>73</sup> Further to this, a harmful experience with the legal or medical system correlated to increased psychological and physical health distress.<sup>74</sup> I do not think it too great an intuitive leap to consider that medieval victims/survivors also likely experienced varying degrees of healing or harm when

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<sup>71</sup> Campbell, et al., “Preventing the ‘Second Rape’,” 1240-41, and Campbell, *Emotionally Involved: The Impact of Researching Rape*, 1-13.

<sup>72</sup> Hanna M. Grandgenett, et al., “Responding to Disclosure of Sexual Assault: The Potential Impact of Victimization History and Rape Myth Acceptance,” *Journal of Interpersonal Violence*, (July 2020): 3-4.

<sup>73</sup> Campbell, “Preventing the ‘Second Rape’,” 1250.

<sup>74</sup> Campbell, “Preventing the ‘Second Rape’,” 1252.

disclosing. They would not have had the same type of mental health services available to them, though if they were a welcome part of a community they may have found help through it, and their family's support could have been integral as well. Insofar as the legal system was concerned, I believe that it too had the power to either heal or harm. There are certainly incidents in which the victim/survivor in question had clearly been negatively impacted by the process of reporting, as with the case of Jehanette la Charronne, a sex worker, presented in Chapter 5. Jehanette reported the crime to the *prevost* of Paris. Subsequently, the men who raped her sought remission, subjecting her to a further legal process.<sup>75</sup> Similarly, there are trial documents from Dijon that demonstrate how thoroughly victims/survivors were questioned about the rape; recounting such a traumatic experience to a stranger in great detail could have been extremely difficult. However, when it comes to victims/survivors who authored, at least in part, their own letters of remission, I do not think that the process by which such a document came into being was always exclusively traumatizing, primarily because they would have had more control over the narrative.

In *Fiction in the Archives*, Natalie Zemon Davis demonstrates the narrative capacity of sixteenth century letters of remission. The authors of the letters were aware of what types of details were needed in order for grace to be granted and which techniques they could use to get there, and thus the letters are imbued with aspects of storytelling and narration. For example, Davis identifies what Roland Barthes would call 'the confusion of consecution and consequence' in the letters, because the 'innocence, unintentionality, or legitimacy' of the actions of the

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<sup>75</sup> AN JJ 126, f.170r, no 273, 1385, see my Chapter 5, 272-80.

supplicant is often framed as growing out of the ‘events themselves’.<sup>76</sup> For example, in the letter of Perrote Turelure, Perrote was able to grab a knife to slay her attacker because she had used it earlier to slice her morning bread, and thus it was nearby.<sup>77</sup> The letters also frequently employ narrative frames such as feast days that gave the supplicant cause to be in the streets drinking or celebrating. One letter even contains a bedtrick, as if it were a bawdy poem. A group of men sneak into a woman’s bed and attempt to trick her into thinking they are her husband as a ploy to rape her.<sup>78</sup>

It is now widely acknowledged that letters of remission and other types of legal documents have narrative capacity, and this has been integral to the development of the field. But in addition to demonstrating that the ‘lower orders’ possessed significant ‘rhetorical craft’, the letters could have offered a way for these people to understand themselves and their experiences.<sup>79</sup> In *Life Stories: the Creation of Coherence*, Charlotte Linde stipulates that life stories ‘express our sense of self’ and aid us in communicating this sense of self to others.<sup>80</sup> Additionally, she states that ‘we use these stories to claim or negotiate group membership and to demonstrate that we are worthy members of those groups’ and that ‘life stories touch on the widest of social constructions, since they make presuppositions about what can be expected, what norms are, and what common or special belief systems can be used to establish coherence’.<sup>81</sup> Linde readily admits that a life story will ‘differ by culture and subculture’ so that

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<sup>76</sup> Davis, *Fiction in the Archives*, 44-5, and Roland Barthes, “Introduction to the Structural Analysis of Narrative,” in *A Barthes Reader*, ed. Susan Sontag, (New York: Hill and Wang, 1982), 266.

<sup>77</sup> AN JJ 127, f.58, no. 91b, 1385, see my Chapter 2, 104-112.

<sup>78</sup> AN JJ 169, f.30v, no 41, 1415 and CdPC, 221 (Douët-d’Arcq lists the register as JJ 189, this letter actually appears in JJ 169).

<sup>79</sup> Davis, *Fiction in the Archives*, 5, 111.

<sup>80</sup> Charlotte Linde, *Life Stories: The Creation of Coherence*, (Oxford: Oxford University Press, 1993), 3.

<sup>81</sup> Linde, *Life Stories*, 3.

the social constructions it touches on will also differ.<sup>82</sup>

Davis notes that the letters ‘made sense of the unexpected and built coherence into immediate experience’, but she does not pursue this further.<sup>83</sup> My aim here is to expand on this, and I propose thinking about letters of remission as having the potential to become a part of someone’s sense of self. Further to this, they may have helped narrativize a particular episode, especially after a traumatic event that needed to be reintegrated. Most of the scholarship on voice in medieval legal records focuses on the relationship between how the subject actually experienced an event and how they presented it in court, with the goal of uncovering the subject’s voice or analysing a particular discourse they engaged in. But the legal record can be both representative of subjectivity and actively engaged, at the time of its creation, in shaping it.

Linde theorizes that the most important part of creating a life story is creating coherence within it, due to the fact that coherence is ‘a social obligation that must be fulfilled in order for the participants to appear as competent members of their culture’. Additionally, Linde contends that our internal selves also demand coherence from our life stories. Though ‘most of the time we manage to maintain coherence’, new events that don’t fit easily into one’s narrative can occur and cause us a ‘great deal of confusion and uneasiness’.<sup>84</sup> This recalls what Edwards articulates about Augustine’s Lucretia: rape is an act which is singularly dispossessive and through enduring it Lucretia gains an understanding of how little self-possession humans have to begin with.<sup>85</sup>

Finally, coherence in a life story is accomplished through narrative order made up of

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<sup>82</sup> Linde, *Life Stories*, 10.

<sup>83</sup> Davis, *Fiction in the Archives*, 4.

<sup>84</sup> Linde, *Life Stories*, 16-17.

<sup>85</sup> Edwards, *Afterlives*, 8.

adequate causality and continuity. Adequate causality refers to the ordering of events within a life story that is accepted by the listeners because it provides a good reason for what occurred.<sup>86</sup> Letters of remission clearly exhibit a similar type of adequate causality. Though the letters are not always convincing in their coherence to us (as Davis points out, they often create consequence where none actually exists), they only had to be convincing enough to gain the supplicant grace and to satisfy the legal process. Regardless of whether or not Perrote truly stabbed her attacker with the same knife that she used to slice bread with the letter frames that as plausible by creating a sequence of events in which Perrote first used a knife to slice bread in the morning and then later used it to defend herself.<sup>87</sup> The letters also create coherence around the identities of the supplicants and other players involved, as they play certain roles that line up with the traits ascribed to them. Perrote is characterized as a virtuous young woman who wouldn't have a weapon in her possession had she not needed it for bread.

I propose that because the remission letters carried with them legal weight, thinking of them as forming an important part of an individual's understanding of themselves, and perhaps even their life story, is worthwhile. It is not that the supplicants necessarily thought of the letters as representing themselves, or even the objective truth, rather, it is that the letters offered a method for creating coherence out of a violent event, and thus may have provided a measure of closure after the rupture that the crime and the proceeding legal process could have caused. They could have carried biographical weight in addition to legal weight.

A traumatic event can be exceedingly difficult to integrate into a life story as it creates a

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<sup>86</sup> Linde, *Life Stories*, 127.

<sup>87</sup> AN JJ 127, f.58, no. 91b, 1385, see my Chapter 2, 104-112.

temporal rupture and because audiences prefer coherence. In one study done on narratives of trauma, researchers interviewed victims/survivors of sexual abuse and found that ‘the elusiveness of coherence is evident in all their accounts’; for example, ‘Kate’s being unable to “name” her experience early on in the process; Sonia’s learning to name what she did not understand but which did not feel right; Annie’s reframing of what happened that still makes no sense’.<sup>88</sup> The point at which the women interviewed were able to start forming coherence in their life stories coincided with a turning point in their healing, some sort of revelatory moment that allowed them to move away from the identities ‘shaped by the interests of their perpetrators’. From that point, they were more able to make sense and meaning from the events and went from feeling rage over what happened to them to trying to make something good out of it.<sup>89</sup>

Regardless of whether a letter represented *the* turning point upon which a supplicant’s healing hinged, they were likely to have been a moment of relief for many. After being involved in an act of violence, and being accused and possibly arrested and imprisoned for a crime, a ratified letter of remission meant that they would no longer have to face punishment. Further to this, supplicants might have come to understand the events and actions that lead to the crime through the chronology that the letters laid out. Something like a fight in a tavern or in a street after a feast day, which could have happened too quickly for one to avoid or remember the exact details of, was transformed by a letter of remission into something caused by a reasonable, believable chain of events.<sup>90</sup> And because the letters often restored their good name (or claimed to), supplicants might have benefited from more community support than they would have

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<sup>88</sup> Mary R. Harvey, et al., “In the Aftermath of Sexual Abuse: Making and Remaking Meaning in Narratives of Trauma and Recovery,” *Narrative Inquiry* 10, no. 2 (2001): 295.

<sup>89</sup> Harvey, “In the Aftermath of Sexual Abuse,” 301.

<sup>90</sup> Davis, *Fiction in the Archives*, 28-33, for a discussion of events around feast days as common narrative frames.

without remission.

I am aware that I am painting a rather rosy picture of the potential power of remission in healing trauma. The fact of the matter is that this type of narrative healing—the turning of trauma into coherence—very often favoured the perpetrators of rape over the victims/survivors. Chapter 2 will focus on those women whose life stories and understanding of trauma might have been aided by remission, but I am aware that this was not usually the case. And just as a letter of remission might aid a victim/survivor in gaining coherence, it could also have caused grave harm, both due to the contents and the manner in which it was produced. Letters of remission written for or by perpetrators of rape would have not likely been welcome to the victim/survivor and/or her family. Further to this, because rapists who were supplicants employed the same narrative methods as any other supplicant might, the blame for the rape could be effectively dispersed onto other people, other events, and of course, the victim/survivor herself. For example, in the letter referring to the gang-rape of Jehannette la Charronne, she is first described as a sex worker, then it tells us that she was friendly with another sex worker, then it mentions that she was lodging with a man for the evening, and finally, we are told that another man who was *not* one of the supplicants had in fact tried to rape her first. When the supplicants eventually do rape her, it comes after a series of events and details which allow them to frame the rape as in fact consensual.<sup>91</sup> Though this letter is a rather startling example of how the remission process could reframe events, it is not unique. And we can only imagine the conflicting emotions that victims/survivors might have felt if they were present during the ratification, when the judge would check that the facts were satisfactory to both parties and read the letter aloud. If

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<sup>91</sup> AN JJ 126, f.170r, no 273, 1385, and see Chapter 5, 272-80.

Jehannette la Charronne attended the ratification (and there is no way to know if she did), she might have felt as if the letter minimized her experience, or she may have even been swayed by the letter's logic.

The process of reporting and retelling their stories to law enforcement, medical personnel, and others is distressing for victims/survivors, and though we do not have information on how medieval victims/survivors felt specifically about engaging with the remission process, thinking about how that process might have affected them gives us rare insight into the effects that rape had on their mental health after the fact.

### *What Can Consent Do?*

Consent is a critically important component of the victim/survivor experiences in this study. As a conceptual framework and rhetorical tool it allowed medieval victims/survivors to articulate that they did not want what had happened to them—that is, the rape or other sexual violation—to have happened. Engaging in the discourse of consent offered victims/survivors a way of reasserting personhood during and after a violative act which sought to eliminate their free choice. Many of the sources used here make consent a key aspect of defining an act as rape, and are littered with assertions from victims/survivors and their families that the sexual act had been rape and that they did not wilfully engage in it. This is apparent in the way, for example, that Marion du Cyne asserted that she had not consented to sex with the man who raped her in any way, and in the way that Gillote de Mons screamed that she would see the men hang, even as

they subjected her to brutal violence.<sup>92</sup>

However, despite the rhetorical power of consent in victim/survivor speech, consent as a concept through which we define and understand rape, both in the medieval past and the present, is riddled with problems. For one, the discourse of consent can be wielded against victims/survivors to make their non-consent the cause of rape. A letter of remission from 1400 illustrates this. The letter comes from the ‘amis charnelz’ [close relations] of Thomas Nepveu, who was a labourer and married man with two small children.<sup>93</sup> As the letter narrates it, one evening he arose from his bed, where he was sleeping with his wife, and went to lay with Denise, his servant, whose exact age is not given.<sup>94</sup> The line directly after this reads: ‘et pour ce quelle Denise ne lui voult faire son plaisir lui donna plusieurs cops et donna plusieurs menaces’ [and because Denise did not want him to take his pleasure he hit her many times and threatened her greatly]. Rather than giving any description of Denise’s physical resistance to Thomas, the letter simply states that she did not want to let him take his pleasure. The focus here is seemingly on her consent rather than on outward, physical markers of resistance. The rape is described as follows: ‘et fist tant que par force et contre le gre et volonte de la dicte denise il se coucha avec elle et la cogneut charnelment une foiz seulement’ [then took, by force and against the will and choice of the said Denise, he laid with her and knew her carnally, one time only]. Not only is sexual intercourse made clear via the phrase ‘la cogneut charnelment’, but the force with which it

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<sup>92</sup> AN JJ 132 f119v-120r, no 233, 1388, letter of Marion du Cyne, transcribed in CdPC, 206-7, and see my Chapter 2 116-121; ADCO BII/360/1/4-7, 1421, case of Gillote de Mons, and see my Chapter 4, 211-218.

<sup>93</sup> AN JJ 155, f.150r, no 239, 1400, transcribed in CdPC 243-4. All letters accessed online at HIMANIS, <http://himanis.huma-num.fr/app/> unless otherwise noted.

<sup>94</sup> Denise is described as ‘une jeune fille’. Denise was likely over the age of 12, and unmarried. She had to be old enough to work as a servant. Claude Gauvard has examined the ages of men in letters of remission, and found that ‘jeune enfant’ could refer to boys aged 10-20 and that ‘jeune homme’ was used most frequently to refer to men aged 20-30, Gauvard, *De grace especial*, 350.

was perpetrated is as well, as is the fact that it was against Denise's consent.

However, the letter's narrative walks a tenuous line between prioritizing female choice and consent and legitimizing male sexual aggression. Though it is notable that Denise's non-consent is described as a fact rather than being predicated on physical resistance, Thomas's actions become rape in large part because of her refusal to consent, displacing some of the culpability onto Denise. We are told that he gets up to go lay with Denise, and then we are told that it is because she doesn't want to have sex with him ('Denise ne lui voult faire son plaisir) that he then beats and rapes her. His violence towards her is framed as a direct result of her not wanting to reciprocate his sexual advances. In other words, had she simply submitted, Thomas would not have beaten her, and it was Denise's unwillingness to consent that turned the act into rape, not Thomas himself. A girl's refusal to consent is thus used to transform sex into rape. As is the case in Thomas's letter and others like it, this is then used to shift the rhetorical weight of blame from the rapist and onto the victim/survivor. So while Denise clearly understood that she was not obligated to have sex with her employer and that she should have been able to deny consent, her experience with rape was in large part shaped by people who did not believe she should have the right to withhold it, and within the narrative of rape crafted by Thomas's family (and the notary and whatever legal aid they had), her refusal to have sex was in fact weaponized against her.

Modern debates about the importance of consent in rape law and advocacy allow us to further critique and probe the depiction of sexual consent in medieval legal sources. Feminist and anti-rape advocates attach varying importance to consent when it comes to rape law and differentiating sex from rape. Some choose to frame consent as what fundamentally separates

rape from sex, while others believe consent to be a poor metric for measuring rape and sex.<sup>95</sup> The emphasis on consent as critical is most easily seen in anti-rape materials at American and UK colleges and universities, many of which have overhauled their regulations relating to campus rape in the last decade. Consent campaigns and courses, for example, often divide sexual encounters into those which are consensual and those which are rape. Many universities define consent as having to be affirmative and voluntary, while student induction materials define it as also needing to be non-coerced, given while sober, and the result of clear communication.<sup>96</sup> Such definitions of consent are meant to help prevent rape by giving individuals clear guidelines on how to act, even if they do not always take into account the complexities of real-life sexual relationships. Consent positive movements fundamentally hinge on defining consent in a manner which acknowledges that rape is something that occurs on college campuses between peers, within committed relationships, and due to imbalances of power.

But just as Thomas Nepveu's letter demonstrates, consent becomes problematic when it promises to do something which it cannot deliver on. Denise did not want to consent. While her belief in her ability to do so is no small matter, her refusal to have sex with her employer did not prevent him from raping her. While consent can distinguish rape from sex for the victim/survivor who feels her will has been violated, a focus on consent in anti-rape advocacy and rape law promises women something on which it cannot necessarily deliver—that they will not be raped.<sup>97</sup> In 'Women and Consent' Carol Pateman argues that consent ideology holds individuals to be naturally free and equal and thus able to consent, but that this fails in regards to women because

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<sup>95</sup> For an overview of these competing views, see Joseph Fischel, *Screw Consent*, introduction.

<sup>96</sup> Fischel, *Screw Consent*, 9; Srinivasan, *The Right to Sex*, 28-30.

<sup>97</sup> Alisa Kessel, "The Cruel Optimism of Sexual Consent," *Contemporary Political Theory* 19, no. 3 (2019): 361.

they are both denied the power to consent and simultaneously expected to give their consent all the time.<sup>98</sup> In a liberal democracy, consent is ‘essential to maintain individual freedom and equality’, however, ‘individual freedom and equality is also a precondition for the practice of consent’. In rape law, Pateman argues that this paradox can be seen in the ‘social reluctance to recognize women as free and equal individuals’ which ‘denies in practice what the law proclaims in principle’.<sup>99</sup> Finally, Pateman points out that women are always consenting *to sex*, which effectively eliminates the possibility of mutually determined sex between men and women.<sup>100</sup> Similarly, Catharine MacKinnon has contended that consent is not the appropriate measure for rape because it cannot account for the structural and social inequalities individuals are subject to, including the unequal power dynamics of heterosexual relationships. Sex and rape become difficult for women to distinguish under the ‘conditions of male dominance’ and given how women are socialized to be passive, their ability to consent thus loses its meaning.<sup>101</sup> Consent, she argues, puts the focus on women’s feelings rather than on men’s actions. Even the affirmative consent standard fails in this regard, as it produces conditions in which men just need to get a woman to say ‘yes’ in order for the sex to not be rape.<sup>102</sup>

Moreover, consent is ‘enacted within multiple, simultaneous systems of oppression’.<sup>103</sup> Different types of women are subjected to different types of sexual violence, and are accorded less right to consent than others. As Estelle B. Freedman argues, in colonial America only white men were accorded the right to fully consent. White women’s consent was limited via marriage

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<sup>98</sup> Pateman, “Women and Consent,” 150

<sup>99</sup> Pateman, “Women and Consent,” 156.

<sup>100</sup> Pateman, “Women and Consent,” 164.

<sup>101</sup> MacKinnon, *Toward a Feminist Theory of the State*, (Cambridge: Harvard University Press, 1989), 174-5.

<sup>102</sup> MacKinnon, “Rape Redefined,” 454.

<sup>103</sup> Kessel, “Cruel Optimism,” 363.

to men; they had neither the ability to retract consent once given or withhold it in the first place. Black women, who more often than not were slaves, not only did not have the right to give or withhold consent, but were also viewed as more sexually available than white women.<sup>104</sup> Pateman in fact argues that consent has been ‘emptied of meaning’, and MacKinnon that it should in fact be removed from rape law all together.<sup>105</sup>

Part of the problem with consent is that we are asking it to do too much, to tell us clearly which type of sex we should be having and which type of sex we should be avoiding, and criminalizing.<sup>106</sup> Amia Srinivasan similarly argues that consent cannot be the ‘sole constraint’ on ethical sex.<sup>107</sup> Problems such as teacher-student relationships at the university level cannot be clarified solely via consent, as there are both students who consent to having sex with their professors because they have no other choice, and students who consent out of ‘genuine desire’.<sup>108</sup> Yet teacher-student relationships are unethical because the teacher has violated the boundaries of the relationship, and rather than teaching the student has engaged in a sexual relationship with them. In other words, there is a space in which sex can be consensual and still be harmful. Even if Denise had consented to having sex with Thomas Nepveu, there would still be the problem of his status relative to hers, as he was her employer and she a servant living in his house. Women and girls who lived and worked in the homes of men may have felt obligated to have sex with their employers, or perhaps even expected sexual violence to occur (Chapter 4). Had Denise consented to sex with Thomas, the relationship still would not have been ethical,

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<sup>104</sup> Freedman, *Redefining Rape*, 73.

<sup>105</sup> Pateman, “Women and Consent,” 161, Mackinnon, “Rape Redefined,” 474.

<sup>106</sup> On the limits of the carceral state in addressing rape see Srinivasan, “Sex, Carceralism, Capitalism,” in *The Right to Sex*, 149-179.

<sup>107</sup> Srinivasan, *The Right to Sex*, 84.

<sup>108</sup> Srinivasan, *The Right to Sex*, 128.

given the conditions under which she would have fashioned her consent.

Similarly, consent does not clarify issues of deception between sexual partners. Although most of the sources here deal with rapes and sexual violations that were by the victim's/survivor's own admission non-consensual, many of the marriage cases discussed in Chapter 3 occupy the space between consensual and non-consensual, harmful sex. This blurry middle ground was created when people entered into sexual relationships with one another because they believed—either due to assumptions they made or promises the other party had given—that they would be married afterwards. These cases throw up the question of whether or not consent can exist alongside deception in sexual relationships, or if deception renders consent null. In *Screw Consent: a Better Politics of Sexual Justice* Joseph Fischel pursues an argument which is useful in respect to the marriage cases used here: that deception only violates consent in under specific conditions. In Chapter 3, 'The Trouble with Transgender "Rapists"' he explores 'alternative definitional parameters of consent' in relation to cases in which transgender men and butch women have been convicted of sexual assault on the basis that they had deceived their female sexual partners into thinking that they were cis men.<sup>109</sup> The issue of whether or not deception violates consent was examined in 2013 by Jed Rubenfeld, who argued that the consent standard should be removed from rape law because of the high priority it places on sexual autonomy. Rubenfeld asserted that prioritizing sexual autonomy meant that deceptions of any kind constituted violations of consent. In other words, any lie one tells their sexual partner, which then leads said partner to consent to having sex with them, would constitute a violation of

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<sup>109</sup> Fischel, *Screw Consent*, 24 and 96

consent.<sup>110</sup> Fischel attempts to solve the conundrum presented by Rubinfeld by contending that not all deceptions or lies one tells to a sexual partner undermine consent, but that violations of explicit conditionals to sex (i.e., I will only have sex with you if you are a lawyer) do.<sup>111</sup> This is best illustrated by the practice of stealthing, in which a person with a penis tells their partner they are wearing a condom and then removes it without the knowledge or consent of the other person.<sup>112</sup> If someone agrees to have sex only on the condition that their partner wear a condom and their partner agrees but then removes that condom prior to or during sex, this, by Fischel's logic, constitutes a sexual wrong. Stealthing is in fact considered a form of sexual assault by many. But Fischel argues this point further, making the case that even the violation of explicit conditionals having to do with sexual preference, such as 'I only sleep with Yale graduates,' constitute a form of 'tortious, probably not criminal, sexual misconduct'.<sup>113</sup> Fischel is careful to then argue that certain types of questions, such as 'are you a man?' are unanswerable because they are too subjective, and should not fall under the explicit conditional framework. Transgender people cannot thus deceive anyone as to their gender because we all have different ideas of what gender is.

Fischel's assessment of explicit conditionals provides a useful framework for thinking about the importance of consummation in making medieval betrothals into binding marriages. In some of the marriage cases examined in Chapter 3, women plaintiffs allege that men promised to marry them, and then had sex with them, but did not act as if they were thus married. Because

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<sup>110</sup> Jed Rubinfeld, "The Riddle of Rape-by-Deception and the Myth of Sexual Autonomy," *The Yale Law Journal* 122, no. 6 (2013): 1372-443.

<sup>111</sup> Fischel, *Screw Consent*, 109.

<sup>112</sup> I use 'person' rather than 'man' here to reflect the fact that anyone might perpetrate this, though stealthing is discussed generally in terms of how cisgender men perpetrate it. See Fischel, *Screw Consent*, 110.

<sup>113</sup> Fischel, *Screw Consent*, 109. Torts are civil wrongs rather than criminal wrongs.

medieval marriages were verbally contracted, the words and tenses used by the speakers had serious implications, both in and outside of court. The records from Paris examined in Chapter 3 demonstrate that most people understood, to a degree, the difference between contracting a future marriage and a present tense marriage. They also understood that having sex made a betrothal into a marriage.<sup>114</sup> It is difficult in most of these cases to demonstrate what exactly was said and thus determine if the conditions were explicit or implied, but I am primarily interested in using Fischel's explicit conditional theory as a framework for thinking about how consent and sexual choice might have been undermined or violated through miscommunication or outright deception in the later Middle Ages.

What then, can consent do? Despite what they promise, consent doctrines cannot separate rape from sex very clearly, nor can consent prevent rapes from occurring. Consent cannot separate the ethical sex from the unethical on its own, nor can it make unethical sex ethical. As a standard in rape law, it may be better than the force standard, but it is far from perfect. Despite these drawbacks, I still contend that consent has great rhetorical power, and that it is an essential discourse through which victims/survivors articulate personhood. Consent allows us (and allowed medieval victims/survivors) to know that we have said 'no', that we have not chosen to engage in the act being forced upon us. Similarly, it allows us to think about why we said 'yes' when we wanted, or tried, to say 'no' first.

As an historian, I am unable to decide what standard for rape medieval courts *should* have been using, and there is no theory or educational discourse that can prevent past rapes and sexual violations from having happened. By and large, the sources used here attest to women

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<sup>114</sup> See my Chapter 3, 145-51, for a discussion of canon law on marriage and medieval understandings of it.

who were raped or otherwise sexually violated and who then said, either to the courts or to their families or communities, that they had not wanted the rape to occur, that they had not consented. This is why consent, despite its conceptual flaws, remains important—because it gives voice to that deep sense of wrong one feels when a choice has been taken away, because it gives us the language we need, to say, again and again, that sexual violence is wrong.

The victims/survivors studied here had nuanced understandings of their own ability to consent and the importance of it. The medieval sex workers studied in Chapter 5 had their right to consent to sex denied as they were subject to rape, and denied by those around them who believed they were incapable of withholding consent due to their employment. Still, they did not internalize that view of themselves, and instead sought to hold the men who raped them accountable. Medieval sex workers, and medieval women at large, did not generally enter into sexual relationships that were equal or free of systems of oppression, but their sense of whether or not they consented is still important and worth exploring; moreover, that they had a sense of their own right to consent despite laws and social systems that sought to limit its application is impressive and important in itself. Similarly, studying the ways that their ability to consent was constrained by these systems is a fruitful path of research because it allows me to point towards those acts which were not considered illegal rape but which still constituted a sexual violation. I use consent as a framework for understanding women's attitudes to violative sex and their own boundaries around sexual relationships. I differentiate rape from sex simply by interrogating whether the woman in question believed she had been raped or otherwise sexually violated. Thus, I seek to understand how consent was actually functioning in the lives of victims/survivors rather than assuming its mere presence means it was functioning well.

Many of the women I have studied here lived in conditions of extreme subjugation to men and yet many of them still viewed themselves as consenting individuals who *should* have had their choices respected even if they were not. That women were able to name their experiences as violating their consent, and in fact as rape, speaks to the fact that rape culture's grip was not total. This does not mean that the medieval period was not sexually oppressive and exploitive of women, but it does mean that this oppression and exploitation was sometimes met with resistance and survival.

I use the four methodological strands I have outlined here—emotions and trauma, a social and cultural understanding of rape, diversity of experience and life stories, and theories of consent—to illuminate aspects of the medieval documentary evidence for rape that have largely gone ignored. Rather than assume that we cannot access victim/survivor experience from documents, I use these methodologies to explore ways that women thought and felt about rape, as well as how they resisted and responded to it. Often, I begin with the language, using Rosenwein's concept of emotion words to identify concrete examples of victim/survivor feelings and thoughts. I use trauma as a category of analysis to posit the existence of traumatic experience without back diagnosing. I understand these emotions and traumatic moments as being shaped by a rape culture that influenced individual behaviour and perception. By asserting that a medieval rape culture existed, I am also able to gain insight into victim/survivor experience even when the documents lack details, and into those instances of rape which did not fit a real rape script.

I view experiences of rape as being diverse and often influenced by social status, and as being difficult to integrate into a life story. I theorize that the production of court documents would have had either a negative or positive impact on rape victims/survivors, and that remission

letters offered one way for people to create coherence after traumatic events. Finally, I use recent theories and debates around consent to demonstrate that while it was an important aspect of some victim/survivor experience, consent was sometimes weaponized against victims/survivors and used to rhetorically reframe rapists' actions as innocent.





## Chapter 2: Consent Defined

In late medieval France rape was often conceived of as a physically violent act that should be met with physical resistance. This is readily apparent in customary law collections that define rape in terms of the force used to perpetrate it and the resistance that the victim/survivor was supposed to respond with. Women also seem to have understood violently enacted non-consent and resistance as one appropriate response to rape.

This comes to the forefront in several letters of remission that were written for women who sought pardons after being held accountable for murdering the men who raped them. In one, Perrote Turelure's unflagging virtue underpins her reasoning for killing the rapist.<sup>1</sup> In another, Marion la Garniere, a pregnant beggar, is framed as deserving of pity and grace.<sup>2</sup> These are stories which portray rape and rapists as dangerous and threatening to women, who act morally in defending themselves. The women in these letters not only understood that their non-consent should have been respected, but they also felt as if those choices were worth protecting.

Violent non-consent was also described as an appropriate reaction to rape in the works of Christine de Pizan. In particular, her versions of Lucretia and the Galatian Queen in the *Livre de la Cité des Dames* could have provided her readership with a way of understanding that both the emotions of extreme pain and anger were appropriate responses to rape, and that women were not wrong for themselves enacting violence against men. Though Christine's readership was limited to members of the French nobility, she may have drawn on ideas about rape that were in circulation in wider classed circles or on knowledge of rape cases making their way through the

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<sup>1</sup> AN JJ 127, f.58, no. 91b, 1385, letter of Perrote Turelure.

<sup>2</sup> AN JJ 121 ff.71v-72r, 1382, and transcribed in CdPC, 233-5, letter of Marion la Garniere

courts. When read together, Christine's *Cité* and these letters of remission form a rape script in which women not only should be allowed to not consent to sex as they see fit, but should also have the right to defend that choice if need be.

Remission letters that feature victims/survivors who reacted to rape violently demonstrate that consent held great ideological and rhetorical power. At the moment the crime occurred, non-consent alone could not stop rape from happening. But after the fact, during the process of remission, consent became a powerful force. In each of the letters examined here, consent forms a significant part of the narrative, ultimately justifying the victim's/survivor's violent actions in the face of rape, thus reinscribing them with personhood and the ability to make choices.

However, victims/survivors not only each had their own subjective response to rape—which in the letters examined here was often one of fear, resistance, and conviction—but they also had to contend with a culture of rape that often minimized their non-consent, blamed them for being raped, and protected perpetrators. Letters written for rapists who sought grace betray the fact that consent was often ignored and violated, and that verbal non-consent was not enough to protect women from rape by men who were unwilling to respect their choices. Furthermore, women were perhaps expected to stop rape from happening, meaning that violent resistance to it was representative not only of how firmly they sought to express non-consent, but also of an awareness that they might otherwise be blamed.

### The Language of Rape and Customary Law

One single word for rape did not exist in Old or Middle French, in either a legal or literary context. Porteau-Bitker finds that letters of remission from the fourteenth century used various words and phrases to describe the crime of rape including *forcer*, *prendre à force*, and *deflorer*. These mean ‘to force’ ‘to take by force’ and ‘to deflower’.<sup>3</sup> In Old French literature, rape was often described using what Kathryn Gravdal calls ‘periphrastic expressions’ such as *fame esforcier*, *faire sa volonté*, *faire son plaisir*, and *faire son buen*.<sup>4</sup> These mean ‘to force a woman’, ‘to do as one wills’, ‘to do one’s pleasure’, ‘to do as one sees fit’. These literary phrases are almost always enacted by men on a female subject, and they do not include an expression of non-consent, or an acknowledgement that a woman could even consent or not consent to sex.

Despite these ‘periphrastic expressions’ and the lack of one clear word to describe rape, determining when sexual violations or rapes are occurring in documents is not all that difficult, as language for accurately describing and communicating consent and non-consent to sex existed. It appears in some form in the majority of the documents studied here. The clearest expression of rape in Middle French centred around the violation of a woman’s consent. One such frequently used phrase was *cognoistre charnelment outre son gre et volonte*, which I translate as ‘knew her carnally against her will and choice’. Alternatively, the phrase *avoir sa compaignie charnel* or ‘to have her carnal company’ was also used to describe sexual intercourse, followed by *oultre son gre et volonte*. *Oltre son gre et volonte* is tricky to translate,

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<sup>3</sup> Porteau-Bitker, “La justice laïque,” 496.

<sup>4</sup> Gravdal, *Ravishing Maidens*, 4.

as it is likely a legal doublet—that is two words that are near synonyms but which frequently appear together.<sup>5</sup> *Gre* meant consent, and *volonte* meant will or what one wants or desires, which is why I translate it as ‘choice’. The *Dictionnaire du Moyen Français* (DMF) defines *oultre son volonte* as ‘contre’ or against one’s desire, and *de bon gre* as ‘with consent.’ Further to this, *malgre quelqu’un* meant [against the will of someone].<sup>6</sup> The verb *consentir* [to consent] was also used in rape cases and is indisputably clear in meaning. Caroline Dunn notes that in Latin documents which avoid the ‘normative primary term’ for rape (i.e., *raptus*), rape was instead articulated via the combination of words indicating sexual activity and those indicating a violation of consent or violence. For example, one might see *concubuit contra voluntatem* [to lay with someone against their will].<sup>7</sup> The expressions for sexual violence in Middle French similarly combined an act of sexual intercourse with an expression of non-consent.

However, as the debate on consent outlined in Chapter 1 demonstrated, non-consent can be wielded in such a way as to place the blame on victims/survivors and consent alone cannot account for imbalances in power. Furthermore, when consent is used to separate rape from sex, who or what defines consent and non-consent also then defines what counts as rape. This poses problems for victims/survivors because consent is personal, and because the people who wrote and write rape law may not have women’s and victim’s/survivor’s best interests in mind. When rape is defined only in terms of non-consent, and the standard for demonstrating that non-consent is very specific, fewer and fewer rapes can be considered ‘real’ rapes. This issue can be seen

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<sup>5</sup> Cease and desist is the most well-known example in English of a legal doublet.

<sup>6</sup> DMF, entries for “volonté” and “gré.”

<sup>7</sup> Dunn, “The Language of Ravishment In Medieval England,” 107.

clearly in French *coutumiers*, or customary law collections, which often defined rape on the basis of how strongly the woman resisted. Philip de Beaumanoir's *Coutumes de Beauvaisis* contains one of the clearest definitions of rape from medieval France. Beaumanoir was a jurist and judge who worked in Clermont (part of the county of Beauvais in the thirteenth century) for the count, and then in Poitou, Saintonge, and Vermandois for the King. He composed the *Coutumes de Beauvaisis* around 1280, and the work is widely considered to be among the finest legal writing produced in France during the Middle Ages.<sup>8</sup> Beaumanoir's definition of rape appears within the section on offences and he includes multiple examples to illustrate his points. He defines rape in the following terms: 'Femme esforcier, si est quant aucuns prent a force charnel compaignie a fame contre la volenté de la fame et seur ce qu'ele fet son pouoir du defender' [To force a woman is when one takes by force carnal company of a woman contrary to her will and when she does what is in her power to defend herself].<sup>9</sup> 'Femme esforcier' translated literally means 'to force a woman,' but it was used to mean 'to rape', though notably, only the rape of a woman by a man. Beaumanoir's definition of rape is dependent on consent, as the 'charnel compaignie' he describes must be against the will, or consent, of the woman. However, violating consent alone did not make a rape, as Beaumanoir stipulated that the woman must also 'do what is in her power to defend herself'.

The examples Beaumanoir provides give insight into what type of resistance women were supposed to mount against rape. In determining whether or not a man could challenge another

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<sup>8</sup> F. R. P. Akehurst, ed, *The "Coutumes De Beauvaisis" of Philippe De Beaumanoir*, (Philadelphia: University of Pennsylvania Press, 2015), p. xiii-xv.

<sup>9</sup> Philippe de Beaumanoir, *Coutumes de Beauvaisis*, ed. Amédée Salmon (Paris: Picard, 1899), 1:430 statute 829. My translation.

man to a duel after abducting (and possibly raping) his wife or other female relative, Beaumanoir states that this depends on several factors, including the reputation of the woman, whether or not she was forced to go with him, and her ability to describe what force was used. Furthermore, if she went with him for fear of death, she must have tried to escape when possible. In another example, Beaumanoir discusses the types of questions a judge should ask to determine whether or not a woman was lying about being abducted and/or raped. In order to demonstrate that she was not lying, she needed to have cried out and it was better if many people heard her. However, Beaumanoir made some concessions: not crying out for fear of death was permissible, as was consenting to a betrothal because one had been subjected to so much force as to fear death.<sup>10</sup> These exceptions again indicate that Beaumanoir conceived of rape as physically violent. If a woman said she feared death, this might have underscored how forceful a rape and/or abduction had been.

The critical components of a woman's resistance, and thus in proving a rape and/or abduction had occurred, were screaming so that someone else heard, being able to describe the force that had been used, and trying to escape. Resistance could only cease when a woman feared for her life. In Beaumanoir's view, rape was only rape when a woman verbally and physically resisted. The emphasis on physical and verbal resistance is present in many *coutumiers* from before and after Beaumanoir. The earliest *coutumier*, the *Tres ancien coutumier de Normandie* (TACN) also emphasizes resistance as the accepted reaction, and it demonstrates that the rape of virgins was considered particularly problematic. The text was originally composed in Latin

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<sup>10</sup> Beaumanoir, *Coutumes*, 1: 469, statute 929.

between 1199 and 1200, and then translated into French during the second half of the thirteenth century.<sup>11</sup> In the Latin version, the section on rape is titled ‘De puellis’ [on girls]; in the French it was changed to ‘De prandre fame a force’ [on taking a woman by force].<sup>12</sup> Nevertheless, the content of the sections is very similar, and despite the fact that the Latin title implies that the authors were only concerned with young girls who were virgins, the statutes in both address virgins as well as other women. The first few statutes pertain to the rape of virgins, detailing how she was expected to act and the process for proving a rape had occurred: ‘Se aucuns prant par force une pucelle en ville ou en champ ou en bois, il convient que elle cri se elle puet, si que li voisin qui orront le cri praignent le malfeteur se il puent...’[If anyone takes by force a virgin in the town or the field or the forest, it is necessary for her to cry out if she can, and if the neighbour who heard the cry can apprehend the criminal if they can].<sup>13</sup> It goes on to say that after the rape, the girl must report the crime to the justice, and that ‘preudes fames’[honourable women] would examine her ‘bleceure’[wound] and determine if she had truly been ‘prise a force’ [taken by force]. These details make it clear that the text refers to rape rather than abduction. *Bleceure* meant a bodily injury of some type, and the DMF lists it as referring to defloration as well.<sup>14</sup> The examination by the ‘preudes fames’ and in the Latin ‘bonas mulieres et legales matrones’[good women and legal matrons] indicates that the ‘bleceure’ in question perhaps related to defloration,

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<sup>11</sup> Akehurst, *The “Coutumes se Beauvaisis”*, xvii.

<sup>12</sup> Ernest-Joseph Tardif ed., *Coutumiers de Normandie* (Rouen: E. Cagniard, 1881), 1.1: 40.

<sup>13</sup> Tardif, *Coutumiers de Normandie*, 1.2: 37.

<sup>14</sup> DMF, entry for “bleceure.”

which was something that male doctors did not examine.<sup>15</sup> Furthermore, if a girl was physically injured after a rape, the force that had been used might have been apparent. The TACN also states that a rapist was allowed to marry the victim/survivor if both she and her parents consented. Finally, it addresses the rape of another man's wife and the rape of widows. In both instances, if the woman could not demonstrate the rape with evidence of her crying out, her male relative could challenge the rapist to a duel.<sup>16</sup>

The *Très ancienne coutume de Bretagne* (TACB), which dates to 1312-25, similarly criminalizes rape in terms of force, non-consent, and resistance.<sup>17</sup> It states that 'si aucun forceit femme, pour ce que elle ne fust putain, et il eust sa compaignie par force et oultre sa volenté comme il apparust par le cri, ou il la raveist par force, celui qui ce feroit en devoit estre puni comme d'autres crimes' [if someone forces a woman, and she is not a whore, and if he has sex with her by force and against her will demonstrated by her cries, or he abducts her by force, whoever does this must be punished in the same manner as other crimes].<sup>18</sup> These conditions for a punishable rape are even more rigid than those in the TACN or Beaumanoir, as the TACB specifies that the woman could not be a prostitute. Jean Boutillier's 1395 compilation *La somme rurale* uses the phrase 'contre son gre et volonte' [against her will and choice] to describe rape, but Boutillier did not provide details about force or forms of resistance.<sup>19</sup>

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<sup>15</sup> Hiram Kümper, "Learned Men and Skillful Matrons: Medical Expertise and the Forensics of Rape in the Middle Ages," in *Medicine and the Law in the Middle Ages*, eds. Wendy J. Turner and Sara M. Butler (Leiden: Brill, 2014), 98-9.

<sup>16</sup> Tardif, ed., *Coutumiers de normandie*, (Rouen: E. Cagniard, 1881), 1.2:38.

<sup>17</sup> Akehurst, *The "Coutumes de Beauvaisis"*, p. xviii.

<sup>18</sup> Marcel Fernand Planiol, ed., *La très ancienne coutume de Bretagne* (Rennes: J. Plihorn et L. Hervé, 1896), 173.

<sup>19</sup> Jean Boutillier, *La somme rurale*, ed. Louis le Caron (Paris: 1603), 171.

Porteau-Bitker states that ‘l’absence de consentement de la femme ou sa résistance à l’acte sexuel’ [the absence of the woman’s consent or her resistance to the sexual act] was an important element of proving rape, and her analysis of a wide variety of French sources demonstrates that this standard was used in court as well as in law, and that it was a fairly poor standard. She notes that crying out and alerting one’s neighbours to a rape were essential for demonstrating non-consent. But if these cries were not heard, then proving resistance to a judge was quite difficult to do.<sup>20</sup> The absence of ‘traces perceptibles de violence’ [perceptible traces of violence] on the victims/survivor’s body could work against them if the judge took this as an indication that she had consented. Furthermore, rapists often argued that because the woman had at first seemed like she was consenting, they did not take her non-consent seriously when she began resisting. Porteau-Bitker also notes that rapists would stifle the cries of the women they assaulted in order to make their version of events, in which she consented, plausible.<sup>21</sup> The reputation of the victim, and whether or not she was a virgin, was also extremely important. Men who raped honest women might face the death penalty, but men who raped sexually active women or sex workers rarely faced any punishment.<sup>22</sup>

Rape in medieval France was thus broadly defined as sex perpetrated by a man that was against a woman’s consent. While this at first might appear to have been a standard which recognized the victim’s/survivor’s person—after all, it is the standard currently used in Western societies—non-consent then had to be demonstrated in a specific manner, thus limiting the

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<sup>20</sup> Porteau-Bitker, “La justice laïque,” 512-3.

<sup>21</sup> Porteau-Bitker, “La justice laïque,” 499-500.

<sup>22</sup> Porteau-Bitker, “La justice laïque,” 506-7.

number of rapes that would have been considered criminal or ‘real’ rapes. Women were tasked with fighting back verbally and physically, and in some instances, immediately resisting a man’s advances so that he could not later claim consent. Their reputations came under scrutiny as well; if they were not a certain type of woman then their non-consent might be taken less seriously.

Rape was also defined as a violent crime that necessitated violent reactions from women, their families, and their support networks. Women were expected to fight back, and their families were expected to fight with and for them. The group of remission letters analysed here demonstrate that women were aware of the importance of demonstrating non-consent, as they reacted and resisted violently when raped or threatened with rape. Their actions, whether in the moment or after the fact led to the deaths of the men who raped them.<sup>23</sup> Women perhaps fought so violently both because they were trying to protect themselves, and because it had been culturally ingrained in them to resist in a specific way. They may have consciously or unconsciously responded to rape based on the rape script that dictated they respond physically and verbally. Furthermore, these remission letters indicate that women believed that their own right to consent to sex was important and should be respected. Violent resistance, for some women, was thus a method of defining boundaries around that consent and reasserting their agency in the face of sexual violence.

*Rape, Virginity, and Clearly Defined Consent:*

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<sup>23</sup> In order of appearance: AN JJ 127, f.58, no. 91b, 1385, letter of Perrote Turelure. JJ 132 ff.119v-120r, no. 233, 1388, and transcribed in CdPC, 206-7, letter of Marion du Cyne. JJ 121 ff.71v-72r, 1382, and transcribed in CdPC, 233-5, letter of Marion la Garniere. JJ 78, ff.14v-15r, no. 33 1349, letter of Belon Chipaut. All letters consulted online at HIMANIS, <http://himanis.huma-num.fr/app/>, unless otherwise noted.

The 1385 letter of Perrote Turelure demonstrates how a woman might react in the face of rape in order to protect herself from being harmed and her chastity from being damaged. The letter was written by the close relations of Perrote Turelure in a bid to get her released from prison at Beauvais, where she and her family were detained for the murder of Pierre de Lonenses, known as Brunet. Perrote Turelure is described by the letter as the daughter of Richart Turelure and ‘sa femme legitime’ [his legitimate wife] and is said to have been ‘procee en leal mariage’ [concieved in loyal marriage]. She is also described as a ‘simple et povre fille de laage xviii ans’ [simple and poor girl of the age of eighteen years].<sup>24</sup> Her path intersected with Brunet’s when he came armed, with ill intent, and unannounced, to a Cistercian abbey where Perrote’s parents were farmers.<sup>25</sup> Brunet found Perrote outside where she was picking flowers for the chapel in the abbey. The letter specifies that Perrote had never been separated from her parents, as when they moved to the abbey she went with them. This information effectively communicates that she was still very much under her parents’ guardianship. Brunet wanted to bring Perrote to a field near the abbey, but she refused ‘pour doubte de estre villenee de son corps et violee’ [for fear of the violation of her body and being raped]. Brunet was not satisfied with her refusal, and attempted to rape her:

...pour celle cause ledit Brunet perserant en son mal propos et dampnable, convoitant soustraire la fleur de virginité dycelle Perrote et estre et gesir avec elle en couple charnelle la batist et injuriast moult durement de grans buffes.<sup>26</sup>

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<sup>24</sup> AN JJ 127, f.58, no. 91b, 1385.

<sup>25</sup> The letter describes the location of the crime as ‘en la maison de beaulieu appartenances aux religieux abbe et convent de launoy de lordre de Cisteaux’ [in the house of beaulieu, belonging to the religious abbey and convent of Launoy of the order of Citeaux]. Gauvard locates this letter at Launoy. A Cistercian abbey was located close to Launoy, and Launoy was part of Amiens where this letter was signed. Gauvard, *De grace especial*, 815, n102,

<sup>26</sup> AN JJ 127, f.58, no. 91b, 1385.

For this cause the said Brunet persevered on his evil scheme and coveted the flower of Perrote's virginity and so that he could lay with her carnal company he beat her and injured her very cruelly with great blows.

Perrote retaliated:

Perrote doubtant le deshonneur vitupère et corruement de la virginite de son corps et estre deshonoree ou morte et dun coustel quelle tenoit en sa main dont elle tailloit son pain que elle mengoit en celle propre heure fery ycelle brunet tant que mort sen est ensuye en sa personne.<sup>27</sup>

Perrote, fearing the dishonour, shame and corruption of the virginity of her body and to be dishonoured or dead, and with a knife in her hand, which she used to cut the bread that she ate that same hour, she stabbed Brunet such that he died.

In Perrote's letter the language used to articulate rape centres around the point of her virtue and virginity. Middle French did not often use *violer* to describe rape, nor was *viol* used as a noun in 1385. *Violer*, the past participle of which appears in Perrote's letter, meant to invade a space by force, or to violate and invade a sacred space, physical or otherwise. But it also meant to hurt or violate a person, and finally, it meant to violate and possess a woman against her will.<sup>28</sup> Because Brunet is said to both want 'gesir' [to lie] with Perrote, and to have 'couple charnelle' with her, we know that 'violee' here denotes sexual violence and sexual invasion rather than something else. When used to mean sexual violation, *violer* seems to contain a specific connection between physical space, violence, and virginity. Perrote's letter describes her fears as being of both the damage done to her body, and of 'violee.' I translate 'violee' here as rape—because in this instance we know that it is due to the wider context of the letter—but given the virginal attributes ascribed to Perrote's body, here it might in fact mean the rape of a virgin and the theorized irreversible damage that would have been done to her body and self.

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<sup>27</sup>AN JJ 127, f.58, no. 91b, 1385.

<sup>28</sup>DMF, entry for "violer."

Perrote is characterized as having been acutely aware of the damage that being alone with Brunet could have done to her; even the prospect of being alone with a man makes her fear for her virginity and welfare. Though in reality, she may have killed Brunet purely out of self-defence and without considering the protection of her virginity at all, the letter is careful to make it seem as if she was acutely aware of her virginity throughout, actively protective of it, and aware of the potential threats. The easily verifiable information in remission letters, such as the date the crime occurred, the ages of those involved, the type of crime, and the sequence of events can normally be understood as factually correct.<sup>29</sup> But the emotions ascribed to the perpetrator and victim of the crime cannot be taken as entirely factual, though they often made logistical sense, as is the case in Perrote's letter. The only emotion words used to describe Perrote's mental state prior to murdering Brunet are 'doubte' and 'doubtant.' *Doubte* and *doubtant*, from the verb *douter*, had several meanings, including to doubt, to be uncertain about something, to fear, and to be afraid of. In particular, it was often used when expressing the fear of death.<sup>30</sup> Perrote's fear is first mentioned in describing her refusal to accompany Brunet. She fears that he will harm her body and rape her. Then, that fear is repeated in the lead up to his murder, as she is said again to fear the loss of the virginity of her body and its corruption, but also to fear dishonour and death. Most of the words that follow 'doubtant' are words that describe the societal repercussions she might have faced had Brunet raped her. They are 'deshonneur', 'vitupere', 'corrupement', (all in relation to her virginity) and 'estre deshonnoree'. In contrast, the word 'mort' alone describes her

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<sup>29</sup> Davis, *Fiction in the Archives*, 21.

<sup>30</sup> DMF, entry for "douter."

fear of death. The weight of her reasoning for killing Brunet is firmly placed on her fears for her virtue. Given the meaning of *violer* as the invasion or damage done to a space, and the fact that the ‘deshonneur vitupère et corruement’ which she fears are over ‘la virginité de son corps,’ it is apparent that her fears for her virtue, within the narrative that the letter draws, directly stem from the potential harm to her body.

However, the physical represented only one aspect of virginity. As Kathleen Coyne Kelly discusses in *Performing Virginity and Testing Chastity in the Middle Ages*, conclusions about whether or not a woman was a virgin were drawn based on both physical examination and chaste behaviour. Because the body could not always be ‘trusted’ to tell the truth about whether the woman in question was chaste, her reputation and conduct became of paramount importance.<sup>31</sup> Medieval medical writers and patristic writers did not agree widely on the existence of a hymen indicating virginity, or whether or not a physical examination could determine without fault whether or not someone was a virgin. If virginity was something expressed, performed, and contained within the soul, then it could be damaged even if it were not physically harmed. The feared ‘violee’ of Perrote’s virginity that the letter describes is both the violation of a physical space and of an abstracted one. As Kelly describes it, virginity is an example of ‘the body exceeding its own physical boundaries’ as it ‘exists on the cusp between the body and culture’.<sup>32</sup>

In the letter’s narrative, Perrote’s behaviour throughout her life had been chaste, and chastity was the aspect of her virginity that she had control over. Brunet’s attempted rape nearly

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<sup>31</sup> Kathleen Coyne Kelly, *Performing Virginity and Testing Chastity in the Middle Ages*, (London: Routledge, 2000), 19.

<sup>32</sup> Kelly, *Performing Virginity*, 16.

wrested control over that chastity away, and it could have become irreparably damaged even though he was not successful. However, it is notable that Perrote comes out the victor in this narrative. Saunders argues that late medieval hagiographies emphasize active rather than passive resistance to rape which ‘suggests the internalisation of the belief that the physical quality of virginity is crucial to female empowerment: the woman, finally, is expected to not simply await miraculous salvation but to assert her will actively’.<sup>33</sup> These saints use intellect and physical action in order to escape rape. Perrote’s response to rape was perhaps influenced both by her fear in the moment, and cultural and legal ideas which taught women that the correct way to respond to rape was to take action to ensure it did not happen. While Perrote’s letter is in some ways the story of a young woman’s brave ability to protect herself, it is also a chilling reminder that women were, to an extent, expected to prevent rape from occurring.

The letter does not tell us to whom Perrote first disclosed the attempted rape and subsequent murder. But given that it comes from her close relations as she waited in prison, we can infer some level of familial support for her cause. As Gauvard has demonstrated, paying for remission was often a collective process that involved multiple members of a community pooling their money together.<sup>34</sup> Perrote had access to enough monetary support to pay for the letter. Given that the incident occurred at the beginning of June and the letter was dated July, she and her family spent a maximum of two months in prison. The process of remission allowed the family the chance to reverse any damage done to their reputations, and by engaging in the

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<sup>33</sup> Saunders, *Rape and Ravishment*, 150.

<sup>34</sup> Gauvard, *De grace especial*, 68

remission process—which would have involved using a notary, possibly hiring a lawyer, and paying both the fee for the letter itself and for the copy of it that was recorded in the Chancellery—they seem to have fully supported clearing her name. This may indicate that they believed her when she told them about the attempted rape. Perrote’s first disclosure could have been met with sympathy and care.

Though Perrote’s family seems to have accepted her after the attempted rape, there is still the question of if the wider community she was a part of accepted her. The remission letter may have made this easier for her, as it not only granted her grace for all criminal and civil offences but also attempted to restore her reputation. The letter reaffirmed her reputation as an honest woman in the ‘commune renommee des gens du lieu ou elle demoure’ [communal reputation held by the people in the place where she lives] and released her from all ‘infamie’ [shame] she might have endured because of the event.<sup>35</sup> In granting her the King’s grace for both the crime of homicide and for all of the potential dishonour done to her reputation, it becomes clear what was truly at stake for Perrote: not just death, but the loss of virginity and thus the loss of reputation and community standing. If this granting of a clean slate were effective, and if she was able to reintegrate into her community, the negative emotional impact that nearly being raped had might have been lessened. Unfortunately, we neither know whether Perrote’s letter was ratified, nor how her community *actually* treated her after the remission process. We only know what the letter attempted to enact.

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<sup>35</sup> AN JJ 127, f.58, no. 91b, 1385.

Were Perrote aware of the contents of the letter, it potentially offered her a method of finding and creating coherence from a violent, likely traumatic event, as it ordered the events in such a way that neither the attempted rape nor the murder were her fault. Brunet found Perrote outside where she did not expect to encounter him, and she only stabbed him because he tried to rape her and became violent. Moreover, the letter offered a version of herself that was unfailingly good and chaste even as she was subjected to an attempted violent sexual act and then herself committed murder. If the letter in fact aided Perrote in understanding what the attempted rape meant, then she would have been left, we can only hope, with the sense that the rape was neither her fault nor did it reflect negatively on her character. Furthermore, the fact that the story set out in the letter was a legal document copied once into the register and then again for Perrote or her family to keep could have only made her feel more secure in the details of her story. She likely had no other written account of what had happened.

Finally, if the most essential narrative thread in Perrote's letter was her virginity, and if the letter did in fact affect the meaning she gave to the traumatic events it narrativized, then even if she murdered Brunet in the heat of the moment rather than out of a true desire to protect her chastity, the meaning that she assigned to her actions may have come to be as based on her virginity as the letter asserted that it had been all along. To put it more simply: if we consider letters of remission as documents that had the power to shape the way individuals thought about their life stories, then even if the stories laid out in the letters were not entirely true at the time they occurred, the letters had the potential power to make them true—at least to those involved in the crime—after the fact. Perrote's virginity was likely important to her based on the social

expectation that she would remain one until she married. But after the altercation with Brunet, and the letter that framed her as valiantly defending that virginity, she may have started to understand her experience with rape through the lens of that defence.

Perrote's letter illuminates the way that medieval women's consent intersected with chastity and violence. Perrote, as an unmarried young woman still under her parents' protection, was aware of the threat that men like Brunet posed to her body and virginity. Denying consent to sex allowed her to preserve her virginity, virtue, and honour. Thus consent was not only a means by which Perrote could try and make decisions about her own sexual life and pleasure, but an important tool in preserving her social welfare and standing.

Ultimately, though, Perrote's ability to make sexual choices for herself was limited by Brunet, who sought to violently rape her and disregarded her verbalized non-consent. In an ideal world, Brunet would have propositioned Perrote, and when she said no, he would have listened. Instead, he attempted to rape her, and the resulting struggle was extremely violent. Perrote's non-consent did not matter to Brunet. However, Perrote herself seems to have found consent to be an extremely powerful concept. She did not want to consent to sex with Brunet, and so when he tried to force her, she murdered him.

### *Sexually Active Women and Consent*

Virginity was only one way that remission letters made sense of crimes in which women murdered or aided in murdering the men who assaulted them. Two letters from the end of the fourteenth century demonstrate that even poor women and women who had previous or current

sexual partners sought remission for these types of crimes. In 1382, Marion la Garniere and her partner, Jacquemin Gobillet, murdered a man known as Geoffrey de Bretangne because he threatened to rape her.<sup>36</sup> Their letter begins by telling us that Marion and Jacquemin were not married, but they had been together and traveling as beggars for two years. They met Geoffrey at Mont-Saint-Michel and began traveling and begging with him. After a night of heavy drinking, Geoffrey stated ‘qu’il cognoistroit charnelment la dicte Marion’ [he would know carnally the said Marion]. Jacquemin and Marion both told Geoffrey that this would not happen, after which the two men began to fight. Marion eventually joined in: ‘Laquele...ne vouloit en aucune maniere consentir que le dit breton eust sa compaignie charnelle, eust feri de son baston plusieurs cops ledit breton, en aidant ou dit Jacquemin’ [who had not wanted in any manner to consent to the said Breton having her carnal company, hit the said Breton several times in aiding the said Jacquemin].<sup>37</sup>

The threat of rape was made clear by Geoffrey’s declaration that he was going to have sexual relations with Marion, his subsequent fight with Jacquemin over the issue, and Marion’s firm statement of non-consent. The letter creates a direct link between Marion’s unwillingness to consent to sex with Geoffrey and the fact that she aided Jacquemin in beating him up. The implication is that if Jacquemin were to lose the fight, she may very well have been subjected to rape, thus lending moral weight to Marion’s actions in the fight. She was not, by the letter’s logic, merely beating Geoffrey up, she was in fact protecting herself from a potential rape. After

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<sup>36</sup> AN JJ 121 ff.71v-72r, no. 129, 1382, and transcribed in CdPC, 233-5.

<sup>37</sup> AN JJ 121 ff.71v-72r, no. 129, 1382.

the altercation, Marion and Jacquemin were detained at a prison in Alluye, and Geoffrey died a few days later. Jacquemin was executed for the crime of homicide. Marion, pregnant and in jail, ended up relying on charity to survive and pay for her remission.<sup>38</sup>

While Perrote's letter describes her as virginal and still in the care of her immediate family, Marion's letter begins by describing her as an unmarried woman in a sexual and romantic relationship with a fellow beggar and ends with her pregnant with (presumably) his child. Though Perrote was the daughter of farmers, Marion was far poorer, and without the same familial support. She was, like the women in the *pastourelle* poems studied by Harris, 'multiply disadvantaged'.<sup>39</sup> She was a woman, she was poor, she was on the margins of society as a beggar, and by the end of the letter, she was pregnant. The aim of the remission letter was, of course, to gain the king's grace, and thus Marion was positioned as worthy of forgiveness regardless of her sexual history or poverty. The letter characterizes Marion as 'pure et innocent' [pure and innocent] and describes the charity she received as being due to her 'bonne renommee' [good reputation]. This appears after the narration of the crime, in the section of the letter that was generally used to make such claims about the supplicant's past or future, rather than in the initial description of who Marion was.<sup>40</sup>

Marion's ability to make her own sexual choices was not linked to her chastity, or to a desire to protect her honour. The letter's argument does not hinge on her unfailing morality or

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<sup>38</sup> The letter states that while in prison she 'n'y a de quoi vivre fors de la courtoisie des bonnes gens qui pour son bonne renommee en ont eu pitie et lui ont elargi de leurs biens pour envoier par devers nous requerir sur ce nostre misericorde' [and she had no other way to live save for the generosity of good people who because of her good reputation had pity for her and freed her with their own money to send to us to request our mercy].

<sup>39</sup> Harris, *Obscene Pedagogies*, 107-8.

<sup>40</sup> AN JJ 121 ff.71v-72r, no. 129, 1382.

virginity, as Perrote Turelure's did, but it does paint a rather sad story. Marion was pregnant, alone now without Jacquemin, and in prison. She had lost what little stability in life she had, and after the altercation with Geoffrey, she did not have time and space to recuperate in safety. She was still able to garner support from those around her in order to pay for remission, though, and she did not spend long in prison. The letter is dated in September and the crime occurred on August 15<sup>th</sup> of the same year, meaning that Marion spent between two to six weeks in prison. This was a relatively quick turnaround between the crime and remission, as only 32% of letters were granted within a month of the crime occurring.<sup>41</sup>

Given the way that rape laws emphasized the importance of forceful, physical resistance, women like Marion and Perrote may have been following social guidance on how to react when threatened with rape, or may have known that non-consent was only considered valid if it was physically manifested. Neither Brunet nor Geoffrey were willing to respect non-consent, and instead, their violent actions necessitated Perrote's and Marion's violent resistance. Verbal non-consent alone could not prevent rape because the men in question did not respect Perrote's and Marion's right to articulate it. In these two instances, only violently enacted non-consent on the part of a victim/survivor prevented a rape from occurring.

Still, the reasoning behind both Perrote's and Marion's violence and resistance was the fact that they did not want to have sex and did not want to be raped. Ideas about sexual consent were potentially powerful motivators for resistance to rape, and they were also rhetorically powerful after the fact. During the altercation, Marion had been threatened by Geoffrey and had

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<sup>41</sup> Gauvard, *De grace especial*, 71.

to defend herself and Jacquemin with violence, but after the fact she may have looked to the letter as evidence of her firmly articulated non-consent in the face of sexual violence.

Women were thus not only able to articulate and think about their consent and non-consent via the lenses of virginity and maintaining honour, but instead perhaps thought of it as something they could enact regardless of sexual history. Nothing demonstrates this more clearly than the letter of Marion du Cyne, who was held responsible for the death of the man who raped her in 1388.<sup>42</sup> Marion du Cyne was not a virginal woman, nor was she attached to only one man. Prior to the incident of rape that led to her needing remission, she had been in more than one long term sexual relationship. She was married to Jehan du Cyne, but had a relationship with another man, Tassin d'Ardre. Marion and Jehan were then separated by the church. Eventually, they decided to reunite and live together once again. After this reunion, Perrinet Bonin 'dit le Mauvais,' became determined to have sexual intercourse with Marion, and abused her sexually for a period of time. The abuse ended when Marion eventually complained of Perrinet's treatment to the Sire de Fere, who employed both her and Tassin d'Ardre. She arranged for Perrinet to be at her home at the same time as Tassin and several other men, ensuring that he was captured and brought him back to the Chateau de Fere. There, they questioned and tortured him until he eventually died. Marion's letter seems to have been more pre-emptive than anything else, as it does not say that she was held prisoner anywhere or charged with a specific crime.

The letter states that Perrinet, 'voulant ycelle Marion mectre a plus grant deshonneur, se soit efforcie et ait mis grant peine de avoir sa compaignie charnelle et aussi de son avoir'[wanted

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<sup>42</sup> AN JJ 132 ff.119v-120r, no 233, 1388, transcribed in CdPC, 206-7.

to do a great dishonour to Marion, tried very hard and took great pain to have her carnal company and to take her goods]. But because Marion ‘ne s’i vouloit consentir, ‘l’ait par plusieurs foiz batue crueusement, et ou desceu d’elle et malgré soy’[did not want to consent, he hit her many times cruelly, and abused her despite her wishes]. Perrinet subsequently went to Marion’s home many times ‘pour celle cause’[for this reason].<sup>43</sup>

Perrinet’s intention to rape Marion is made explicit by the use of ‘avoir sa compaignie charnelle’ combined with the physical violence that made his actions unquestionably forceful. Coupled with this, the phrase ‘ne s’i vouloit consentir’ makes Marion’s own feelings on the matter clear. She did not want to have sex with him, and so he beat her. However, it is worth noting that even before Marion’s non-consent is mentioned, Perrinet’s desire have sex with her is still framed by the letter as being a desire to dishonour her. The logic of the letter is not that Perrinet simply proposed sex to Marion and it was thus her rejection of him that made his intentions rape, rather, he always intended to do her harm. Brunet was framed in a similar manner in Perrote Turelure’s letter. He came to the abbey armed, and with the intent to do harm. These characterizations are in contrast to the way that Thomas Nepveu’s actions towards Denise were framed as having the possibility to be consensual.<sup>44</sup> Denise’s non-consent transformed his actions into rape, rather than rape being a result of his ill-intentions. Marion du Cyne’s letter was written for her benefit, and thus prioritized her consent and cast Perrinet’s actions as being in keeping with his identity as ‘le Mauvais’. When written for victims/survivors, letters of

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<sup>43</sup> AN JJ 132 f.119v, no. 233, 1388.

<sup>44</sup> AN JJ 155, f.150r, no. 239, 1400, transcribed in CdPC 243-4, see my Chapter 1, 83-86.

remission could become powerful anti-rape narratives, inscribing women with the ability to withhold consent and men with clear intent that was located in their desire to rape, rather than in the victim's/survivor's actions.

Rather than say that Perrinet had her carnal company by force, or that he knew her carnally against her will, the letter instead uses the phrase 'et ou desceu d'elle et malgre soy' [and abused her despite her wishes].<sup>45</sup> This comes after the description of the beating Perrinet gave Marion. Among the many meanings of 'desceu', from *decevoir*, are to deceive, to abuse, to injure, and to abuse sexually. In two of the examples for sexual abuse given by the DMF, *decevoir* appears along with other language indicating sexual assault.<sup>46</sup> Perhaps if 'desceu' were the only description of what occurred between the two of them it would be impossible to know what the letter meant. But given that the letter states that Perrinet wanted to rape Marion, and that because she did not want to consent, he beat her, it would make sense for the outcome of that beating to be sexual abuse, and for 'desceu' here to mean rape. Similarly, given the intentions the letter assigns to him, it would not make much sense for Perrinet to return to Marion's home again and again to beat her without also sexually assaulting her.

Marion's letter offers multiple points of insight into how she may have thought about her own ability and desire to consent to sex. First, we have her relationship with Tassin d'Ardre, which the letter frames as a seduction on his part rather than a completely consensual relationship. Marion's consent to sex with Tassin d'Ardre is described as being due to his

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<sup>45</sup> AN JJ 132 f.119v, no. 233, 1388.

<sup>46</sup> DMF, entry for "decevoir."

‘mauvaise temptacion’ [evil temptation] and ‘ennortement’ [instigation].<sup>47</sup> Their relationship was perhaps framed in terms of seduction and coercion in order to make Marion out as reputable woman, and to convince the reader that she only separated from Jehan because Tassin seduced her rather than any real fault of her own. There are also aspects of status to consider here. Tassin worked at the home of the Sire de Fere but he was also a ‘familier’, meaning that he was a higher status domestic servant.<sup>48</sup> Marion was merely a ‘femme de corps’ [servant] at the same château. Marion may very well have felt coerced by Tassin or unable to say no due to his relative status above hers and his closeness to her employer. She may have allowed herself to respond to Tassin’s ‘mauvaise temptacion’, and she may have even enjoyed their relationship, but she did not wield as much power within it as he did.

However, her experience with Tassin clearly did not mean that Marion viewed herself as sexually available to all men, as she rejected Perrinet Bonin and reported him for rape. It may well be that Marion simply liked Tassin and wanted to have sex with him, and that she did not feel similarly towards Perrinet. But Tassin perhaps propositioned her in a different manner than Perrinet. She may not have understood his actions as being harmful, or she may not have felt as if she could say no to a man who she both knew well and who occupied a position of service above hers. In contrast, Perrinet Bonin was immediately violent with Marion when she rejected him, allowing her to perhaps more easily mark the experience as harmful, and ultimately as rape.

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<sup>47</sup> AN JJ 132 f.119v, no. 233, 1388.

<sup>48</sup> DMF, entry for *familier*.

Marion du Cyne may have thought of rape, and violations of consent, as being physically violent. Non-consent may have been something she only felt entitled to in situations in which the male party was clearly violent and wanted to rape her. Her relationship with Tassin may have taught her something about violative, unhealthy sex, or perhaps even her own ability to consent and choose sex for herself. Had Tassin coerced her, she might have left him and gone back to her husband as a form of escape. Had their relationship been more consensual and even pleasurable, she may have gone back to Jehan happy to have had sexual experience outside of marriage. In other words, her relationship with Tassin, good or bad, could have been an important experience for her understanding of consent and sex. Marion's experience with sex and rape was quite different from Perrote Turelure's, and rather than understanding consent and her right to it through the lens of virginity, she perhaps understood it through sexual experience.

However, Marion du Cyne's possible understanding of herself as a person capable of giving and revoking consent could not prevent a sexual assault from happening, because Perrinet chose to ignore it. She was eventually able to stop Perrinet's abuse from occurring unimpeded by telling the Sire de Fere and his men, including Tassin d'Ardre, about it. Marion arranged for Perrinet to be at her home at the same time that Tassin and the other men were going to come, thus making sure that they were able to apprehend him. Perhaps she chose to tell them because she knew that they had enough power to do something about it, or she may have thought that Tassin d'Ardre would come to her aid based on their history together. Marion's ability to name Perrinet's actions as abuse, to vocalize this to others, and to then aid in his capture meant that she was ultimately able to protect herself from further abuse. And though Tassin d'Ardre's and the

other men's actions were perhaps cruel, as they tortured Perrinet until he died, they were ultimately willing to listen to Marion's report and took it seriously. Violence was enacted to protect a woman from further rape, and as in Perrote Turelure's and Marion la Garniere's letter, non-consent and resistance to rape were powerful when they were underpinned by physical violence.

Marion du Cyne's remission letter offered a narrative in which she was a good woman who did not deserve to be raped, regardless of the fact that she had had an extramarital affair. It's narrative communicated that she had the right to withhold consent to sex, that she was not sexually available to all men, and that the violation of her consent was unequivocally wrong. Further to this, it underscored the fact that Perrinet, not Marion, was to blame for the rape, locating ill intent in his actions rather than in her response to them.

If, as explored above in relation to Perrote Turelure, Marion's letter in fact formed a conceptual framework through which she dealt with the trauma of rape, then she may have suffered less after the fact and she may have understood that the assault was not her fault. While it is impossible to know what emotions Marion experienced, the letter told a story in which her experience of continued sexual abuse was mitigated by those in her immediate community. Tassin d'Ardre and the Sire de Fere helped Marion when she needed it, and this indicates that neither the extramarital affair nor Perrinet's abuse ostracized Marion from the community. Within the narrative framework of remission, the ability to withhold consent was not only accorded to chaste, young women, but also to those who had had multiple sexual partners.

Finally, the letter of Belon Chipaut and her brother Jehannin offers a contrast to the stories of Perrote Turelure, Marion la Garnier, and Marion du Cyne, which all hinged on presenting the victim/survivor of a rape in a particular manner: Perrote's letter portrayed her as virtuous, Marion la Garniere's portrayed her as loyal to Jacquemin and deserving of pity, and Marion du Cyne's letter cast her as a woman who learned from her past mistakes and who had strong community connections. But Belon Chipaut's letter crafts no such narrative as it tells the story of how the Chipaut siblings murdered the man who broke into their home and wanted to rape Belon.<sup>49</sup> The letter does not give information about their ages, occupations, or marital status. It certainly does not give us the level of detail found in the three other letters examined here, and the attempted rape, struggle, and murder are not well described. It states that Denisot Rousseau, 'homme de mauvaise vie' [man who led an immoral life] broke into the Chipaut siblings' home, and that he wanted 'efforcier' [to rape] Belon.<sup>50</sup> Belon's brother Jehannin stepped in to defend his sister, and during the ensuing struggle Denisot was hit on the head and died. It is unclear who landed the killing blow, though it seems as if Belon aided her brother in beating Denisot as the letter was written for both of their benefits. In comparison to the three other letters, the Chipaut siblings' does not tell us anything about Belon herself and what she may have felt during the incident. The letters of Perrote Turelure, Marion la Garnier, and Marion du Cyne all narrate the rape and violent struggle more nearly from the perspective of the victim/survivor in question, with great care given to how she is framed and presented as innocent. Belon's letter bears one

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<sup>49</sup> AN JJ 78, f.14v, no. 33, 1349.

<sup>50</sup> AN JJ 78, f.14v, no. 33, 1349.

important similarity: the rape is presented as stemming from the rapist's intention to rape, rather than as a result of Belon's refusal. Both Brunet and Perrinet are characterized as having the intention to rape. While the letters of Perrote Turelure, Marion la Garniere, and Marion du Cyne offer valuable insight into how women constructed their consent and non-consent along the lines of virginity, social status, and prior sexual history, Belon Chipaut's letter is noteworthy because it demonstrates that violence could be an acceptable reaction to rape regardless of who the victim/survivor was.

These letters demonstrate that women in late medieval France wanted to be able to consent and not consent to sex as they chose, and that consent and non-consent were available ideas and modes of action. Non-consent alone could not protect them from rape, but as an idea, consent was able to clarify to the victim/survivor herself what was rape and what was not. When the women in these letters did not want to have sex with a man, they knew that this was a valid point of view—a decision that *should* have been respected even if it often was not. Medieval women—at least the ones in the remission letters examined here—did not view themselves as mere passive participants in sex.

The stark differences between how Denise is framed in Thomas Nepveu's letter and how women like Marion du Cyne are framed within remission letters written for their benefit, underscores the importance of seeking out victim/survivor experiences. Thomas's letter constructs Denise as a receptacle for his sexual attentions, and it is her non-consent, rather than his intent to do harm and unwillingness to respect her ability to consent, that transforms his

sexual actions into rape.<sup>51</sup> But in letters that prioritize victim/survivor experience and consent, men are portrayed as rapists because they want to rape, and women are allowed consent and non-consent not only as ideals, but as actions with weight and meaning as well. Perrote Turelure murdered Brunet in part because she was defending her ability to consent and not consent to sex, and her ownership over her sexual choices. Marion la Garniere did not want to have sex with Geoffrey le Breton and she defended her choice physically when she felt it became necessary.

The remission process potentially offered victims/survivors a unique opportunity to re-articulate and reaffirm their consent. It was a medium in which they and those close to them were able to define the terms of the rape narrative in order to present it as unequivocally the fault of the rapist. If these letters in fact have helped victims/survivors understand their experiences and create narrative coherence in their lives after trauma, then a narrative in which consent was protected and prioritized at all costs offered powerful potential for healing.

### *Murdering Rapists and Consent in the Cité*

These letters indicate that protecting one's body and defending one's choice was a justifiable reason for a woman to be involved in committing homicide. This idea is present in *Le Livre de la Cité des Dames*, written by Christine de Pizan in 1405 as a formal defence of women from men and misogyny. Christine's main audience were members of the French nobility, who received the *Cité* positively. She was also engaged in one of the foremost literary debates of the time, the *Querelle de la Rose*, in which she defended women against the misogyny contained in

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<sup>51</sup> JJ 155, f.150r, no. 239, 1400, and transcribed in CdPC, 233-4. See my Chapter 1, 83-86 for discussion.

the popular Romance of the Rose.<sup>52</sup> Christine's purpose in writing, as laid out in the letters she wrote as part of the *Querelle*, was to critique misogyny, and she sought to change her male readers' minds and offer her female readers' comfort.<sup>53</sup>

While the women in the letters discussed above would not have read the *Cité*, that similar ideas about women violently defending themselves existed in both the legal and literary worlds indicates that none of these texts were exceptional. Women such as Marion du Cyne and Perrote Turelure may have been accessing circulating cultural ideas about violence, resistance to rape, and consent. It is undeniable that they were aware of legal ideas about rape, as all the remission letters studied here show that women knew which acts constituted illegal rape and thus which acts they could defend themselves against. Christine de Pizan may have also been accessing the same or a similar set of ideas as she wrote the *Cité*. Wolfthal proposes that Christine may have been aware of and influenced by certain rape cases occurring in Paris, such as the 1393 case of Ysablet des Champions, in which the widowed Ysablet mounted a considerable legal defence against the men who raped her. Wolfthal notes that 'Ysablet's actions suggest that Christine's forceful response to rape was not unique'.<sup>54</sup> When read together, the remission letters discussed above and the *Cité* demonstrate that violence was an acceptable response to rape, that defending consent was viewed as moral, and that women living in the late fourteenth century and early fifteenth (including Christine herself) were aware of this discourse.

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<sup>52</sup> Rosalind Brown-Grant, *Christine de Pizan and the Moral Defence of Women: Reading Beyond Gender* (Cambridge: Cambridge University Press, 1999), chapter 1.

<sup>53</sup> Brown-Grant, *Christine and the Moral Defence of Women*, 5-6.

<sup>54</sup> Diane Wolfthal, "'Douleur sur toutes autres' Revisualizing the Rape Script in the *Epistre Othea* and *Citee des dames*," in *Christine De Pizan and the Categories of Difference*, ed. Marilyn Desmond (Minneapolis: University of Minnesota Press, 1998), 43

The *Cité des Dames* is a biographical catalogue set within a dream-vision, and describes a city full of virtuous women, each of whom is used in refuting a point of misogyny.<sup>55</sup> It is the work in which Christine most directly tackled the issue of sexual violence, and she wanted to suggest different modes for understanding rape to her readers. To this end she reworked well known and recognizable stories that had certainly informed medieval opinion and thought on rape. She begins with the story of Lucretia, refuting the claim that women want to be raped: ‘Si m’anuye et me grieve de ce que hommes dient tant que femmes se veulent efforcier et que il ne leur desplait mie quoyque elles escondissent de bouche de estre par hommes efforciees’ [It angers and upsets me when a men say that women want to be raped and that even if she verbally complains, she will not mind if he does rape her].<sup>56</sup> *Esforcier*, here meaning ‘to rape’ is set out immediately as something women do not want. Additionally Christine gives weight to verbal consent and non-consent, the implication being that verbal non-consent should be enough to stop a man from forcing a woman to have sex. Rape is further framed as something negative by the allegorical figure of Rectitude who says, ‘ce n’est mie plaisir aux dames chastes et de belle vie estre efforciees, ains leur est douleur sur toutes autres’ [it is not pleasurable for chaste ladies who lead a moral existence to be raped, on the contrary it is the worst suffering].<sup>57</sup> Rape is therefore explicitly equated with the greatest pain and suffering a woman—at least a good woman—can feel.

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<sup>55</sup> Brown-Grant, *Christine and the Moral Defence of Women*, 128-30.

<sup>56</sup> Christine de Pizan, *La Città Delle Dame*, eds. Patrizia Carraffi, Earl Jeffrey Richards (Milan: Luni, 1997), 328. This Italian edition of the *Cité* is the only printed edition that includes the Middle French text. All translations my own.

<sup>57</sup> Christine de Pizan, *Città Delle Dame*, 328.

Christine further links rape with non-consent and emotional pain in the description of the assault Lucretia endures. After failing to seduce her, Tarquin threatens her: ‘...il tira son espee et la menaça d’occire se elle disoit mot et se elle ne se consentoit a sa voullenté. Et celle respondi que hardiement l’occisist et que mieulx amoit mourir que s’i consentir’ [he drew his sword and threatened to kill her if she said a word or if she would not consent to his will. She told him to kill her because she would rather die than consent].<sup>58</sup> The verb *consentir* is used twice here, and both Tarquin and Lucretia are portrayed as aware of the necessity of acquiring consent before sex. Verbal non-consent is portrayed as important, as Lucretia uses strong words, rather than physical violence, in her expression of consent. Christine’s Lucretia also values her ability to deny consent more highly than she values her life, as she says she would rather die than give him her consent.

Lucretia’s threat is borne out by the end of the story. Tarquin finally coerces Lucretia by threatening to make it known that he found her sleeping with one of her servants. The day after the rape, Lucretia admits to her husband what happened and commits suicide. Though Tarquin’s threat of the servant may be what prevents Lucretia from verbally resisting any longer, Christine makes it clear that the rape which followed was still against her consent: ‘elle souffri sa force’ [she suffered his force].<sup>59</sup> Christine thus subverted, in many ways, the force standard that customary law set out, crafting a rape narrative in which verbal coercion could lead to rape.

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<sup>58</sup> Christine de Pizan, *Città Delle Dame*, 328.

<sup>59</sup> Christine de Pizan, *Città Delle Dame*, 330.

Lucretia commits suicide due to her anguish over the rape and in order to prove her innocence:

elle tira un coutel qu'elle avoit soubz sa robe, en disant se il est ainsi que je me assoille de pechié et que je monstre mon innocence. Tutevoies je ne me delivre pas de tourment ne de peine ne me mes hors, ne d'orenavant ne vivra femme hontoyee ne vergondee a l'exemple de Lucrece.<sup>60</sup>

she took a knife that she had under her gown, saying 'I can absolve myself of sin and prove my innocence this way, however I cannot rid myself of my pain nor my suffering, from now on no woman will live in shame or dishonour due to the example of Lucretia'.

By killing herself, Lucretia is able to prove beyond a shadow of a doubt that she had not consented to Tarquin. Suicide emphasized her shame over the rape and the fact that it had not been due to her actions. But she also admits that she will continue to suffer and experience pain. Finally, her suicide was meant to communicate that no woman was at fault for experiencing rape.

While the story of Lucretia is troubling because it ends with a victim/survivor committing suicide due to the deep shame she felt, Christine wrote her version of the story in order to prove that women did not enjoy rape. She was intentionally refuting misogynistic ideas that devalued women's consent and blamed them for their own rape. Within this context, Christine's Lucretia serves to show that women care so deeply about rape and violations of consent that even suicide cannot reverse its damage and the deep psychic wounds it leaves behind.

Christine clearly believed that there was a more just outcome to rape, and thus ended Lucretia's story by saying: 'Et a cause de cel outrage fait a Lucrece, comme dient aucuns, vint la loy que homme mouroit pour prendre femme a force, laquelle loy est convenable, juste et sainte' [And because of the outrage done to Lucretia some have said that a law was passed which

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<sup>60</sup> Christine de Pizan, *Città Delle Dame*, 330.

sentenced to death any man who raped a woman, a law that is moral, fitting, and just].<sup>61</sup> This point is underscored by the fact that the story of the Galatian Queen immediately follows that of Lucretia. The Galatian Queen Chiomara first appeared in Plutarch's *On the Bravery of Women* and was included in Boccaccio's *De mulieribus claris*. Christine's version of the Galatian Queen is noteworthy for the key revisions to the story that she makes, which have been documented by Wolfthal. In Boccaccio's version, which was a source for the *Cité*, the Galatian Queen is captured by the Romans and raped by one of the centurions guarding her. After the rape, she tells her servants to kill the centurion and cut off his head. After her release, she presents the head to her husband.<sup>62</sup> Wolfthal notes that while some readers of this story may have 'focused on the restoration of the king's honour,' someone like Christine de Pizan might in fact have seen a 'triumphant rape victim'.<sup>63</sup> This makes sense given Christine's assertion that a just and moral punishment for rape was death.

In Christine's version of the story, the queen kills the centurion who raped her, rather than ordering someone else to do it for her. In Boccaccio's version, active violence as a response to rape is only ascribed to male characters. It may be the queen who orders the centurion's death, but it is her male servant who does the beheading. In Christine's version, women are shown to have access to violence as active participants, not as mere orchestrators of it. Moreover, the Galatian queen's violence is framed as being an act of revenge, rather than an attempt at proving her innocence to her husband. Immediately after the rape, which is described as 'efforca,' the

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<sup>61</sup> Christine de Pizan, *Città Delle Dame*, 330.

<sup>62</sup> Wolfthal, "Revisualizing the Rape Script," 63-64.

<sup>63</sup> Wolfthal, "Revisualizing the Rape Script," 64.

queen ponders her revenge: ‘De ceste injure ot moult grant dueil la dame et ne finoit de penser comment vengier s’en pourroit’ [From this violation the queen had such distress that she could not stop thinking how she might avenge herself on him]. The queen waits until the opportune moment and then she kills him: ‘la dame, qui fu saisie d’un coutel, le frapa en la gorge et l’occist. Et en prist le chief et sanz nul encombrer le porta a son mari et lui dist tout le fait et comment la vengeance en avoit prise’ [the queen, who had picked up a knife, slit his throat and killed him. And she took his head and without any trouble brought it to show her husband, telling him what had happened to her and how she had taken her vengeance].<sup>64</sup>

The Galatian queen’s immediate reaction to rape and the violation of her consent is outrage and distress, but in meditating on her own pain, she also meditates on how she might avenge herself. Christine thus draws a direct connection between mental distress after rape and the desire for vengeance. Distress is an understandable and acceptable emotion after rape, as is pain, and both of these are demonstrated in Christine’s retelling of Lucretia’s story.<sup>65</sup> But emotional pain does not solely result in suicide or internal distress. It can be turned outward as well, as demonstrated by the Galatian queen’s murder of the centurion. However, given the fact that she is being held captive, the Galatian queen does not immediately kill the centurion. She may be emotional and she may be upset, but this does not preclude rationality, or the ability to make decisions. Perrote Turelure murdered Brunet both due to emotional distress and the fear of death, and in order to protect her virginity. While Perrote’s reasons for murdering Brunet were

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<sup>64</sup> Christine de Pizan, *Città Delle Dame*, 332.

<sup>65</sup> Wolfthal, “Revisualizing the Rape Script,” 60.

likely crafted after the fact to serve the purpose of remission, both Christine and the authors of Perrote's letter use a combination of reasoning underpinned by virtue and a strong emotional reaction to frame the murder of a rapist as acceptable. The Galatian queen, while not a virgin, was a married woman, and Christine describes her as 'la noble royne qui moult estoit belle, simple, chaste et bonne...' [the noble queen, who was very beautiful, modest, chaste, and good].<sup>66</sup> Christine's Galatian queen can happily exist as both a murderer and a virtuous woman, and it is in fact because of this virtue that she murders the centurion, so great is her outrage at the rape. Furthermore, the story of the Galatian queen appears in the section in which Christine speaks with the figure of Rectitude, whose stated purpose is to help Christine distinguish between good and evil. At the beginning of the section on rape, Christine states that women who are chaste and moral find no pleasure in the act, and the examples which follow are all provided in support of that thesis.

Christine could express ideas about rape in the *Cité* that would not have been possible for women to express in real life or while contending with the legal system. For example, Perrote Turelure's letter stopped just short of framing her murder of Brunet as virtuous, and instead demonstrated that she was deserving of mercy because she had acted out of self-defence. Christine, however, was able to directly approve of the murder of rapists. This is exemplified by the fact that the queen shows the head to her husband with no 'encombrier' or 'trouble' and as proof of the vengeance she exacted. She is not held accountable for the crime of murder by the

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<sup>66</sup> Christine de Pizan, *Città Delle Dame*, 330.

law, nor is she held accountable by Christine's narrative, rather, she simply meted out the appropriate, just punishment.

The story of the Galatian queen places no blame on the victim/survivor of rape, holds accountable the man who perpetrated it, and puts forth the idea that one understandable choice a woman can make when faced with rape is to enact revenge. In this way, it draws on similar ideas to those present in the letter of Marion du Cyne, and when read together, the two indicate that revenge was an available conceptual framework for women to use in thinking about rape. Marion is framed as having been victim to the actions of bad men: Tassin seduced her, and Perrinet raped her. Neither Marion's letter nor Christine's Galatian queen stipulate anything necessary for proving rape outside of a woman's non-consent. When bad men, like Perrinet and the centurion, seek out good woman for nefarious sexual activity, there is perhaps little else they can do other than seek revenge after the fact. And like the Galatian queen, Marion did not immediately take revenge. She waited until she felt able to report the crime to someone who she felt could help her, and then helped arrange Perrinet's capture. In both Marion's letter and the Christine's Galatian Queen, bad men firmly bear the responsibility for rape, women are left to ensure their own safety via whatever measures possible, and the appropriate punishment for rape is death.

Christine offers a few further examples for how women might deal with rape: women in Lombardy put raw chicken, which soon started to smell, down their shirts to deter men of enemy forces, and Sicambrian women fought back against Roman invaders until their death. She also includes two further examples of women who killed themselves to avoid rape.<sup>67</sup> Wolftal argues

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<sup>67</sup> Christine de Pizan, *Città Delle Dame*, 332-4.

that the chapter on rape in *Cité des Dames* was meant to ‘suggest three possible responses for the rape victim: to grieve, to commit suicide, or to seek justice’.<sup>68</sup> Christine hoped that both the *Cité* and the *Livre de Trois Vertues* would be read widely by women, and encouraged female readership through her writing, though demonstrating whether or not they were is difficult.<sup>69</sup> The *Cité des Dames* was composed around 1405, meaning that it was impossible for any of the women studied in this chapter to have read it.<sup>70</sup> It was very well received by Christine’s audience, which was composed of members of the upper classes. Twenty-five manuscripts of the *Cité* survive; the only one of Christine’s works to survive in greater quantity is the *Epistre Othéa*.<sup>71</sup> Its manuscripts circulated among small groups of the nobility, including the French royal family, who were Christine’s patrons, the Duke and Duchess of Burgundy and their son, and the Duke and Duchess of Berry and their daughter. Several copies were also owned by minor noble families.<sup>72</sup> Its ownership was composed of both men and women, and it is clear that the noble women who owned it would have also been interested in reading it, particularly because they saw themselves represented in it, and it had been addressed to them.<sup>73</sup> In analysing how

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<sup>68</sup> Wolfthal, “Revisualizing the Rape Script,” 60.

<sup>69</sup> Anneliese Pollock Renck, *Female Authorship, Patronage, and Translation in Late Medieval France: From Christine de Pizan to Louise Labé* (Turnhout: Brepols, 2018) 51; Brown-Grant, *Christine and the Moral Defence of Women*, 174.

<sup>70</sup> See Maureen Cheney Lois Curnow, *The "Livre de la Cité Des Dames" Of Christine de Pisan: A Critical Edition*, (PhD diss., Vanderbilt University, 1975), 1-8, for a discussion of dating the *Cité*. This doctoral thesis is the most comprehensive, dedicated study of the *Cité* to date and includes the only other Middle French edition of the *Cité* aside from the Carraffi and Richards edition.

<sup>71</sup> Curnow, *Cité Des Dames*, 289. For a discussion of the original manuscripts of the *Cité* see, Christine Reno, “Les manuscrits originaux de la *Cité des dames* de Christine de Pizan,” in *L’écrit et le manuscrit à la fin du Moyen Âge*, eds. Tania Van Hemelryck and Céline Van Hoorebeek (Turnhout: Brepols Publishers, 2006), 267-276.

<sup>72</sup> Curnow, *Cité des Dames*, 289-91.

<sup>73</sup> Curnow, *Cité des Dames*, 295-6; Brown-Grant, *Christine and the Moral Defence of Women*, 174. Brown-Grant argues that Christine was quite careful to take her audience into account, and the *Cité* was specifically addressed to women.

women readers were depicted in manuscript images and how they were addressed as owners of books, Renck concludes that ‘members of the female sex were, in fact, expected to read’.<sup>74</sup> Depictions of female readership modelled ‘reading practices’ but also opened the door for women to act as interpreters and ‘create meaning in the literary works for themselves’.<sup>75</sup>

Christine de Pizan’s versions of Lucretia and the Galatian Queen could have been ‘conceptual tools’ through which her readers understood their own reactions to gendered violence and living in a rape culture.<sup>76</sup> The readership of the *Cité* was mostly comprised of noblewomen, and Christine’s examples of rape victims/survivors were themselves noblewomen, who despite their status were still subjected to rape. Christine could have been influenced by rape cases of her time that included revenge, violence, and force as reactions to rape, or knowledge of the type of gendered violence that women of her social class experienced.

Lucretia’s story served to demonstrate that women did not want to be raped but it also could have provided comfort to its female readership. Lucretia’s story could have reassured them that immense emotional pain after rape, or other gendered violence, was an appropriate reaction. Lucretia’s story emphasizes the importance of verbal consent and the fact that verbal coercion counted as rape, suggesting that there existed an alternative rape narrative to that of force and resistance. This may have resonated with noble women readers of the text who themselves may have been subject to coerced consent in their marriages. Women readers of the *Cité* may have integrated this into their world view or used it when forming opinions about rape. If they felt

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<sup>74</sup> Renck, *Female Authorship*, 221.

<sup>75</sup> Renck, *Female Authorship*, 222.

<sup>76</sup> Edwards, *Afterlives*, 3 for “conceptual tools.”

anger over rape more so than sadness, then Christine's Galatian queen possibly offered them an outlet for that rage, or helped them understand why some women reacted violently to rape. Furthermore, whether or not they had experienced sexual violence, the Galatian queen may have validated any feelings over how deeply wrong rape was, or made them think critically about how rape often went unpunished. The Galatian queen, though upset, felt no shame over rape as Lucretia did. That Christine allowed the Galatian queen to kill the centurion herself meant that retribution after rape was located in the hands of the victim/survivor, rather than in the hands of her family. Finally, Christine's section on sexual violence directly argued that rape was wrong and that men were at fault for it, which would have provided women readers with a positive message about the meaning of their own actions in a rape culture.

Christine de Pizan and women such as Perrote Turelure, Marion du Cyne, and Marion la Garniere were drawing on a discourse which acknowledged that sexual violence was deeply painful, that violent resistance to it was justifiable, and that women were not at fault for rape. The authors of remission letters included the supplicant, their family, the notary, and possibly legal counsel, demonstrating that this discourse was readily available. However, control over the narrative allowed Christine to write the Galatian Queen as unfailingly virtuous even as she slit her rapist's throat, and allowed her to direct this advice towards similarly chaste, noble, and virtuous women. But the facts of life were far messier. All women, regardless of class, station, and sexual promiscuity, could be subject to rape, and what is clear from the record is that no single type of women objected to it and sought justice. Murdering one's rapist, and thus protecting oneself and forcefully rearticulating one's right to consent, was not an action only

available to women of status and virtue like the Galatian Queen. Both Perrote Turelure, virginal and innocent, and Marion la Garniere, unmarried, sexually active, and poor, took part in murdering the men who attempted to rape them. These remission letters reflect a world in which women cared deeply about their ability to consent, and knew well that if they wanted protection from sexual violence they had to enact it for themselves.

### *Consent Defined Clearly & Rape Reported*

However, not all women were able to protect themselves; not all women could try to violently defend their non-consent. What the letters of Perrote Turelure, Marion la Garniere, Marion du Cyne, and Belon Chipaut have in common is that they were written in order to exonerate the victim/survivor of a rape, and thus prioritize her right to consent. But as Thomas Nepveu's letter demonstrates, remission letters written for rapists could present the non-consent of the victim/survivor as the catalyst for rape. The letter of Thevenin le Bourguigon, who was accused of raping Jehanette le Boucher in 1350, offers insight into both perspectives.<sup>77</sup>

Both parties were around the age of fifteen. Thevenin wanted to have sexual relations with Jeannette, and he did: 'Et icelle eust cogueut charnelment et eust fait sa volonte au champs [And he knew her carnally and did as he willed in the field]. But according to Jeanette, the sex they had was not consensual and she reported the crime to the justice: 'Thevenin la avoir efforce outre son gre et sa volonte' [Thevenin had raped her against her will and choice]. Because of her complaints, Thevenin was detained at the local prison and was condemned to death. The letter is

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<sup>77</sup> AN JJ 78, f.139v, no. 251, 1350.

written by his ‘amis charnelz’ who hoped to get him pardoned based on the ages of both teenagers involved, and because as they explained, he could not have possibly raped her.<sup>78</sup>

Rather uniquely, the letter provides two descriptions of a single sex act, one from the perspective of the accused rapist’s family and one from the victim/survivor, and thus offers insight into multiple ways that consent was constructed. Both versions were likely included in order to show that while Jehanette had reported the sex as rape to the justice, it had, by Thevenin’s account, been consensual. The phrase ‘sa volonte’ is used to indicate some aspect of sexual intercourse, and even consent, in both descriptions. First it is used in the description of Thevenin’s actions, as we are first told that he ‘eust cogneut charnelment’ [knew her carnally] and then that he ‘eust fait sa volonte’ [did as he willed]. Gravdal identifies *faire sa volonte* as one of the ‘periphrastic’ ways that Old French indicated rape.<sup>79</sup> Here, in Middle French, it might have been doing something else, as the letter also claims that Thevenin could not have raped Jehanette due to their ages. The authors of the letter might have used ‘eust fait sa volonte’ simply to convey that Thevenin consented and wanted to have sex with Jehanette, and that his carnally knowledge of her was by his own will and his own doing. But they also may have included the phrase because they knew it was used to imply rape, especially in literary forms, and sought to avoid completely lying about Thevenin’s actions. The phrase ‘eust cogneut charnelment et eust fait sa volonte’ was less explicitly violent than phrases such *eust cogneut charnelment oultre son gre et volonte* [he knew her carnally against her will and choice] would have been, and yet it still tacitly

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<sup>78</sup> AN JJ 78, f.139v, no. 251, 1350.

<sup>79</sup> Gravdal, *Ravishing Maidens*, 2.

sustained the possibility of guilt. Both meanings—that Thevenin did as he wished because he wanted to have sex with Jehanette, and that he forcibly raped her—exist here and serve to displace the blame from rapist and onto victim/survivor. If Thevenin merely wanted to have sex with Jehanette, then, much like Denise and Thomas Nepveu, her non-consent was what made the act rape, rather than his ill intent. He consented with his ‘volonte’ to the act, but she did not. Non-consent, while potentially powerful when it was respected or when it was backed by violence, could be twisted into something that blamed victims/survivors for the rape they had endured.

Jehanette la Boucher, however, clearly did define the act as rape, and understood that what had occurred was against her consent, demonstrated by her report that Thevenin had ‘efforce oultre son gre et volonte.’<sup>80</sup> The dual description of the crime using *volonte*, once from Thevenin’s point of view, and then again from Jehanette’s, gets to the heart of what rape actually was and is. Thevenin, the rapist, did as he willed, raping Jehanette. And Jehanette did not consent, and did not want to have sex with him. Her *volonte*, her will, was ignored, and then forcefully violated. But the letter used this dual description to portray Thevenin as innocent, as Jehanette’s report more explicitly acknowledged the crime. In addition to this, the letter asked that the Chancellery consider the ‘aage des dis Thevenin et jehanette et considerans par presumpcion semblable a verite il ne la peust avoir efforcie oultre son gre [the age of the said Thevenin and Jehanette and drawing the likely conclusion that he could not have raped her against her will]. And yet, despite their ages, Jehanette was able to identify what had occurred as

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<sup>80</sup> AN JJ 78, f.139v, no. 251, 1350.

rape and reported it. Neither Jehanette nor Thevenin is presented as having the inability to consent or as not understanding what sexual intercourse involved, and yet their young ages are what the letter's argument hinges on. Porteau-Bitker, in examining the same case as part of her larger study, interprets the reasoning as being that Jehanette was old enough to know to resist, and thus Thevenin could not have raped her.<sup>81</sup> Alternatively, the implication could be that Thevenin was too young to control himself. Perhaps the expectation was that Jehanette, like Perrote Turelure, should have prevented the rape from occurring in the first place. That it happened at all perhaps implicitly signified her consent to the ordeal. Regardless of what exactly the authors of the letter wanted the Chancellery to believe, the letter is layered with multiple messages about consent and sexual violence that together tell a story in which it is impossible for Thevenin to truly have been guilty of rape.

For the purposes of this project, which locates the most central and important aspect of the study of sexual violence as being the perspective of the victim/survivor, Jehanette's interpretation of the event as rape marks it as unequivocally rape, regardless of how Thevenin, or his relatives for that matter, decided to frame it. But Jehanette and Thevenin's letter demonstrates that while medieval women and teenage girls had the ability to understand their own consent and report violations of it, articulations of non-consent were not all powerful. It could be rendered useless by men who refused to listen, and could be twisted by narratives that prioritized a man's consent and desire for sex over a woman's non-consent. And even if it was clear, that did not necessarily matter, nor, as we will see, did it prevent rapists and legal authors from framing the

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<sup>81</sup> Porteau Bitker, "La justice laïque," 524-5.

violations as unclear or in fact consensual. Women might have thus felt that preventing rape by murdering the rapist or killing him after the fact was actually the best course of action, as it unequivocally demonstrated that they had not consented. Cases like that of Perrote Turelure, in which the entirety of the narrative is told either from her perspective or to bolster her claims, are rare and noteworthy because the victim/survivor's ability to consent aligns with the narrative aims of the letter. In trying to demonstrate that she was not at fault, even someone like Marion du Cyne, who had had an extra-marital affair, was presented as having control over her own ability to consent. If the letters involving victims/survivors who murdered their rapists and Christine de Pizan's Galatian queen demonstrate that a woman's ability to withhold consent could be constructed as the most important determining factor for calling something rape, then Thevenin and Jehanette's letter demonstrates that it could also be completely ignored in favour of prioritizing a different version of events.

Women and teenage girls like Perrote Turelure and Jehanette la Boucher, and perhaps those members of their families who supported them in reporting rape and seeking remission, thus viewed their own consent as something belonging fully to themselves, but they were not always treated as if it this were the case. This may seem like an obvious conclusion to draw, but it is no small thing that women who were subjected to sexual violence and its trauma, and who lived in a society which often sought to legally define their ability to consent based on how they outwardly fought male sexual advances, still retained the ability to define their own consent based on how they perceived their own experiences. It is for this reason that even the briefest glimpse into Cecily Champaigne's experience with rape offered by the words 'de raptu meo' in

her quitclaim of Geoffrey Chaucer is noteworthy.<sup>82</sup> She believed herself to have been raped. This is important in the face of documents like Thevenin's letter which seek to make a woman's interpretation of her own experience with rape irrelevant, and it is important in the face of historicizing pressure to prioritize male experience over female pain, as many scholars have done with Chaucer. As laid out in Chapter 1, emotions, and consequently the self-perceived ability to consent, may be culturally and socially constructed artifacts that pull the individual to think about themselves in a certain way, but this does not negate the individual's ability, as Gavey put's it, to pull back against these forces.<sup>83</sup> Rape culture, in other words, does not prevent people from thinking outside its bounds. Perrote Turelure, Marion la Garniere, Marion du Cyne, and Belon Chipaut may have been pulled quite firmly in the direction of believing that sexual violence perpetrated against them was a result of their actions, but they were also clearly able to act outside of this paradigm. Or, perhaps they had been pulled in the direction of conceptualizing rape and the proper response to it through stories like that of the Galatian Queen, and Lucretia. These letters, and how each one uniquely narrativizes a similar story, demonstrate that each victim/survivor believed in her own right to consent, and when that consent was either threatened or violated, she also believed in her right to fight to protect that consent. Rape was often very violent, but so too was non-consent.

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<sup>82</sup> Crow and Olson eds., *Chaucer Life-records*, 343.

<sup>83</sup> Gavey, *Just Sex*, 94.



### Chapter 3: Consent Questioned

In 1385 Jacquette Turbete took Robin Jolis to the diocesan court in Paris, claiming that he had deflowered her and promised her marriage.<sup>1</sup> Promises of marriage in the future tense, followed by sexual intercourse should have formed a binding marriage contract.<sup>2</sup> Robin, however, would only confess to the sexual intercourse, and not to the defloration nor to the marriage promises. He could not prove that Jacquette had been deflowered by another and so the court ordered him to either take her as his wife or to pay her a sum that was in accordance with their status.<sup>3</sup> He ended up paying her a sum of 6 *francs* for the deflowering.

It is unclear if Robin actually promised marriage to Jacquette, though the court took her claim seriously. Jacquette may have had sex with Robin because she wanted to and then lied to the court about the marriage promises between them. We also cannot know if she had ever had sex with someone else prior to Robin. However, if we take her on her word (and I am inclined to), then Robin's promise to her could have been coercive, as she may have only had sex with him because he offered to marry her. For a woman like Jacquette, who was still a virgin, having sex with Robin wasn't necessarily something she did lightly, even if it was perhaps something she truly wanted. Ultimately, their sexual relationship did not result in an outcome that Jacquette

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<sup>1</sup> Paris had the court of the bishop's official (the officiality), three archidiaconal courts, and several special jurisdictions, Charles Donahue, *Law, Marriage, and Society*, 302. The officiality of Paris survives in AN . I make use of the printed edition here, Joseph Petit, *Registre des causes civiles de l'officialité épiscopale de Paris, 1384-1387*. Each page is divided in four enumerated columns. I cite the cases as Donahue does, using the column number and the number of the case. For example, Jacquette and Robin's case is Column 73, case 2, cited as Column 73/2.

<sup>2</sup> X. 4. 1. 15, canon law citations from Emil Friedberg, *Corpus Iuris Canonici*, (Union, N.J.: Lawbook Exchange, 2000).

<sup>3</sup> Petit, *Registre*, column 73/2. The Latin here reads that Robin is condemned to 'dotaudum ipsam secundum facultatem et statum utriusque partis' [endow her in accordance with the means and status of each party]. There are indications that the court ordered fines in accordance with how much the party could pay, Donahue, *Law, Marriage, and Society*, 357.

found she wanted, and as demonstrated by the fact that she made a claim in court, she felt as if Robin had wronged her. The question with which this chapter wrestles, in examining cases like Jacquette's and others, is whether women embroiled in such relationships found the actions of the male partners to be sexually violative and/or harmful. In examining those sex acts that fell somewhere in the middle between consensual and non-consensual, I probe how medieval rape culture affected and shaped heterosexual relations, often making women's choices in sex and marriage less free and equal than their male partners'.

This chapter gathers together several different source types in order to examine a variety of sex acts. First, I use records from the Paris officiality to examine cases of future promises to marriage that were then followed by sexual intercourse. These cases include men and women with unequal knowledge of the laws around making marriages and different expectations of what would happen when they had sex, which often fell along gendered divisions. There are hints in some of these cases that women were coerced into sex by the promise of marriage. Further, there are cases in which the combination of defloration and pregnancy had potentially devastating social effects. Women thought of defloration as harmful, especially when it was followed by broken promises of marriage and the financial difficulty of raising a child.

But if consent could be coerced or undermined by broken promises of marriage, women found that once they were married, so too could their consent be manipulated and violated by their husbands. I turn to discussing sex within marriage, using letters of remission that contain instances of spousal sexual abuse to examine how the conjugal debt shaped heterosexual marriages and created spaces in which wives were sexually abused. What comes to the forefront in these letters is that both married women and their communities understood that marriages

could in fact be sexually abusive, and that this abuse was harmful and wrong. Despite not using the language of rape as those letters featured in Chapter 2 do, this body of evidence still contains language of consent, resistance, and survival in the face of sexual violations. Finally, I turn to the miracle play *L'enfant donné au diable* to explore how medieval audiences might have understood the conjugal debt as harmful in certain situations and thus may have been more understanding of couples who shirked their conjugal duties.

Rape may have been defined narrowly in the Middle Ages and signified by certain actions—abduction, forceful intercourse, violence, locale, crying out and so on—but these actions were not the only things that medieval women believed to be harmful. The way that marriages were contracted created spaces in which sex and marriage could more easily be leveraged and coerced, and women were at a disadvantage to their male partners. Similarly, within marriage women understood that they were meant to adhere to the conjugal debt, but they also understood that their husbands could be sexually abusive. Medieval women thus conceived of the men closest to them—their chosen sexual partners and husbands—as having the potential to be sexually abusive and harmful, and of even consensual sex as having the potential to be dangerous.

### *The Rules of Marriage*

Consent to marriage and its subsequent consummation are equally important for the purposes of this chapter, due to the fact that canon law on marriage inextricably linked them. The rules for contracting a marriage in the Christian world were codified by Pope Alexander III in the

canon *Veniens ad nos* sometime prior to his death in 1181.<sup>4</sup> *Veniens ad nos* was included in the *Decretals of Gregory IX*, known as the *Liber extra*, a collection of decretals which Gregory IX ordered compiled and then published in 1234. The *Liber extra* was taught widely in canon law faculties post-publication.<sup>5</sup> Before this, canonists were split over whether consent or consummation was more important in making a marriage. Gratian's *Decretum* suggested that consummation was the most essential component of a binding marriage contract, though he also did not ignore the importance of consent. Even if marriage promises were made, they could be broken if the union had not been subsequently consummated.<sup>6</sup> Peter Lombard (ca. 1095-1160), a French theologian, believed that mutual, freely given present consent made for a binding marriage contract. Consummation was only legally important if a couple promised to marry one another at some point in the future, otherwise, sexual intercourse was irrelevant. This theory became quite popular among canonists in Paris.<sup>7</sup> In *Veniens ad nos*, Alexander III made freely given consent the most central aspect of contracting a marriage, but accorded a great deal of importance and binding power to consummation as well. Following Lombard, he split consent into two forms: present consent (*verba de praesenti*) and future consent (*verba de futuro*). Present consent involved a couple freely agreeing to marry at once; such a marriage was valid from the moment they exchanged mutual consent. Future consent involved a couple agreeing to marry at some point in the future; marriages made this way became legal as soon as they had

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<sup>4</sup> X. 4. 1. 15.

<sup>5</sup> Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts* (Chicago: University of Chicago Press, 2008), 250.

<sup>6</sup> C. 27 q. 2 c. 33-34, d.p.c. 34; James Brundage, *Law, Sex and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 236.

<sup>7</sup> Peter Lombard, *The Sentences*, trans. Giulio Silano (Toronto: Pontifical Institute of Medieval Studies, 2010), 4.27.2-5, 4.28.3; Brundage, *Law, Sex and Christian Society* 264.

sexual intercourse.<sup>8</sup> There were few ways to dissolve marriages, including if the couple mutually agreed to enter into religious life prior to consummation or if one spouse was absent in such a manner that it was reasonable to assume they were dead.<sup>9</sup> Once a union had been consummated, thereafter the couple owed one another sex for the rest of their marriage—the conjugal debt.

Whether or not a promise of marriage was considered to be present or future was not always clear. As Donahue outlines, ‘I take you as husband/wife’ was used for present consent while ‘I promise to take you as husband/wife’ was used for future consent. However, future promises of marriage could be expressed without specifying a time period, which made determining intention difficult for courts.<sup>10</sup> Additionally, future promises and present consent could both be expressed in private with no witnesses. Because Alexander III’s decretals emphasized free choice in marriage as being of the utmost importance and nullified consent in the face of extreme familial pressure and coercion, an ‘inescapable consequence... was the sanction it gave to marriages covertly contracted’.<sup>11</sup> This marked a serious departure from the prevailing opinion of Gratian, who was more willing to consider the family’s wishes in making a marriage. Clandestine marriages were just as legal as those made in public with witnesses, though they were difficult to prove and presented problems for individuals and couples.

There were few ways to prove that a marriage had occurred when there were no witnesses to it, and as such the Parisian diocesan court frequently decided cases in which one party denied the existence of a marriage (like Robin did) with the decisory oath.<sup>12</sup> When a

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<sup>8</sup> X. 4. 1. 15; Brundage, *Law, Sex and Christian Society*, 334.

<sup>9</sup> X. 4. 1. 16, Brundage, *Law, Sex, and Christian Society*, 334.

<sup>10</sup> Donahue, *Law, Marriage and Society*, 17-18

<sup>11</sup> Brundage, *Law, Sex, and Christian Society*, 335.

<sup>12</sup> Donahue, *Law, Marriage and Society*, 311. Both Donahue and Ruth Mazo Karras call it the decisory oath; the documents just use ‘juramentum’ to describe the oath. Karras, “Telling the Truth about Sex,” 65-81.

plaintiff was unable to produce witnesses, or the witnesses did not decide the case, the plaintiff could defer the oath to the defendant, essentially letting them decide the outcome of the case. The defendant would consider whether or not they wanted to put their soul in jeopardy by lying. If they swore that they were not culpable they would usually win the case, but if they refused the oath then the plaintiff might win.<sup>13</sup> As we saw in Jacquette and Robin's case, clandestine marriage promises were not always honoured, nor did the court always end up forcing a couple to marry. Robin was allowed to pay Jacquette a sum of money. However, being able to contract a marriage in private could also help couples rather than hinder them. With no witnesses, and if they had not registered the marriage with the church, they could theoretically separate later on.

The first section of this chapter probes whether the link between consent to marriage and consummation produced instances of coerced consent to sex, or even non-consensual sex between fiancées. Single people and couples had different ideas than the church did about when and how they had sex with one another, regardless of the marriage they were already in or the one they had promised themselves to. Brundage notes that 'legal writers generally agreed that it was rape to have sex with one's fiancé by force, but that forcible coitus with one's wife was not a crime'.<sup>14</sup> This accounted for forcible violent rape between fiancées, but it did not account for instances of non-violent coercion, or the fact that individuals may have felt pressure to consummate their unions before they really wanted to.

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<sup>13</sup> Karras, "Telling the Truth about Sex," 71.

<sup>14</sup> Brundage, *Law, Sex, and Christian Society*, 532.

### Knowledge of the Courts

An essential component of studying the Parisian register is determining the level of knowledge people had about how a marriage could be contracted and then negotiated in court. As the plaintiff, Jacquette clearly understood that sexual intercourse, in conjunction with any promises of marriage, made a binding marriage contract. She also risked her social standing by trying to force his hand in court, as she admitted that she was no longer a virgin.

If Robin Jolis did not understand (though it's highly unlikely that he did not) that promising to marry Jacquette Turbete and then having sex with her made for a binding marriage, then his actions cannot be read as intentionally manipulative.

Frederick Pedersen has argued that the laity in the North of England in the fourteenth century 'had a knowledge of the basic facts of canon law rules of marriage' and that they understood that the particular words they used to establish a marriage affected its legality.<sup>15</sup> A few cases from the York Cause Papers demonstrate that some individuals had a more nuanced understanding of the law, such as Elizabeth Lovell and Simon Lovell, who used the court to enforce their marriage, in the face of their families' disapproval.<sup>16</sup> Given the high rate of illiteracy among the laity, Pedersen proposes that knowledge of law could have come from the 'instruction of their parish priests or from their confessors'.<sup>17</sup> He also argues that it was important that the laity have a basic understanding of the impediments to marriage, as otherwise the practice of having marriage banns read in court and thus giving people the opportunity to speak up against marriages they felt could not occur would have been ineffectual. Additionally,

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<sup>15</sup> Frederick Pedersen, "Did the Medieval Laity Know the Canon Law Rules on Marriage? Some Evidence from Fourteenth-Century York Cause Papers," *Mediaeval Studies* 56 (1994): 129.

<sup>16</sup> Pedersen, "Did the Medieval Laity," 130.

<sup>17</sup> Pedersen, "Did the Medieval Laity," 147.

priests were meant to teach people the proper words to use to contract a marriage, and the cases Pedersen examines demonstrate that people attempted to use the standard canonical formulations, even if they were not always entirely successful.

Karras has examined the varying levels of knowledge that the laity in late medieval Paris possessed. For example, Marianne la Pierresse knew enough about the law to wait until after the death of her long-term partner's wife to try and get the court to enforce a marriage between them. If, however, she was truly seeking a marriage, and not just a settlement (which she received), then she did not know enough to specify that the marital promises between her and her partner had occurred after his wife's death.<sup>18</sup> Others knew which specific words and tenses were necessary to create a binding marriage, but not every marriage was contracted in this way, and not everyone seems to have understood the importance of using traditional wording in order to avoid any ambiguity.<sup>19</sup>

Kristi DiClemente has argued that the laity using the Paris officiality in the fourteenth century, and specifically women, understood the rules around contracting marriage and especially so the importance of consent.<sup>20</sup> In several cases DiClemente cites, women were able to avoid marriages they did not want by denying that they had entered into a verbal contract, which they knew mattered to the court.<sup>21</sup> Further to this, she finds that women, both as defendants and

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<sup>18</sup> Ruth Mazo Karras, *Unmarriages, Women, Men, and Sexual Unions in the Middle Ages* (Philadelphia: University of Pennsylvania Press, 2012), 172-3

<sup>19</sup> Karras, *Unmarriages*, 177.

<sup>20</sup> Kristi DiClemente, "Consent And Coercion: Women's Use Of Marital Consent Laws As Legal Defense In Late Medieval Paris," in *Litigating Women Gender and Justice in Europe, c.1300-c.1800*, eds. Teresa Phipps and Deborah Youngs (New York: Routledge, 2021), 37. See also, DiClemente, "Agency and Expectations: Women's Experiences in Marriage Disputes in Fourteenth-Century Paris," (PhD diss., University of Iowa, 2015).

<sup>21</sup> DiClemente, "Consent and Coercion," 39.

as plaintiffs, were more likely to have witnesses than men were, suggesting that women had help from others when they went to court.<sup>22</sup>

The individuals who appear in the Paris register understood what rights were accorded to them in making a marriage, and even if they did not understand all of the intricacies of canon law, they were often able to successfully wield their knowledge. It is clear that these men and women had no issue revoking and negotiating consent to marriage and sex even after future promises had been made. What makes the cases in the Parisian register useful here, even in their brevity, is that they represent one city's dealings with marriage over a short span of years, meaning that the legal knowledge we see represented in the cases was probably knowledge that was circulating between residents.

The bulk of the cases that I am using from the Paris register involve allegations of future marriage promises followed by sexual intercourse. There are 37 cases of this type, and in 30 of these the plaintiffs are women. In contrast, there are only three in which men were plaintiffs, though they made up the bulk of plaintiffs in cases of future promises that did not involve sexual intercourse.<sup>23</sup>

### *Knowledge Leveraged and Consent Renegotiated*

Differing levels of knowledge of marriage laws produced instances in which individuals seem to have been unsure of what exactly they were consenting to when they had sex with their partner or intended spouse. For instance, in the 1386 case of Colette de Treppe and Guillaume de

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<sup>22</sup> DiClemente, "Consent and Coercion," 43.

<sup>23</sup> Donahue, *Law, Marriage and Society*, 310, 345.

Ruppe, Colette seems to have possessed a greater knowledge of the law than Guillaume, but it is difficult to determine who was consenting and to what, and what each party expected of the other. Colette alleged that she and Guillaume had made promises of marriage to one another, and then had sexual intercourse. Guillaume responded that he had promised marriage to her, but on the condition that her mother provide a dowry of ‘xx fr., et unum lectum furnitum, et medietatem omnium utensilium ipsius matris’ [twenty francs, a furnished bed, and half of all the mother’s moveable goods].<sup>24</sup> Guillaume was ready to solemnize the marriage but only if the conditions of the dowry were met, however, ‘dicta actrice dicente conditionem esse purificatem per carnalem copulam’ [the said plaintiff (Colette) said that the condition was met by the sexual intercourse].<sup>25</sup> As Donahue points out, Colette’s understanding of the law was correct, but Guillaume’s was not. She knew that they were married after the sexual intercourse had taken place, but Guillaume seems to have thought that he could still leverage the conditions of the dowry. They had both consented to the marriage, but with a different understanding of how it would be created, and they had both consented to sex it seems, but again, with a different understanding of what that consent would result in. Colette understood the sexual intercourse as an act of marital consummation; Guillaume understood it only as sexual intercourse. Donahue notes that Colette’s behaviour was ‘underhanded’ if she understood the law at the time, and had sex with Guillaume in order to create a binding marriage between them.<sup>26</sup> But there are a few other ways to read her behaviour: she may have been informed about the law after the fact, or she could have thought Guillaume understood the law as well as she did. She could have viewed

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<sup>24</sup> Petit, *Registre*, column 264/6. The whole case appears translated in Donahue, *Law, Marriage, and Society*, 346.

<sup>25</sup> Petit, *Registre*, column 264/6.

<sup>26</sup> Donahue, *Law, Marriage, and Society*, 346.

the sexual intercourse as being representative of a further commitment on his part, marriage aside.

What is strange in this case is that Guillaume confessed the intercourse easily—Donahue labels it a ‘boast of his conquest’—even though that was what Colette was taking him to court for.<sup>27</sup> Did he truly not understand the law, even as he stood before the judge and confessed to the *carnali copula* [sexual intercourse]? It is more likely that he was trying to get the court to enforce the dowry conditions, and perhaps even hoped that the court would not view his consent to the marriage as truly freely given, considering that he only consented on the condition of the dowry. Guillaume, it would seem, was unaware of the fact that in a conditional marriage contract, sexual intercourse was still binding even if the conditions had not been met.<sup>28</sup>

The entire struggle between Colette and Guillaume was likely about the dowry: worrying about her mother’s ability to provide for it, Colette may have had sex with Guillaume as a way of ensuring that Guillaume would not renege on their marriage promises and that the court would enforce their marriage. And Guillaume may have had sex with Colette both knowing that it would solidify the marriage contract, and with the expectation that she would honour the dowry arrangements. Sex that had likely been completely consensual could then be used later as leverage in court with the terms of what that consent meant renegotiated. Can we call Guillaume’s consent to sex with Colette freely given if he did not understand that its result would be marriage? And of Colette’s consent, if she thought Guillaume understood the law as well as she did, then how did she feel when he did not treat the marriage as solemnized? She might have

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<sup>27</sup> Donahue, *Law, Marriage, and Society*, 346.

<sup>28</sup> X 4.5.3; Brundage, *Law, Sex, and Christian Society*, 335.

felt taken advantage of, coerced, and/or misled by her intended. Guillaume may have felt the same.

No clear answers to these questions can be gleaned from this case, but what it does demonstrate is that one result of the church's adoption and enforcement of the rule of future consent was that not all individuals equally understood the implications of consenting to sex. If Guillaume did not understand the law of *de futuro* [future] promises plus *caruali copula* [sexual intercourse] but Colette did, then their ability to consent to the interaction was not completely equal. And since Colette could have reasonably expected Guillaume to have the same knowledge that she did about marriage, we cannot label her as an aggressor. The fault here, if we must assign one, seems to lie with the law itself and the fact that not all individuals had the same level of knowledge. There must have been many couples like Guillaume and Colette, caught between wanting to be married, but perhaps not right away, and also wanting to have sex. These instances demonstrate that consent does not occur within a vacuum, but is instead affected by the cultural, social, and legal forces that are exerted on the individuals involved. By making sexual intercourse the point at which a binding marriage could be created, the church limited an individual's ability to consent freely to sex.

I have framed this case mostly in terms of Guillaume's potential lack of knowledge, and Colette's clear understanding of the law. But there were other factors aside from legal knowledge that affected their consent. Colette, as a woman, had more to lose than Guillaume did from extramarital sex. In making the matter known in court, Colette ran the risk of losing the case and being forced to pay a fine with no enforcement of her marriage to Guillaume. She would have been theoretically free to marry again, but having admitted the sexual intercourse in court she

could no longer claim to be a virgin. Guillaume, on the other hand, was clearly not worried about people knowing he had had extramarital sexual intercourse. He may have expected or hoped that the court would side with him due to his gender. Ultimately, by ensuring that she understood the church's law on *de futuro* marriage, Colette wielded more power in their sexual interactions than she otherwise would have.

In some instances, both parties attempted to leverage their knowledge of the law and access to legal counsel in order to renegotiate their consent to sex and marriage through the court. In the 1385 case of Jeanette de Marcheis and Martin Sapientis, both parties had enough money to use legal counsel and Jeanette bore the title of *Damoiselle*, indicating elevated status.<sup>29</sup> Jeanette proposed *de futuro* marriage promises followed by *copula*, and Martin confessed to the sexual relationship but not to the marriage promises.<sup>30</sup> Jeanette had five witnesses, but their testimonies did not prove to the court's satisfaction that Jeanette and Martin had contracted a marriage, and she deferred the oath to him. He swore that they had not contracted marriage. They both had to make amends for what the court called 'concubinatum' which suggests that they either cohabited or had some other type of long-term relationship.<sup>31</sup> Other places in the register, 'concubinatum' is used to indicate a sexual relationship during which the couple was cohabiting and a sexual relationship that was adulterous.<sup>32</sup> Jeanette may have thought that they would eventually marry, and Martin may have promised her just that, but in court Martin had the same knowledge of the law as she did, and thus Jeanette was unable to leverage her knowledge in the way that Colette had against Guillaume. Jeanette and Martin seem to have used the court as a way of making line

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<sup>29</sup> Petit, *Registre*, column 215/5.

<sup>30</sup> Petit, *Registre*, column 212/1.

<sup>31</sup> Donahue, *Law, Marriage, and Society*, 351.

<sup>32</sup> See Petit, *Registre*, column 27/4 and 485/3 for examples of 'concubinatum'.

of consent more clear. Of course, it was the meaning that the church attached to sex, and the fact that it could create a marriage, that made consent and sex so fraught to begin with. But unlike Colette and Guillaume, Jeanette and Martin seem to have had equal knowledge of what their consent to sex might mean and that it could create a marriage. Their problem seems to have been determining what that consent meant for their future together, rather than what sex itself could mean. Jeanette wanted her consent to sex to mean marriage; Martin did not, and the court sided with him.

The *ex officio* case of Marguerite d’Auvers and Jean de Veteripointe underscores the excessive influence the court had in couples’ lives, but also indicates that the court could have provided couples with a route to ending or renegotiating the terms of a relationship. Each party quitclaimed (released) the other from any charges that they might have brought. With little context given, we are told that Marguerite released Jean from any claim to a salary and he released her from any claim whatsoever.<sup>33</sup> They both admitted to having had sex, and paid a fine for ‘concubinatum’, but they also stipulated that they never made marriage promises to one another. They then chose separate homes to live in, though these homes were ‘within walking distance of one another’<sup>34</sup> Marguerite and Jean did not want to marry, nor did either party try to coerce the other into marriage. Marguerite, if she was a servant or employee of Jean’s, did not even want to claim a salary from him, possibly because she did not want their sexual relationship to be put down as one involving monetary exchange in the court register. By not claiming a salary, even one she was owed, she perhaps asserted the equal nature of their sexual relationship.

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<sup>33</sup> Petit, *Registre*, column 27/4.

<sup>34</sup> Donahue, *Law, Marriage, and Society* 347.

She was not a servant taken advantage of or a sex worker, rather, she was an equal player in her sexual relationship with Jean. Alternatively, Jean could have convinced her not to lay claim to any salary, and she might have been happy to be rid of his employment. The court forced them to separate their living quarters, ensuring that they were not flouting the rules completely, but we cannot know if Jean and Marguerite continued their relationship after the case concluded. That neither wanted to hold the other accountable for anything perhaps indicates that if the case had not been brought to court, they would have continued to live together. We have no way of knowing if they wanted to continue living together or if Marguerite was actually his servant and wanted to leave. If the former, then the court effectively separated a couple who wanted to stay together but remain unmarried. If the latter, then the court provided a framework for Marguerite to escape a sexual relationship with her employer, without upsetting him or owing more than a *franc* in fines. Neither Jean nor Marguerite was the plaintiff, but they both could have leapt at the chance to settle the end of a relationship in the most official way possible and used the court to do so.

The law and the courts limited individuals' ability to consent to sex freely, unhindered by the spectre of marriage. Women, however, had much more to lose when consenting to sex. While Colette de Treppe was able to use knowledge of the law to make a marriage after having sex with Guillaume, others like Jeannette de Marcheis were not so lucky and instead may have borne the consequences of admitting to a sexual relationship in court. Still, the court also provided individuals with a structure in which they could formally renegotiate sexual relationships, perhaps giving them the clarity they sought in their partnerships.

### Imbalances of Power

The rather grave consequences a woman might face after claiming *de futuro plus copula* in court can be seen in the 1386 case of Cassotte la Joye and Jean Ayore. Cassotte claimed ‘sponsalia per verba de futuro cum carnali copula secuta ac defloratione et prole suscepta’ [spousals by future words followed by sexual intercourse and defloration and offspring].<sup>35</sup> Jean confessed to the sexual intercourse and the offspring, and Cassotte deferred the oath to him on the issue of marriage as she had no witnesses. The court decided the case in an unusual manner, absolving Jean despite his confession, but also stating that Cassotte was barred from impeding Jean any further, using the words ‘ne impediatur’. DiClemente interprets this as meaning that Cassotte could not try and prevent Jean from marrying someone else, despite the existence of a child.<sup>36</sup> This phrase is not used in any other marriage case in the register and in other cases involving defloration, like that of Jacquette Turbete, the male party bore the responsibility for demonstrating that the woman was not a virgin.<sup>37</sup>

Cassotte thus seems to have been treated differently from other women who came to court with similar claims. Donahue proposes that Cassotte’s surname might give us some insight into this, though he is vague as to how.<sup>38</sup> *Fille de joie* or ‘girl of pleasure’ now means sex worker, but it was more common in French at the time to use ‘fille de vie,’ ‘filles secrets,’ or ‘filles communes’ to designate sex workers.<sup>39</sup> The DMF lists the earliest instance of ‘fille de joie’ being used to mean sex worker as 1480, but it also notes that ‘joie’ could indicate an enjoyment of

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<sup>35</sup> Petit, *Registre*, column 405/3.

<sup>36</sup> DiClemente, “Agency and Expectation,” 114.

<sup>37</sup> Petit, *Registre*, column 73/2; Donahue, *Law, Marriage, and Society*, 352.

<sup>38</sup> Donahue, *Law, Marriage, and Society*, 353.

<sup>39</sup> Rossiaud, *Medieval Prostitution*, 7. See my Chapter 5, 260-62 for a discussion of this.

carnal love, and that it generally meant to take pleasure in something. When attached to Cassotte's name, 'joye' does not definitively indicate her employment as a sex worker, but it does still suggest that her neighbours viewed her as a woman of ill repute or as someone who enjoyed life and the company of men a bit too much. Furthermore, other names in the register, such as Maturinus le Masson, Jean le Megissier (tanner), and Annette la Bordiere (sharecropper), clearly indicate occupation, or were perhaps inherited.<sup>40</sup> Cassotte was not identified by being 'of' a certain area or with a unique surname, rather she was identified as being 'the joyous' or 'the pleasurable.' When contrasted with Jacquette's case, in which Robin was ordered to pay her or marry her because he could not prove she was not a virgin, it becomes clear that the court did not believe Cassotte was a virgin. And when combined with the fact that they ordered her to leave Jean alone, it is apparent they did not think she had legally contracted marriage with him either. In this instance, the court fully sided with the male party, leaving Cassotte unmarried and a single parent. That Jean would not marry Cassotte despite the existence of a child between them perhaps speaks negatively of his character, and that the court did not take the confession to the child as evidence that they had a long-term relationship, and thus that Cassotte was not necessarily lying about the *sponsalia*, further confirms the power imbalance in their relationship. Jean was both able to have sex with Cassotte and produce a child with her, while not being held accountable for either. Both Jean and Cassotte confirmed that Cassotte was a sexually active woman, and when she could not produce witnesses to the *sponsalia*, the court may have simply written her off as a sexually promiscuous woman, as her last name suggested she was.

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<sup>40</sup> Petit, *Registre*, column 430/2, 430/3, 142/1.

Cassotte and Jean seem to have had equal knowledge of the law, though he seems to have understood how to wield this information in court better than she did, as he confessed to the intercourse and offspring but not to the marital promises. Jean either knew that Cassotte was not likely to produce witnesses, or he was confident that the court would decide in his favour, defloration accusations aside. If Cassotte was a sex worker, or was known as a sexually active woman, she had a further disadvantage to Jean both in court and in wielding sexual and marital power outside of court. Cassotte was ‘multiply disadvantaged’ by her status as a woman, an unmarried person, and her occupation or reputation (whichever one ‘la Joye’ referred to).<sup>41</sup> Additionally, the added responsibility of caring for a child may have economically disadvantaged her. Cassotte’s lack of witnesses might indicate that she had no one to speak on her behalf; certainly her case does not mention support from her family or an advocate as other cases do.<sup>42</sup> Jean thus appears to have taken advantage of Cassotte’s limited capacity to offer free consent, as he likely held power over her in terms of social status, gender, and employment. His confession of the sexual intercourse and the child makes it seem as if he believed the court would side with him, indicating that he was perhaps aware of his status relative to hers.

Cassotte may have had sex with Jean because he promised her marriage, or because she did not feel as if she could reject someone of higher status. Furthermore, as Harris argues, all heterosexual encounters that take place within a rape culture are ‘inflected by the ineluctable threat of violence’.<sup>43</sup> This is especially true for marginalized women. If we take all that Cassotte claimed as the truth, then Jean had sex with her after promises of marriage had been made and

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<sup>41</sup> Harris, *Obscene Pedagogies*, 107.

<sup>42</sup> Case of Margot la Goudine, represented by a lawyer, Petit, *Registre*, column 400/1, and Florie la Closiere, column 381/4.

<sup>43</sup> Harris, *Obscene Pedagogies*, 105

then left her unwed, deflowered, and with child. The sex they had may have been consensual during the moment, but in taking the case to court, Cassotte indicated that something harmful had occurred. Based on her claim that they had made future promises to marry, she may have expected that her consent to sex, and to a defloration, would result in marriage, and when it did not, the act disadvantaged her far more greatly than it did Jean.

Cassotte and Jean's relationship demonstrates that consent can only go so far in terms of delineating what constitutes an ethical sexual relationship and what constitutes unethical, possibly violative sex. Consent could not do the work of ensuring that Jean was honest with her and it certainly could not bring her social status closer to his. It was also unable to ensure that an individual's expectations of what sex would result in were met. Jeanette de Marcheis wanted one outcome of her long-term relationship with Martin Sapiensis, and he expected something different, though they both consented to sex with one another. Colette de Treype wanted to marry Guillaume, and knew that the sex they had created a binding marriage, yet Guillaume consented to sex expecting a different result. As both Fischel and Srinivasan argue, consent is not the only standard we should be using for what constitutes permissible or ethical sex.<sup>44</sup> Relationships could be consensual, yet still complicated and made more so by the meaning that was attached to marital promises, sex, and the combination of the two. Furthermore, consent does not and did not encompass all that women felt was harmful, violative sex. Women like Cassotte sought out the court as a way of ameliorating sexual relationships that had been damaging.

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<sup>44</sup> Fischel, *Screw Consent*, Introduction; Srinivasan, *The Right to Sex*, 84.

While the church court offered a legal structure in which couples might work through issues around the meaning of sex, it was this very structure that caused some of the issues in the first place. Were it not for the court, Marguerite d’Auvers and Jean de Veteripointe might have continued to live together unconcerned about getting married. Similarly, women such as Jacquette and Cassotte, who both claimed *defloratio*, may not have gone to court over marital promises if their sexual choices had not already been so constrained and shaped by a culture that valued women’s chastity.

### Defloratio

There are other cases in the register like Cassotte la Joye’s that involve claims of both defloration and offspring and give us more insight into where defloration falls on the spectrum of consensual, ethical sex and harmful, violative sex. Perrote Turelure’s letter presented her virginity as integral to her honour and reputation, and as something worth physically defending.<sup>45</sup> Chastity was certainly highly valued, and as Ruth Karras has argued, there was little space for an unmarried woman to be sexually active without being labelled a prostitute.<sup>46</sup> McSheffrey found that in late medieval London, women feared they might lose ‘value on the marriage market’ due to gossip about their sexual activities, but that sexual activity outside of marriage did not always preclude them from making marriages later on.<sup>47</sup> Still, a woman’s reputation was constructed through other people’s knowledge of her sexual activities, and while a

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<sup>45</sup> AN JJ 127, f.58, no. 91b, 1385, see my Chapter 2, 104-112.

<sup>46</sup> Karras, “Sex and the Singlewoman,” in *Singlewomen in the European Past, 1250-1800*, eds. Judith M. Bennett and Amy M. Froide (Philadelphia: University of Pennsylvania Press, 1999), 129.

<sup>47</sup> Shannon McSheffrey, *Marriage, Sex, and Civic Culture in Late Medieval London. Middle Ages Series* (Philadelphia: University of Pennsylvania Press, 2006), 68.

man's reputation was not unaffected by his misbehaviour, his virginity was not important in making a marriage in the same way.<sup>48</sup> Furthermore, women had far more to lose from having sex, simply due to the fact that they might become pregnant.

Women like Jacquette Turbete would have understood the potential social consequences of having premarital sex.<sup>49</sup> While Robin Jolis could more casually enter into a sexual relationship with a woman, Jacquette may have felt it incumbent upon her to secure a promise of marriage before she did. What I would like to probe more precisely here is whether or not women like Jacquette, and Cassotte, viewed defloration as violative, and especially so when marital promises were reneged on. When a woman's ability to consent without social consequences was so constrained as to offer her only one non-stigmatized option—marriage—it makes sense that she may have consented at the time of a sexual encounter and then, feeling the gravity of defloration without publicly declared marriage promises, gone to court in order to renegotiate the terms of her consent. And as McSheffrey found in London, men might in fact have 'dangled marriage to get sex', thus abusing the gendered power dynamics in their sexual relationships.<sup>50</sup>

The 1386 case of Florie la Closiere and Oger le Cordier gives us some insight into what a woman might hope to accomplish by taking a case of future promises plus *copula* and *defloratio* to the court. Florie claimed that Oger and she had contracted future promises, then had sex, and that he had deflowered her.<sup>51</sup> Florie could have gone to the court without the defloration charge, as did the majority of the women who brought future promises plus copula charges (only six

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<sup>48</sup> McSheffrey, *Marriage, Sex, and Civic Culture*, 177.

<sup>49</sup> Petit, *Registre*, column 73/2.

<sup>50</sup> McSheffrey, *Marriage, Sex, and Civic Culture*, 70.

<sup>51</sup> Petit, *Registre*, column 381/4

women in the register claim defloration).<sup>52</sup> That a woman chose to make her virginity a matter of public record indicates that she was telling the truth about it, and that at the very least it mattered greatly to her and her family that it was compensated for. Oger confessed to the sexual intercourse but not to the other claims. As Florie did not have witnesses, she deferred the oath to Oger, who denied that they had made marriage promises and then deferred the oath back to Florie on the matter of the defloration. The language used to describe the defloration differs from Jacquette's case, in which only 'defloratio' is used. Defloration in Florie's case is described as 'reus dicens se non posset probare ipsam fuisse ab alio diffamatam detulit juramentum dicte actrici super dicta defloratione' [the defendant saying that he could not prove that she had been defamed by another deferred the oath to the plaintiff on the defloration].<sup>53</sup> Oger is not paraphrased as saying that he could not prove that she was deflowered by another, rather, he cannot prove that she was defamed by another. In contrast, Jacquette Turbete's case states that Robin could not prove she had been 'per alium defloratam' [deflowered by another]. 'Diffamatam', used here to refer to a defloration, explicitly links it with harm done to social standing. *Diffamare*, of which *diffamatam* is a derivative, is listed in the *Dictionary of Medieval Latin from British Sources* as meaning 'to make widely known' and to 'defame, slander, denounce, disgrace, dishonour'.<sup>54</sup> Donahue concludes that in this court when men admitted to claims of sexual intercourse in cases of defloration, they then bore the burden of proving that she had been deflowered by someone else.<sup>55</sup> Oger did not have this type of evidence.

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<sup>52</sup> Donahue, *Law, Marriage, and Society*, 352.

<sup>53</sup> Petit, *Registre*, column 381/4.

<sup>54</sup> *Dictionary of Medieval Latin from British Sources*, (Brepols, 2018), entry for "diffamare."

<sup>55</sup> Donahue, *Law, Marriage, and Society*, 352.

In another case, involving Etienne Anelli and Jeanette daughter of Milet Malyverne, ‘diffamatam’ seems to take the place of *defloratio* entirely: ‘Etienne Anelli...qui confessus fuit se dictam filiam carnaliter cognovisse uec audiverat vel sciverat, ut dicit, ipsam ab aliquo fuisse diffamatam’ [Etienne Anelli...who confessed that he knew the said girl carnally and had not heard or known, as he says, that she had been defamed by another].<sup>56</sup> The case does not explicitly state that it was a defloration, but it is heavily implied given that he admits both to having sex with her, and says that he did not know if she had been defamed by another before him. Donahue categorizes this as an *ex officio* case involving defloration. Given the use of ‘diffamatam’ in Florie’s case, and that in Jacquette Turbete’s the condition for proving defloration was that Robin could not prove she had had sex with someone else, I concur with Donahue’s analysis. Defloration thus transgressed physical boundaries to become a crime against a woman’s honour with potentially grave social consequences.

In further entries, we learn that Florie apparently became pregnant from the incident. Oger was ordered to pay her both ten *francs* for the defloration and half the expenses of caring for their child.<sup>57</sup> The Paris register does not indicate whether there were any conditions a woman had to meet to come forward with a defloration charge, and it does not generally record ages.<sup>58</sup> Thus, we do not know if Florie’s charge against Oger was bolstered by her age or her family’s involvement. However, we do know that she was wealthy enough to afford an advocate to advise her and a proctor to represent her in court, and ten francs is a relatively large amount in the register. She and Oger did not end up married, but she secured the financial means to care for her

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<sup>56</sup> Petit, *Registre*, column 200/3.

<sup>57</sup> Petit, *Registre*, column 384/3 and 384/7

<sup>58</sup> Donahue, *Law, Marriage, and Society*, 352.

child. And as she was pregnant, there was undeniable physical evidence that she had been sexually active. The court's treatment of Florie la Closiere, plus what we know of her financial means, indicates that she was not multiply disadvantaged in the way that Cassotte la Joye was. Both women ended up caring for a child without being married, but only Florie secured money from the defendant, and only Cassotte was ordered not to 'impede' the defendant any longer. Florie and Cassotte may have both wanted to consent to sexual intercourse without experiencing the negative effects of defloration, but only Florie was able to mitigate those effects. Likely unhappy with the outcome of the sexual encounter she had consented to, which disproportionately disadvantaged her as compared to Oger, Florie sought reparations for the harm done, and a renegotiated meaning for her consent. She may have also felt coerced or betrayed by Oger, if she only consented to sex because she thought they would be married. She was partially successful with her claims in court, demonstrating that being a woman of higher societal and monetary standing accorded one more right renegotiate consent in court, and thus wield more power within sexual relationships.

The case of Étienne Ansell and Jehanette daughter of Milet Malyverne, mentioned previously for its use of 'diffamatam,' further demonstrates that Cassotte la Joye was treated particularly poorly by the court. Étienne confessed to the *copula*, though not to the *sponsalia*, and because he could not prove that she had been 'defamed' by another, was held accountable for deflowering and impregnating her. He was ordered to pay Jehanette, to pay for the expenses of childbirth, and to pay for maintenance of their child.<sup>59</sup> He eventually agreed to marry her. Another *ex officio* case involving Jean Treachedenier and Jeanette la Piquete further

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<sup>59</sup> Petit, *Registre*, column 200/3.

demonstrates that the court was quite capable of treating certain women fairly. The case involved adultery (Jean was married), defloration, and paternity, and the entry notes that Jeanette did not wish to prosecute Jean due to her own ‘consensu et voluntate’ [consent and will]. Jean still ended up paying Jehanette for the defloration and for her childbirth, and the entry notes that this was also done by her will. The repeated mention of actions occurring by Jehanette’s will indicates that she had some degree of control over the proceedings. The difference between how the court treated Cassotte la Joye, and how it treated women of higher status, demonstrates that the court and the law functioned within rape culture as well. They were not above it, nor did they mitigate its effects, but rather replicated inequalities on a structural level.

One reason for the intersection of paternity issues and defloration may be that pregnancy offered irrefutable evidence that someone was no longer a virgin, thus making claiming defloration more prudent. But while Florie, Cassotte, Jeannette Malyverne, and Jehanette la Piquet perhaps all felt as if they might salvage their reputations by taking a marital case to court and proving that they had at least tried to go about marriage, sex, and procreation in the socially accepted manner, Jacqueline Turbete did not necessarily need to do so. If she was not pregnant, then there was not irrefutable proof that she was no longer a virgin. Of course, we do not know who within her community was aware of her relationship with Robin. Still, it stands to reason that she felt the benefits of going to court, and making it known that she was not a virgin, outweighed the costs—otherwise, why go at all? There was no true solution to Jacqueline’s problem. Even if the result of the case was that Robin married her, she still would have ended up married to a man who did not *really* want to be married to her.

Jacquette may have felt like Robin had wronged her, and needed to be held accountable, and she thus sought emotional catharsis by taking him to court. She may have looked at the situation pragmatically and hoped to gain money from the case. She may have actually wanted to marry Robin, rather than face the prospect of being deflowered and unwed. What seems most likely is that she was desperate for a solution and to salvage her reputation in any way possible. If the court sided with her—as they ultimately did—she would have had confirmation that Robin’s actions towards her were wrong and perhaps that she was correct in feeling whatever it was she felt. We can only guess as there are few indicators of feeling in the Paris diocesan register.

These deflorations cases complicate our ideas about consent, ethical sexual relationships, and gendered power dynamics in the Middle Ages. Though all of the women in these cases had (to the best of our knowledge) consented to sex, their consent did not necessarily make their sexual relationships safe. They still experienced consequences from having sex, such as the physical toll of pregnancy and the financial responsibility of raising a child (likely alone), remaining unwed despite promises they believed had been made, and perhaps facing social repercussions. No amount of consent could change the fact that a virginal woman stood to lose much more from a sexual relationship than did her male partner, just as no amount of consent could have created an equal sexual relationship between Cassotte la Joye and Jean Ayore.

It is possible that coercion and sexual violations occurred in each of these deflorations cases, as consent may have been predicated on a belief that having sex would result in a marriage. It is further possible that the women in question considered deflorations—whether consensual or not—to be a crime or sexual infraction against them. In going to court, each of

these women signalled that something in their relationship had been unsatisfactory or harmful. Even if, for example, Florie la Closiere had not truly wanted to marry Oger, she may have understood the defloration as particularly harmful when it resulted in pregnancy and the court offered a way for her to seek remuneration for the harm. And even without the issue of pregnancy, Jacquette Turbete still brought defloration charges against Robin. Consent, then, was not the only standard by which medieval women judged sex as harmful. Having sex for the first time, or being known as sexually active, could be gravely harmful if it was not done in a particular manner: if one's partner did not follow through on marriage promises, if one became pregnant, if one's community found out about it. Deflorations could therefore be socially, physically, and financially harmful, even if they had been consensual.

#### *The Use of Force: ipsa invita*

The Paris officiality register includes a few instances of what was clearly rape or attempted rape. These instances of rape appear with marriage claims, as rape by itself fell under the jurisdiction of the lay courts by the mid fourteenth century. In the case of Foursia de Louyse and Pierre Doujan, Foursia proposed 'sponsalia per verba de futuro et promissiones matrimoniales' [spousals by words of the future and matrimonial promises] making it clear that her claim involved future consent with the intent to solemnize the marriage. But then, she also claimed 'idem vir temptavit eam cognoscere, ipsa invita' [the said man tried to know her, against her will].<sup>60</sup> Foursia had no witnesses for the marriage promises, so she deferred the oath to Pierre, who was absolved of the charge. The court then assigned another day for the rape claim to

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<sup>60</sup> Petit, *Registre*, column 228/4.

be heard. Pierre attended the second day with an advocate, but Foursia did not, and the register contains no further information about the case. That Foursia did not show up in court speaks to the fact that she may not have had any witnesses to the rape either, or any other way of demonstrating the claim.

While it was not a crime to rape one's wife, rape of one's fiancée was. Furthermore, the conjugal debt, which dictated that married couples owed one another sex, did not begin until after a marriage was consummated.<sup>61</sup> Foursia seems to have understood that future promises to marry might have implied that the couple would have sex in the future, but that they did not automatically equal consent to sex. Foursia's claim constructs her own consent as needing to be twofold: she consented to *verba de futuro* marriage but she also wanted the chance to consent to the sex that would consummate that marriage, and she clearly did not view the consent to one as the automatic consent to the other at a time and place of Pierre's choosing.

While the medieval laity might have thought that consummation was important and necessary for marriage, they did not think that they owed one another sex within betrothals. For some women, the role of sex in creating binding marriages disadvantaged them as their supposed spouses refused to acknowledge the marriage, and they were left deflowered, with child, or otherwise disadvantaged. But in Foursia's case, the marriage contract may have given her more confidence in bringing the case and saying that Pierre raped her. The law and the court both emphasized the importance of freely given consent in making a marriage, and it would seem that this carried over into sexual consent as it was tied to marriage. When consenting to sex would

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<sup>61</sup> See this chapter, 172-4 for a discussion of the conjugal debt.

create a binding marriage that consent so too needed to be freely given. Furthermore, the rules around marriage may have helped Foursia understand the importance of freely given consent.

The case of Thomasette, daughter of Theobald le Champenoys, and Jean Milot corroborates this to an extent. Jean was the plaintiff in this instance, and proposed future promises plus sexual intercourse. Thomasette denied the *sponsalia* but said that Jean had raped her: ‘idem actor eam carnaliter cognoscere, ipsa invita’ [the plaintiff knew her carnally, against her will].<sup>62</sup> Jean was ordered to make amends for the sexual intercourse, though not for the rape. Thomasette did not have to make amends for it at all.

Jean is also ordered under pain of excommunication and the fine of 10 *livres* to ‘ne diffamet aut injuriet in aliquo dictam ream’ [lest he defame or injure in any way the said defendant]. The court did not merely tell Jean that he could not physically harm Thomasette again, they also prohibited any defamation, indicating that the harm of rape was both physical and social. Donahue interprets the relatively low fine and the fact that Jean did not go to the bishop’s prison as meaning that the court did not take the crime seriously. Furthermore, punishing rape was the jurisdiction of the lay courts.<sup>63</sup> Still, the court did not order the couple to marry despite the admitted sexual intercourse, perhaps because of the importance of freely given consent in marriage. The information we have does not say whether or not Jean deferred the oath on issue of the *sponsalia* to Thomasette or if the court simply believed her version of events. Thomasette likely felt relief that she did not have to marry Jean and that she was theoretically protected from future injury by him, but she was not the plaintiff in this instance. She did not

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<sup>62</sup> Petit, *Registre*, column 331/5

<sup>63</sup> Donahue, *Law, Marriage, and Society*, 357.

necessarily want to go to court at all, and though she voluntarily admits that he raped her, we cannot know if she would have reported the crime if Jean had not alleged the *sponsalia*.

Foursia's and Thomasette's cases indicate that the court was not interested in forcing women to marry against their will when claims of rape were involved, though without more examples it is difficult to know if this was regular behaviour for the court.

The cases of Foursia and Thomasette show that medieval women did not view consent to marriage as entailing consent to sex. Foursia claimed the *sponsalia* and the attempted rape in court, indicating that even if she had wanted to marry Pierre at some point, she understood that she did not have to consent to sex with him. This also indicates that she understood that even men she had close relationships with might try to force her to have sex with them against her will. Thomasette also knew enough about the laws governing consent to marriage and the way sex factored into this to use the rape committed by Jean as a rebuttal against his claim of the *sponsalia*. Furthermore, while marriage laws and the way the court enforced them hindered the sexual choices of some, such as Marguerite d'Auvers and Jean de Veteripointe, and harmed others like Cassotte la Joye, they also provided some women with a framework in which they could hold men accountable, and ensure that their consent was prioritized.

### *Rape Within Marriage: the Conjugal Debt*

Thus far, the cases examined from the Paris diocesan register do not tell us what happened in the sexual lives of couples, and specifically to women, after vows of marriage were solemnized, unions were consummated, and people went from living separately to living together. As we have seen, church courts had the power to regulate sex prior to marriage (with

varying levels of success) and so too did they attempt to regulate sex within marriage. The conjugal debt essentially legalized rape within marriage, though theologians did not see it as such, given that rape was constructed as impossible in marriage. The debt strictly regulated the boundaries of consent so that married individuals theoretically had to have sex with their spouses whenever it was asked or demanded of them. The conjugal debt was based on the apostle Paul's view of marriage, which stipulated that husbands and wives had 'no authority' over their own bodies in sexual intercourse and could not refuse one another unless they were mutually agreeing to a period of celibacy.<sup>64</sup> Gratian believed that the debt began as soon as a couple consummated their marriage; prior to this they did not necessarily owe one another sex even if they had promised one another marriage, as betrothed individuals were still free to enter religious life.<sup>65</sup> But as soon as they had consummated the union, 'each party acquired virtually unlimited rights to demand and receive sexual services of the other'.<sup>66</sup> If a married individual wanted to become celibate, they had to do so with the consent of their spouse. People could petition ecclesiastical courts to restore their conjugal rights, though they was most often did so in cases of desertion.<sup>67</sup>

Letters of remission, however, reveal that the conjugal debt could cause a great deal of anxiety for couples. Adrien Dubois has examined instances of spousal abuse, often coupled with instances of women trying to leave their husbands, that appear in letters from the fifteenth century. People fretted over where their spouse slept, how much time they spent away from home, and who else they might be sleeping with. Dubois is quite clear in his analysis that though

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<sup>64</sup> Elizabeth Makowski, "The Conjugal Debt and Medieval Canon Law," *Journal of Medieval History* 3, no. 2 (1977): 100; 1 Corinthians 7:3-6.

<sup>65</sup> C 27 q2 d.p.c 27.

<sup>66</sup> Brundage, "Implied Consent to Intercourse," 51.

<sup>67</sup> Richard Helmholz, *Marriage Litigation in Medieval England* (London: Cambridge University Press, 1974), 67.

the conjugal debt applied to both spouses, it unduly pressured and harmed women. He asserts that for women ‘le simple fait de ne pas vouloir dormir dans le lit conjugal est déjà un signe de rébellion’, [the simple act of not wanting to sleep in the conjugal bed is itself an act of rebellion], and that being absent from the marital bed was viewed as intentionally punishing one's husband or revolting against his rightfully held authority.<sup>68</sup> In one letter Dubois studies, Raoulin Farin beat his wife because she refused his sexual advances after he spent the night drinking in a tavern. She died a few days later, and the letter justifies his actions by stating that it was her fault for refusing him in the first place.<sup>69</sup>

Evidence from letters of remission demonstrates that women in medieval France certainly believed that their husbands could violate their consent and sexually abuse them. However, because of the conjugal debt, instances of spousal rape are often bound up with instances of spousal abuse, and are thus not labelled rape by the courts. A married woman could not bring a rape charge against her husband in any court, but she did have multiple avenues towards bringing charges of spousal abuse and violence. Ecclesiastical courts were the obvious choice, though in England the royal courts also had jurisdiction over extreme instances of abuse that ended in homicide.<sup>70</sup> Sara Butler's analysis of a case from thirteenth-century York illustrates how spousal rape accusations became bound up with other issues. Agatha presented multiple reasons for asking for a divorce from her husband John. John had committed adultery frequently, and had violently abducted her from her home (they did not cohabit). He then had sex with her, which

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<sup>68</sup> Dubois, “Quitter son époux,” 10.

<sup>69</sup> Dubois, “Quitter son époux,” 12; AN JJ 184, f.301r, no. 410, 1454. All letters consulted online at HIMANIS, <http://himanis.huma-num.fr/app/> unless otherwise noted.

<sup>70</sup> Sara M. Butler, *The Language of Abuse: Marital Violence in Later Medieval England* (Leiden: Brill, 2007), 70.

formed a part of her complaint, but which was not labelled rape.<sup>71</sup> John was ordered to pay a fine for the violent abduction, which Butler attributes to the fact that Agatha was exempt from fulfilling her conjugal duties due to John's adultery.<sup>72</sup> John's adultery thus provided Agatha with a way to make her case to the court.

The letters Dubois examines offer insight into how married women articulated resistance and non-consent in the face of spousal rape and violent abuse. In 1458 Jean Loquier sought remission for killing his wife Néelle after she had rejected his sexual advances. The letter describes Néelle's resistance: 'laquelle lui ait refuse et contredit disant qu'elle vouldroit mieulx estoit morte' [which she refused him and with opposition said that she would rather be dead]. She further states that 'se elle faisoit son devoir, elle le feroit pendre par sa gorge' [if she did her duty, she would have him hanged by his neck].<sup>73</sup> Bernard de Montfalco injured his wife Guillemette so gravely that she died, and sought remission for the murder. His reasons for the abuse were that Guillemette denied him his conjugal rights entirely, and refused him entry into her bedroom.<sup>74</sup> While these letters do not speak of wives' resistance as evidence of rape, and instead frame it as rebellion against their husbands, they still function as evidence of spousal rape because they highlight that many women were not content with accepting the conjugal debt. Néelle clearly understood that it was her duty to have sex with Jean, yet she did not necessarily feel obligated to consent to sex with him.<sup>75</sup> That the letter could employ such characterization of Néelle perhaps indicates the existence of a commonly held belief that bad wives did not have sex with their

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<sup>71</sup> Butler, *The Language of Abuse*, 127.

<sup>72</sup> Butler, *The Language of Abuse*, 128.

<sup>73</sup> AN JJ 181, f.33r, no. 64, 1458.

<sup>74</sup> Dubois, "Quitter son époux," 11; AN JJ 179, f.89r, no. 161, 1447.

<sup>75</sup> AN JJ 181, f.33r, no. 64, 1458

husbands and should be punished for it. But the mere acknowledgment that wives *could* resist, and that they did demonstrate their non-consent through actions and words, indicates that spousal rape was an implicit possibility even if it was not labelled as such.

Symonne Chausson, who sought remission in 1474 for stabbing her husband in self-defence (he later died), seems to have constructed her consent to sex as something she could withhold when her husband mistreated her. He had been mistreating her in the marital bed, and had even denied her food and drink. She thought it appropriate to ‘*delaisser de coucher avec ledit feu Jehan son mary, fors par demy nuit seulement*’ [abandon sleeping with the said deceased Jean, her husband, for half a night only].<sup>76</sup> The letter describes Jehan’s abuse as occurring ‘*quant elle estoit couchée en sa compaignie*’ [when she was sleeping in his company]. This description, combined with Symonne’s reaction to it, is an acknowledgement that sexual abuse and violations could occur within marriages; both Symonne and the authors of the letter seem to have known this. Additionally, they must have thought that Symonne’s reasons for leaving the marital bed were enough to sway the court to grant her grace, indicating that there was a legal space in which it was appropriate for a wife to resist having sex with her husband.

A rare example from 1500 allows even further insight into the victim/survivor perspective during and after an attempted spousal rape. Guiette de Salles, from Lyon, was granted remission for murdering her husband Gabriel Rousset. Gabriel had caught ‘*la maladie de Napples*’ [the *maladie* of Naples], identified as syphilis by Dubois, at a brothel, and because of this he and Guiette had not had sex with one another for some time.<sup>77</sup> Gabriel attempted to have sex with

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<sup>76</sup> AN JJ 195, f.274v, no 1239, 1474. Edited in Paul Guérin and Léonce Celier eds., *Recueil des documents concernant le Poitou contenus dans les registres de la chancellerie de France*, (Poitiers: Société Française d’Imprimerie et de Librairie, 1909), 11:459.

<sup>77</sup> Dubois, “La ‘grève’ féminine du sexe,” 8.

Guiette one evening, and she tried to convince him to do otherwise: ‘luy dist amyablement en luy remonstrant ledit danger de sa personne...et quil ny coucheroit point’ [she said amiably and explained to him the said danger to her person...and that he could not sleep here].<sup>78</sup> She explained that they would both catch it if they slept together, but he responded by ‘en jurant, blasphemant et detestant nom de Dieu et de ses saints qu’il y coucheroit’ [swearing, blaspheming and detesting the name of god and their saints that he would sleep there].<sup>79</sup> Guiette then tried another tactic to persuade him, telling him that he could sleep on the ‘couchette,’ which was a small couch under the main bed, but that ‘avec luy ne coucheroit elle pas’ [with her he could not sleep]. Gabriel then turned violent, and began to beat her with a candlestick, and then a stick. Guiette fled to her brother’s house to allow her husband time to calm down and stayed there for half an hour. She returned to her home with several others who attempted to calm Rousset down, to no avail. He took up a metal cup to throw at Guiette, and continued to go after her with the candlestick. Eventually, after she and the others tried to get him to stop, she picked up a knife and stabbed him one time in the stomach. He died from his wound.<sup>80</sup>

The narrative arc the letter draws relies on the reader believing Guiette is concerned for her health, afraid of catching the disease herself, and perhaps even afraid of her husband, but also able to approach the situation rationally. The letter explicitly links Gabriel's illness to Guiette's rejection of him; it is only because of this ‘grant dangire’ that Guiette initially rejects him. She is positioned as fearing for her own safety, as the letter constructs her fear of the ‘grant dangire’ to her person as her primary reason for refusing her husband. The letter repeats this phrasing again

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<sup>78</sup> AN JJ 232, f.90v, no. 173, 1500. Consulted at the Archives Nationales.

<sup>79</sup> AN JJ 232, f.90v, no. 173, 1500.

<sup>80</sup> AN JJ 232, f.90v, no. 173, 1500.

in the following lines, then references the danger a third time, and finally uses it to explain why she stabbed Gabriel. But combined with Guiette's wariness of the danger is her ability to act calmly, and give her husband multiple chances to correct his actions. She used several different explanations to try and persuade him, both invoking her own safety and even offering him sleeping arrangements near her own. The letter describes her as 'toute gracieusement' underscoring the fact that she did not immediately turn violent against him. Furthermore, Guiette obtained the help of several community members. The letter shows that Guiette could have stabbed Gabriel at the first sign of violence from him, but she did not, rather, she took multiple steps to persuade him otherwise and deescalate the situation, only reacting violently herself, as the letter tells it, when nothing else had worked. The emphasis on Gabriel's violence and Guiette's passivity and calm reflects a common strategy that Butler found in English cases of spousal abuse, in which female plaintiffs would emphasize their husband's action and their inaction. They crafted their stories in such a way as to 'lead us to believe that they willingly submitted themselves to their husbands' authority, however excessive'.<sup>81</sup> Of course, Guiette eventually stopped submitting to Gabriel's authority when she fought back and killed him in self-defence.

These explanations may have very well been added after the fact and do not necessarily reflect what Guiette's feelings were in the moment. We cannot know if she was as afraid of Gabriel as the letter makes it seem, nor can we know if she truly remained so calm and amiable during their altercation. However, Guiette's actions make sense if we believe her claims about Gabriel's illness—and given that members of the community helped her, I think we can. That she

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<sup>81</sup> Butler, *The Language of Abuse*, 172.

did not want to allow him access to the marital bed is clear, and could not have been entirely a fabrication, as it forms the primary reason for the murder. That she did not want to have forced sexual relations with him is also clear. There are several bits of information that make his sexual intentions, or at least Guiette's fear of them clear. First, it is noted that Gabriel caught the 'maladie de Napples' at 'tavernes et bordeaulx' of ill repute, identifying it within the letter as a known sexually transmitted disease. Guiette clearly understood the risks, as she refused him access to the marital bed, and Gabriel had not lived at their home for some time. Then, the letter states that she told him 'avec luy ne coucheroit elle pas'. In Middle French *coucher avec quelqu'un* was explicitly used to mean sexual relations, and several other remission letters use it in this manner.<sup>82</sup> Guiette was perhaps afraid that if they physically shared the same bed, Gabriel would force himself on her or she would catch the disease by proximity. The danger that the letter mentions in relation to her person was a sexually transmitted disease, and the vector was her husband attempting to rape her.

Guiette's desire to preserve and fight for her own life comes to the forefront of the letter at multiple points. Guiette was, as Dubois theorizes of other women, punished by her husband for failing to do her conjugal duty and for denying him entry into her bedroom. But in the letter, Guiette clearly does not define her own ability to consent in terms of what her spouse did or did not demand of her. Neither, it would seem, did her community, who came to her aid when she requested it. Guiette brought two men back with her to her home, and they both attempted to persuade Gabriel that his intentions towards his wife were wrong. Further to this, one of the men aided Guiette by giving her a wooden club to fight off her husband with. Guiette, and those

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<sup>82</sup> DMF, entry for "coucher."

around her, may have thought that because Gabriel had committed adultery in brothels and had been violent towards her that she had the right to resist his sexual advances.<sup>83</sup> Couples sometimes sought separation due to adultery.<sup>84</sup> According to Donahue, couples who were partially separated and who no longer had to cohabit, but could not marry elsewhere, did not owe one another the conjugal debt.<sup>85</sup> There is no indication that Gabriel and Guiette were formally separated, but they had not had sexual relations in some time and were not sharing the same bed. Given that she offered him a small couch to sleep on, which he then refused, it seems likely that they were not living together at all.

Guiette had community support in confronting Gabriel, and this may have meant that she felt as if her own non-consent, violently articulated, was not only justified but acceptable. Further to this, that members of the community reacted in such a way indicates that they did not believe Guiette owed Gabriel sex, either because they knew he had committed adultery, or because they simply did not believe she should be forced to consent to sex with a man who had syphilis, even if he was her husband.<sup>86</sup> Nicole Gonthier has argued that both Dijon and Lyon punished rape harshly, and that it was a crime which motivated members of the community to seek justice.<sup>87</sup> As is demonstrated in Chapter 5, communities like Dijon were significantly invested and involved in seeing rape prosecuted. Guiette's story does not differ all that much from cases in Dijon in which neighbours came to the aid of women and girls who were being

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<sup>83</sup> Butler, *The Language of Abuse*, 128. Butler argues that this was the case for Agatha, discussed in this chapter, 174.

<sup>84</sup> See Brundage, *Law, Sex and Christian Society*, 513.

<sup>85</sup> Donahue, *Law, Marriage, and Society*, 35.

<sup>86</sup> Brundage interprets Alexander III's comments on leprosy as meaning that wives and husbands were expected to do their conjugal duties even if their spouse had leprosy, but Guiette's letter indicates that she viewed her husband's illness as reason to avoid having sex with him. Brundage, "Implied consent to intercourse," 249.

<sup>87</sup> Gonthier, "Les victimes de viol," 30.

raped or abducted. Guiette's letter is an example of a community's response to rape, that was grounded in directly aiding the woman in need with arms and vocal resistance against her attacker.

What is made clear from Guiette de Salles's letter, as well as Symonne Chausson's, is that there was a space in which a married woman's consent could be violated by her husband and acknowledged as violated, without it being termed rape. Rape was conceptualized as being perpetrated in spaces outside of marriage, but spousal abuse could be sexual, and it was acknowledged as a possibility by the women who faced it.

#### *Chaste Marriage and the Conjugal Debt*

The mid-fourteenth-century miracle play, *L'enfant donné au diable*, tells the story of a woman, Sebile, who takes a vow of chastity with her husband. However, he subsequently rapes her and she avows the child she conceives to the devil. This story is interesting and pertinent to a discussion of conjugal debt, rape, and spousal abuse due to how Sebile's vow of chastity is articulated within the context her ability to withdraw consent to sex, and the mercy she is ultimately granted. While the women in the letters of remission likely would not have heard this play, that it was written and performed shows that ideas about abused wives deserving understanding were in circulation in the wider population, and suggests that the conjugal debt was a rich site for discussion and entertainment in the fourteenth century.

*L'enfant donné au diable* is the first miracle in the collection the *Miracles de Notre Dame par personnages*.<sup>88</sup> The collection is comprised of forty plays depicting miracles of the Virgin Mary, and was produced by the trade society of Goldsmiths in Paris. They were written chronologically, one a year from 1339-1382, and would have been performed at the Goldsmiths' annual meeting.<sup>89</sup> The plays often depict the nobility and the clergy, though unfavourably, and offer valuable insight into fourteenth century Parisian life.<sup>90</sup> Additionally they include fleshed out representations of the justice system, as divine justice in the miracles often mirrors the organization of human justice systems. In *L'enfant* the Virgin takes on the characteristics of a lawyer and mediator in defending a mother before the heavenly court.<sup>91</sup> It is not God's benevolence that grants the mother grace, but the Virgin's virtuous ability to exploit legal gaps in the case convincingly.<sup>92</sup>

Sebile decides to take a vow of chastity and her husband agrees.<sup>93</sup> However, after being tempted by two devils multiple times, he breaks the vow, raping Sebile. She vows to give any child she conceives to the devil. Nine months later, she gives birth, and does not want to give the child up to the demons who come to collect. They say they will come back in seven years. This happens again, and when her son is fourteen, she reveals to him what she promised, and that he

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<sup>88</sup> See Louis Petite de Julleville, *Les mystères* (Paris: Librairie Hachette, 1880), 2:229, for an introduction to and a summary of the play. The play appears in Paris, BNF MS fr. 819-20.

<sup>89</sup> Graham A. Runnells, "Medieval Trade Guilds and the *Miracles de Notre Dame par personnages*," in *Parisian Confraternity Drama of the Fourteenth Century: The Miracles De Notre Dame Par Personnages*, eds. Donald Maddox and Sara Sturm-Maddox (Turnhout: Brepols, 2008) 31-2, 63.

<sup>90</sup> Donald Maddox and Sara Sturm-Maddox, "French Confraternity Drama of the Fourteenth Century: The *Miracles de Notre Dame par personnages*" in *Parisian Confraternity Drama of the Fourteenth Century*, 12.

<sup>91</sup> Hannah Skoda, "La vierge et la vieille: l'expertise féminine au xive siècle," in *Experts et expertise au Moyen Âge: Consilium Quaeritur a Perito*, edited by Société des historiens médiévalistes de l'Enseignement supérieur publique (Paris: Publications de la Sorbonne, 2012), 299.

<sup>92</sup> Skoda, "La vierge et la vieille," 300.

<sup>93</sup> This is what is known as a "spiritual marriage," Dyan Elliott, *Spiritual Marriage: Sexual Abstinence in Medieval Wedlock* (Princeton: Princeton University Press, 1993), 3.

has not been baptized. The son seeks the aid of the Pope, but on his fifteenth birthday the devils come to claim him. The Virgin rescues him and intercedes on his and his mother's behalf in the heavenly court. The judge rules in the Virgin's favour, because Sebile did not have the right to give away the child without the agreement of her husband, thus the contract with the devils is void.<sup>94</sup>

Sebile speaks the play's first lines, expressing her desire to take a vow of chastity and calling on the Virgin to aid her in convincing her husband to go along with it. After she gains the Virgin's support, she goes to her husband, saying, 'En telle guise voué l'ay/ Que jamais nul jour ne gerray / Avec nul homme charnelment' [in this manner I have vowed/ to never any day lay / with any man carnally].<sup>95</sup> Both beginning the play with Sebile's intention to take a vow of chastity and the way she frames that vow verbally to her husband emphasize that this is her choice. In most of the sources used for this dissertation, sexual relations are phrased in terms of the man having the woman carnally, knowing her carnally, taking her carnally, taking his will, etc. The subject is almost always masculine. Here, Sebile is the subject of 'gerray' and the object is any man, not just her husband. That she articulates the vow in terms of what *she* will no longer do, rather than what her husband will not do *to* her, makes this a moment of active choice, and that she begins the play with this idea already formed means that her subjectivity cannot be called into question. It is important that Sebile's husband agrees to the vow of chastity, as couples were not meant to suspend their conjugal duties without the agreement of their spouse. In particular, wives were not supposed to take vows of chastity without their husband's

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<sup>94</sup> On trial stories featuring devil and the Virgin Mary in opposition, see Karl Shoemaker, "The Devil at Law in the Middle Ages," *Revue de l'histoire des religions* 228, no. 4 (2011): 567-86.

<sup>95</sup> Gaston Paris and Ulysse Robert, *Miracles de nostre dame par personnages*, (Paris: Société Des Anciens Textes Français, 1876), volume 1, play 1, ll 49-51. All citations from this edition.

authorization.<sup>96</sup> That Sebile must ask him at all demonstrates that the authors of the play and its audience were aware of the importance of the conjugal debt and how it could be properly renegotiated and suspended.

The husband ultimately does not respect the vow of chastity, due to the two devils who tempt him to break it. During a plea to the Virgin and his wife, he explains his struggles with the vow and how the devils are tempting him. At the end of this scene, his wife and the Virgin have convinced him to keep his vow, and in the next scene the two devils appear again. In the scene after the two devils reappear, we see him break his vow.

The rape itself occurs between the lines rather than directly on the page, and the play uses euphemism rather than the language of rape to describe it. The husband broaches the subject by telling Sebile that he has a great desire to speak with her in secret, to which she tells him to speak freely. He then proceeds to proposition her: ‘Amie, volontiers seroie / Bien de vous, se il vous plaisoit’ [Love if you will, let me have you, if it pleases you].<sup>97</sup> The husband’s words here are coercive, as he utilizes the language of love in a sexual overture he knows his wife is uninterested in. The rape is not violent, rather, it springs from a husband’s desire for his wife and his relatively gentle propositioning of her. ‘Bien de vous’ here indicates sexual relations, which is acknowledged both by Sebile’s response, and the fact that *estre bien de quelqu’un* was used to indicate having a good relationship with someone and had sexual connotations.<sup>98</sup> Sebile responds by reminding him of the vow he has taken: ‘Mon seigneur, qu’avez vous pensé? / Nous avons voué chasteté / a Dieu et a sa mère aussi’ [My lord, what were you thinking? You have vowed

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<sup>96</sup> Elliott, *Spiritual Marriage*, 155 and C.33 q.5 c.11.

<sup>97</sup> *Miracles de nostre dame*, 1:1, ll 158-165.

<sup>98</sup> DMF, entry for “bien.” These lines from *L’enfant* are in fact one of the examples the DMF provides.

chastity to God and to his mother also]. She further calls on him to think of ‘la vierge pure’ [the pure virgin] rather than the enemy who has tempted him, and tells him that she knows he has much good in him. As this does not work, she further voices her rejection of his advances: ‘Vous estes uns homs sanz raison, / Quant ainsi estes eschaufez’ [You are a man without reason, when you are mad like this]. Then she delivers her strongest condemnation of his actions: ‘Et je donneray aus maufez / Le fruit, se de vous je conçooy’ [and I will give to the devil the fruit that with you I conceive].<sup>99</sup>

Sebile’s response to her husband, and the sequence of actions she takes, are similar to those represented in Guiette de Salles’s remission letter. Both women attempt to dissuade their husband from his intended course of actions, both women use reason based on their specific circumstances, and both women only use harsher actions as a final, last resort. Guiette’s letter could have been capitalizing on narratives of domestic violence, such as that in *L’enfant*, in which women first tried to dissuade their husbands with reason and only acted when they had to. Similarly, the audience watching *L’enfant* may have recognized Sebile’s actions as a reflection of those that were acceptable for a wife to take in an abusive situation, and been affected by the staging of such an emotional reaction. Wives were at pains to make themselves seem passive in cases of domestic abuse; Butler remarks that ‘a wife who returned her husband’s blows was not a victim of abuse; she was a disobedient woman’.<sup>100</sup> A wife could not fight off her husband physically, or even castigate him too harshly. But she could, perhaps, lead him with reason, reminding him of his promises to her, and take action against him after the abuse had occurred.

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<sup>99</sup> *Miracles de nostre dame*, 1:1, ll 186-189

<sup>100</sup> Butler, *The Language of Abuse*, 172-3.

Consent to sex in *L'enfant* is broadly constructed as a binding contract, which would have been clear to audience members who knew anything about the conjugal debt. First, we have the marriage contract that initiated the conjugal debt between Sebile and her husband. Then, we have the vow of chastity between Sebile and her husband, but also between the couple, God, and the Virgin. The husband breaks this vow, which leads to Sebile promising the child to the devil. A third contract is rendered between Sebile and the devils, who demand that she promises in writing to give the child to them on his fifteenth birthday. It is this contract that is rendered void by the Virgin, and by God, who ultimately decides that Sebile could not have given away the child without asking her husband first.<sup>101</sup> Those contracts which are made without consulting one's spouse are those which hold no legitimate sway in the heavenly court.

The message here is not that Sebile is at fault for her husband's actions by virtue of the fact that she instigated the vow of chastity. Rather, the play suggests that while such vows may cause marital discord or be difficult for husbands to adhere to, marital harmony is achieved when spouses are in agreement with one another and treating one another well. Sebile's husband breaks his vow of chastity, and this marks his departure from being a good spouse. Sebile's response, in giving the child to the devil, is similarly representative of spousal discord. However, that such a dramatic response to a husband violating a wife's consent to sex was conceived of as worthy of forgiveness is rather astounding given how widespread and accepted the abuse of wives was.

In contrast, remission letters such as that of Jean Loquier and Néelle, in which women are murdered for rebelling against their husbands, often frame the husbands' responses to such

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<sup>101</sup> *Miracles de nostre dame*, 1:1, l 1338, ll 1369-71.

rebellion as justified.<sup>102</sup> Jean Loquier's letter, for example, argues that he should be granted forgiveness for murdering his wife because of her 'disobeissance en sacrement de mariage'[disobedience in the sacrament of marriage].<sup>103</sup> *L'enfant*, as a miracle play that depicted a fictionalized version of the justice system on stage, could diverge from how real life systems of justice dealt with issues of spousal abuse. As such, *L'enfant* is able to suggest an alternate route to solving marital discord, one that does not include violence or punishment, but rather forgiveness and an affirmation that abiding by the consent of one's spouse is the right thing to do. While rape in law and legal settings was conceived of as violent, *L'enfant* presented a sexual violation that fell outside of these bounds, but which was still condemned by the narrative.

The play depicted a couple who struggled with the conjugal debt in a sympathetic manner, and the audience may have thus been able to reflect on similar situations in their own lives with more empathy as they watched the performance. The coercive, rather than violent nature of the husband's actions may have resonated with the audience, as it presented a version of spousal rape that was not overtly violent. Furthermore, they may have empathized with both Sebile's desire to be chaste, and the husbands' struggles to adhere to the vow.

Married women revoked consent to their husbands when and where they saw fit. That they were subjected very often to violence because of this speaks to the fact that the conjugal debt was an institution not only rife with the possibility for sexual violence, but defined by it as well. By theoretically removing one's ability to deny consent to sex, the conjugal debt primed marriages to become spaces for legalized rape and justifiable spousal abuse and murder. That real

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<sup>102</sup> Dubois, "Quitter son époux," 11.

<sup>103</sup> AN JJ 181, f.33r, no 64, 1458.

women like Guiette de Salles, Symonne Chausson, Néelle Loquier, and the fictional figure of Sebile, still found ways to express their non-consent with direct violence, provocative words, or by avowing the result of that violation to the devil, speaks to a culture of resistance against spousal abuse. That their responses attempted to evade the pressure and constraints of the conjugal debt demonstrates that they had been socialized to view that debt as negotiable, and less important than their ability to make sexual choices for themselves.

### Conclusion

The instances of rape examined in Chapter 2 reveal how rape and consent were defined clearly, both by victims/survivors and by laws and legal narratives. In law, rape was constructed as physically violent and as necessitating violent resistance. Women shaped both their responses to rape and their encounters with the remission process with this in mind, and felt that their consent was in fact important enough to protect with violence of their own. Scholars have not previously examined in direct terms the wider scope of sexual violations that existed in the Middle Ages. In this chapter, I have sought to sketch out the blurry middle ground between consensual sex and rape and to examine these other sexual violations, that were not labelled rape but which were gravely harmful. It is clear that medieval women, and medieval courts, understood that this space existed.

In fourteenth-century Paris, defloration was acknowledged as potentially harmful, both by the women who experienced it and took their claims to the church court, and by the court itself. Florie la Closiere, for example, took her claims of defloration, paternity, and future promises to court perhaps because she recognized how socially damaging being an unwed

mother might be. She also may have needed money to raise her child. Jacqueline Turbete was not pregnant, yet still felt like defloration and broken promises of marriage ought to be mitigated in court. The Paris officiality helped some of these women, but did not help Cassotte la Joye, demonstrating that while defloration, broken betrothals, and pregnancy could affect women of all statuses, only those of higher social and economic standing might be successful in court.

Further to this, the fact that marriages could be contracted *verba de futuro* followed by sexual intercourse created a space in which individuals often expected and wanted different things from sex. This imbalance in expectations, as well as knowledge of the laws around marriage, resulted in Colette de Treype going to court to see her marriage enforced, perhaps leaving her new husband unhappy with their relationship. Srinivasan questions whether the law is the correct tool to regulate or change the ‘type of sex produced by patriarchy’.<sup>104</sup> No amount of legislating rape can change the way that heterosex is shaped by both gendered power dynamics and sexual scripts that dictate female passivity and male aggression. Similarly, no matter how much medieval marriage laws emphasized freely given consent, men and women were not equal, and women stood to lose far more from casual sexual relationships outside of marriage. This imbalance explains why women sought out—perhaps in desperation—the church courts in order to enforce their marriages.

The law of the conjugal debt contributed to conditions under which sexual abuse by spouses was legalized. Letters like Jean Loquier’s both show that women were resisting their husbands’ unwanted sexual advances, and that when these women did resist they were often punished violently for it. The abuse was explained, in many letters, as a result of their

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<sup>104</sup> Srinivasan, *The Right to Sex*, 29.

disobedience. Conversely, letters like that of Guiette de Salles demonstrate that both married women and their communities understood that sex with one's husband could be dangerous, and that there were appropriate grounds for non-consent and resistance. Symonne Chausson's letter allows rare insight into how sexual abuse could be accompanied by other forms of abuse, as her husband sought to deny her food and drink.

While the remissions letters in Chapter 2 by and large feature violent rapes which occurred at the hands of bad men who did not have close relationships with the victims/survivors, the cases and letters examined in this chapter underscore that women had much to fear from men with whom they were sexually and personally intimate. Moreover, women conceived of these men and their actions as potentially or gravely harmful. Medieval women were thus not only affected by the spectrum of acts in between consensual sex and violent rape, but understood that this space existed. Despite normative cultural and legal scripts about how rape was supposed to occur, medieval women—and to an extent their communities and the courts—acknowledged that a wider array of sexual violations and harms were a reality.





#### Chapter 4: A Culture of Rape and Resistance: The Case of Dijon

***This chapter includes detailed and graphic descriptions of rape and discussions of language that could be upsetting. It is more explicit than the previous chapters.***

By the beginning of the fifteenth century, 8,000 people lived in Dijon.<sup>1</sup> Residents knew their neighbours well, and lived close enough to bear witness to their misdeeds and struggles. The registers of municipal justice reflect this, as they are full of witness testimony to crimes that occurred in the street, in homes, and in spaces in between public and private such as doorways and yards. Dijon was a community whose inhabitants had a deep interest in protecting one another. When it came to the crime of rape, residents of Dijon, especially women, were actively involved in preventing attempted rapes and in testifying in support of their neighbours.

The records of municipal justice also tell a story of power and marginalization, for though the community tried to control rape, young women without much social standing were victimized by those with far more power, and married women and widows left alone for the evening could become targets. Noble men and those with connections to the Duke of Burgundy appear as rapists in the registers, assaulting those with far less power.<sup>2</sup> Neighbours' support of victims/survivors in court depended on their reputation and community standing.<sup>3</sup>

As noted in Chapter 1, rape culture can be defined as the set of cultural, social, and political norms that work to silence victims/survivors, exonerate perpetrators, and perpetuate rape. Dijon was a city with its own culture of rape, that was characterized by physical violence, gang rapes, and the victimization of marginalized women and those who were more vulnerable.

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<sup>1</sup> Pierre Gras, *Histoire de Dijon* (Toulouse: Privat, 1981), 75.

<sup>2</sup> ADCO BII 360/3/17-212, case of Jehanotte le Bonnet and ADCO BII/360/1/8-8, case of Jehanotte de Vauls.

<sup>3</sup> ADCO BII/360/3/22-313, case of Katherine Vougeot.

Alongside this rape culture, there existed a defined culture of resistance, which was characterized by the anger and fear that victims/survivors felt, and the defence they mounted against the rapists, but also by the community support they received in the form of testimony and direct intervention. While Nicole Gonthier has demonstrated how the court in Dijon investigated and prosecuted rapes, and Jacques Rossiaud has posited that Dijon had a culture of gang rape which was part of a larger culture of masculinity, no sustained attention has been paid to the evidence of positive support for victims/survivors that exists in the Dijon documents. Furthermore, no other scholars have identified medieval rape testimony as a place to look for evidence of community aid and resistance to rape culture.<sup>4</sup> Dijon is thus used here to demonstrate the distinctive cultures of rape and resistance that existed in a single community in the late Middle Ages, and how these shaped and influenced victim/survivor experiences and understandings of rape.

The chapter builds on conclusions reached in Chapter 2, in which it became clear that some women and their families felt an appropriate response to rape or attempted rape was violently enforced non-consent. So too did women in Dijon wish to see men punished for rape. Additionally, the chapter develops ideas about rape and consent that were explored over the course of Chapters 1 through 3; namely that women and teenage girls understood that they should have been able to draw their own boundaries around consent and sex, but that in order to present their cases in court or in letters of remission, they also needed to understand how to narrativize their experiences with rape effectively. Finally, while Chapter 2 and Chapter 3

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<sup>4</sup> Gonthier, “Les victimes de viol,” and Rossiaud, *Medieval Prostitution*, chapter 2. Gonthier briefly mentions how older women came to the aid of young girls, but does not expand on it.

present evidence of the way that individual women conceived of their right to consent, this chapter provides evidence of how individual consent could be bolstered by community support, and probes how that support shaped victim/survivor experience after a rape had occurred. In understanding how women thought of their own right to consent and not consent to sex, and in understanding which acts they considered sexually violative, I can now focus more strictly on the question of experience, and explore which social, cultural, and community factors had a hand in shaping it.

### Ducal Power and Municipal Justice

Dijon was part of Burgundy and thus fell under the rule of the Duke of Burgundy rather than the Valois monarchs of France. In 1183 the city was granted a municipal charter by the Duke (Hugh III) and in 1187 provisions relating to tax privileges and justice were added. The charter gave the city control over civil and criminal cases via a municipal justice.<sup>5</sup> The Duke retained authority over repeated offences of theft, cases of murder and kidnapping, and arson. However, the 1187 charter was unclear as to what exactly was contained within those cases, leading to conflicts between the Duke and the municipal government, who wanted to increase their jurisdictional power.<sup>6</sup> Gonthier argues that by retaining jurisdiction over the most serious crimes that were punishable by death or banishment, the Duke effectively weakened the municipal justice's power and relegated them to authority over minor issues. When it came to the

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<sup>5</sup> Nicole Gonthier, "Les priorités politiques dans la pratique de la justice municipale: l'exemple de Dijon et de Lyon à la fin du Moyen Âge," in *Pratiques sociales et politiques judiciaires dans les villes de l'Occident à la fin du Moyen Âge*, eds. Jacques Chiffolleau, Claude Gauvard, and Andrea Zorzi, (Rome: Publications De L'École Française De Rome, 2013), 553-4.

<sup>6</sup> Gonthier, "Les priorités politiques," 555-6, and for text of the charter see Joseph Garnier, *Chartes de Communes et d'affranchissement de Bourgogne*, (Dijon: V. Darantière, 1867), 1:1.

most violent crimes that affected the community of Dijon, the Duke was able to exert authority over their decisions, at least until the fifteenth century when Duke Jean-sans-Peur allowed the mayor and aldermen to hear these four cases, but only ‘par et soubz nostre main’ [by and under our hand].<sup>7</sup>

The text of the 1187 charter describes one of crimes subject to ducal authority as ‘raptu’ which often meant abduction but could also mean rape, or some combination of the two.<sup>8</sup> The charter genders the crime, speaking to how a ‘mulier’[woman] must cry out loudly and be heard by others. Regardless, it is clear from records of criminal justice that the mayor’s office frequently investigated cases of rape, indicating that rape did not fall under the crimes subject to ducal authority.<sup>9</sup>

The documents of municipal criminal justice are housed in the Archives Départementales de la Côte d’Or (ADCO) in series BII 360. They have been broken into unbound sets of documents. The first set of documents, utilized heavily here, covers the dates 1386 to 1432. Immediately after this period, the sets of documents contain far fewer years but correspondingly more cases in each.<sup>10</sup> Municipal justice in Dijon was comprised of the mayor and twenty aldermen who were elected each year. They were not necessarily men trained in law, though by

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<sup>7</sup> Garnier, *Chartes de Communes*, 93.

<sup>8</sup> Garnier, *Chartes de Communes*, 93. For a discussion of *raptus* in French documents see Porteau-Bitker, “La justice laïque,” 492-6.

<sup>9</sup> I use the term ‘mayor’s office’ as the documents make frequent mention of the *maieur* [mayor] and the *mairie*, which was the office of the municipal government.

<sup>10</sup> As these are not presented in registers, and are rather separately bound and unfoliated, one must rely on dates to put them in sequence. The first ten or so groupings of documents have been indexed and numbered by an archivist’s hand and put into numbered folders. It is thus not possible to cite the documents by folio, but I try to give each document as specific a citation as possible. I use the following citation formula: ADCO BII/360/document set/folder number-case number. ADCO BII/360/1/2-9 therefore refers to case number 9 in folder 2 of document set 1. This is not always possible, as some documents are not numbered or do not appear in the appropriate folder. And as some documents are very long, with twenty or thirty folios each, I often refer to the portion of the document I am citing in lieu of a folio number.

the middle of the fifteenth century it became more common for aldermen to be licensed in law. The mayor was the head of the justice system, and though he deliberated with the aldermen, the authority to pronounce sentences lay with him. The Duke of Burgundy, however, could contest the sentences and grant remission for crimes.<sup>11</sup>

The criminal court was one of inquest and denunciation. The court might decide to investigate on the basis of a formal complaint that had been made, on the basis of a denunciation, or because the person had been caught in the act.<sup>12</sup> A denunciation could be made by an individual who signalled to the authorities that they needed to investigate a crime. But denunciations also existed within the realm of *fama publica* and rumour—the justice might decide to investigate because they had heard that someone had committed or been involved with a certain crime. It is not always possible to determine the method of denunciation or how the case came to court, though for many of the cases studied here, it is clear that the women complained to the mayor or, in cases of kidnapping, that members of the community reported on their behalf.

The *procureur* led the criminal investigation for the mayor's office, and engaged in the process of fact-finding at every level, from apprehending criminals in the city, to interrogating witnesses. The mayor conducted many interrogations as well, though he delegated these to the *procureur* or others. He was not merely a judge who made decisions on the information brought to him, but was also closely involved with the collecting of information. The town hall also

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<sup>11</sup> Rudi Beaulant, *Criminalité et justice échevinale à Dijon au XVe siècle (1433-1441)* (Dijon: Editions universitaires de Dijon, 2020), 41-2. The only other full-length study of this court is Charles Bertucat, *La Juridiction Municipale De Dijon: Son Entendue*, (Dijon: Nourry, 1911). I have been unable to access this due to ongoing Covid-19 pandemic, as it is unavailable in any U.K. library.

<sup>12</sup> Beaulant, *Criminalité et justice échevinale*, 89-90.

employed upwards of fifteen sergeants who patrolled the city, frequently apprehending criminals and bringing them to the city's prison.<sup>13</sup> The prison in Dijon was used to ensure that people could not flee the city as they awaited trial and the fear of being imprisoned functioned to deter people from committing crimes. There is some evidence that Dijon, like other European cities by the fourteenth century, also used detention in prison as a form of punishment.<sup>14</sup>

Material evidence was gathered by the *procureur*, especially when it came to thefts in which recovering the stolen object was important. But for the most part, as in the church court discussed in the previous chapter, witness testimony was prized as a key standard of evidence.<sup>15</sup> Witnesses took an oath at the beginning of their testimony, swearing on both the gospels and their soul, and this oath was taken seriously by both witnesses and the municipal justice. The depositions were taken orally and then subsequently recorded by a scribe, which gave them a narrative shape and structure that likely differed from what the person said verbatim. The order of information, for example, might be rearranged to make it clearer.<sup>16</sup> As noted previously, the scribe did make it clear who was speaking, writing, for example, 'elle qui parle' [she who speaks] or saying that the person testifying had responded.<sup>17</sup>

In addition to witness testimony, the court also examined a person's *fama* for evidence. This is evident in nearly all of the rape cases studied here, as the victim/survivor's good

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<sup>13</sup> Beaulant, *Criminalité et justice échevinale*, 45. He also comments on the fact that these sergeants were not always on good behavior and were investigated by the town hall for crimes of their own.

<sup>14</sup> Beaulant, *Criminalité et justice échevinale*, 48. Though Beaulant does not find any prison sentences between 1433-41, he does find evidence that the Duke ordered men released from prison where they were being held presumably as a punishment. For prison detention as punishment, see Guy Geltner, *The Medieval Prison: A Social History*, (Princeton: Princeton University Press, 2008).

<sup>15</sup> Beaulant, *Criminalité et justice échevinale*, 96-8

<sup>16</sup> Beaulant, *Criminalité et justice échevinale*, 104.

<sup>17</sup> See for example, ADCO BII/360/1/8-8, 1431, the case of Jehanette de Vauls, Chapter 4, 231-242.

reputation was always up for debate. The court ultimately wanted a confession from the accused, and would use torture to get it.<sup>18</sup> Between 1432 and 1441 Beaulant found 10 cases in which the accused was tortured, signified by ‘la question’. Torture was used for non-violent crimes such as theft and in one case, espionage.<sup>19</sup> None of the cases examined here indicate the use of torture.<sup>20</sup> After the evidence had been gathered, the aldermen would deliberate and reach a verdict.

Each document begins with a summary of the claim the court was investigating and is followed by testimonies taken by the court *procureur* or the mayor. The testimonies for cases of rape generally begin with one from the victim/survivor, followed by testimonies from witnesses. Often, testimonies for the accused are missing or were never taken. Sometimes, the court was not entirely sure of identities of the accused, especially given that many of the rapes involved a few ‘compagnons’ [companions].<sup>21</sup> If the accused had been apprehended and imprisoned, this was generally noted in the case summary. In regards to sentencing, the evidence for Dijon is incomplete. A selection of sentences was recorded in the *Papier Rouge*, named thus because of its red leather cover. The *Papier Rouge* covers the period from 1358 to 1479, but it is not inclusive of all sentences, nor is in chronological order.<sup>22</sup> There are two sentences for rape in the *Papier Rouge* for the period studied here, and further to this, one other case includes an attached release.

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<sup>18</sup> For more on torture and confession in Dijon, see Beaulant, *Criminalité et justice échevinale*, 112-116

<sup>19</sup> Beaulant, *Criminalité et justice échevinale*, 114.

<sup>20</sup> The Dijon records make note of torture by calling it ‘la question’. See Peter Biller, Caterina Bruschi, and Shelagh Sneddon, eds., *Inquisitors and Heretics in Thirteenth Century Languedoc* (Leiden; Boston: Brill, 2011), 46, for examples of this in inquisition records. And on torture in law codes and in practice, Esther Cohen, *The Modulated Scream*, (Chicago: University of Chicago Press, 2009), Chapter 2.

<sup>21</sup> Rossiaud, *Medieval Prostitution*, 12, and my own findings, as group rape is common feature among nearly all of the cases I study here.

<sup>22</sup> Beaulant, *Criminalité et justice échevinale*, 33. Thank you to Rudi Beaulant and Sara McDougall for providing me with information on the rape sentences in the *Papier Rouge*. See Nicole Gonthier, “La population dijonnaise inscrite au ‘papier Rouge’ 1383-1479,” in *Annales de Bourgogne*, 61, (1989): 101-114.

Controlling Rape in the City:

Despite the lack of information on sentencing, Nicole Gonthier has argued that the municipal justice attempted to control rape in Dijon by prosecuting rapes harshly and swiftly. In order to demonstrate that they had control over the public order, and to retain their jurisdictional authority, the city investigated those allegations of rape that came to them as rumours rather than formal complaints.<sup>23</sup> While investigating on the basis of *fama* was commonplace for medieval courts, it is noteworthy that residents in Dijon were gossiping to one another about rapes, as they would have been well aware that this was how many investigations were started by the mayor's office.<sup>24</sup> Certainly the court *procureurs*, one Hubert Thierry for the first half of the fifteenth century, and then after him, Jehan Rabustel, seem to have taken investigating the crime of rape seriously, as they questioned victim/survivors at length, as well as multiple witnesses. On occasion, they even apprehended rapists and liberated victims/survivors from their clutches themselves.<sup>25</sup> Still, it is impossible to know how harshly rapists were punished, even if the prosecution was done thoroughly, without the complete sentencing book for this period. Deliberations from the alderman and the mayor were kept in the *papier du secret*, but what is left of these registers does not reveal anything about the cases I have studied here, nor do they contain many mentions of cases of rape.<sup>26</sup> Furthermore, though the intensity of the prosecution

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<sup>23</sup> Gonthier, "Les victimes de viol," 12.

<sup>24</sup> See Joanna Carraway, *Public Justice and the Criminal Trial in Late Medieval Italy: Reggio Emilia in the Visconti Age*, (Leiden: Brill, 2016), Chapter 3. For *fama* in French law, see Akehurst, "Good Name, Reputation, and Notoriety in French Customary Law," in *Fama: The Politics of Talk and Reputation in Medieval Europe*, eds. Thelma S. Fenster and Daniel Lord Smail, (Ithaca: Cornell University Press, 2003). And on how *fama* could affect cases of rape, Lansing, "Conflicts Over Gender in Civic Courts," in *The Oxford Handbook of Women and Gender in Medieval Europe*, ed. Judith Bennett and Ruth Karras, (Oxford: Oxford University Press, 2013).

<sup>25</sup> ADCO BII/360/1/4-9, 1432.

<sup>26</sup> Beaulant, *Criminalité et justice échevinale*, 36; Gonthier, "La population dijonnaise," 114. Due to the Covid-19 pandemic, I have been unable to go to Dijon again to look at these registers, and have instead made use of their index. *Inventaire des archives communales antérieures à 1790, Série B*, Département de la Côte-d'Or.

may in fact indicate the court's desire to limit rape as Gonthier posits, this was not necessarily beneficial to victims/survivors, as the documents reveal a level of scrutiny that certainly could have been upsetting for the women being examined. The court may have deterred some men from committing rape, but it could have also deterred women from reporting.

It is difficult to determine how truly widespread rape was in Dijon, but from my own count, thirteen rapes of which records survive were prosecuted between the years 1404-1430. This number is likely woefully incomplete, as the documentary evidence for the criminal justice in the last few years of the fourteenth century and the beginning of fifteenth pales in comparison to the volume of evidence from the mid-fifteenth century onwards. By Rossiaud's count, which he does not substantiate with exact citations or evidence of his method, 125 rapes appear in the archives for the years 1436-86.<sup>27</sup>

What is striking about the cases I study here is the pattern they generally follow: a group of men, or less frequently a single man, attacked a vulnerable woman in the evening, either coming to her home and breaking in, or removing her from her place of employment, and then raping her. This pattern speaks to a culture of preying on women who were alone—widows, women whose husbands were away for the evening—or who were vulnerable due to their unmarried status and/or employment as servants. That this culture was persistent throughout the fifteenth century indicates that the municipal justice was not successful in controlling it quickly.

Rossiaud has argued, however, that Dijon's culture of gang rape was influenced by and in service of what we might call toxic masculinity. Young men acquired the 'privilege of

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<sup>27</sup> Rossiaud, *Medieval Prostitution*, 11-12. He concludes that this number does not represent the true number of rapes that occurred, and estimates that the archives only reflect one fifth to one quarter of rapes.

masculinity’ by participating in gang rapes. By his count, fifty to sixty men participated in gang rapes each year.<sup>28</sup> Michelle Armstrong-Pardita has also argued that rape, and in particular gang rape, ‘aided in the construction of a masculinity that reinforced masculine privilege and created a cultural environment that largely rewarded men for sexual assault’.<sup>29</sup> She posits that young, unmarried men (who appear as rapists more frequently than other men in the records) learned to rape from one another, eventually perpetrating rapes on their own.<sup>30</sup> However, the evidence analysed here suggests that in Dijon, at least, there also existed a culture of resistance to this type of rape. Far from accepting or rewarding rapists, residents of Dijon seem to have wanted to protect women from them. While rape likely conferred respect and privilege within certain masculine communities, it did not necessarily outside of them. Furthermore, some of the men who were rapists already had power—as nobles, as employees of the Duke of Burgundy—and did not need to rape in order to acquire it within their communities. Rather, rape was something they could do *because* they were powerful, especially so in relation to the vulnerable women they chose to assault.

One might also argue that Dijon was on the whole a city of loose sexual mores. After all, from 1417 the city operated a public brothel, and there were seven bath houses that served as unofficial, illegal brothels.<sup>31</sup> There were sex workers of all types in Dijon: public sex workers, those who worked in the bathhouses and clandestine brothels, those who were just passing

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<sup>28</sup> Rossiaud, *Medieval Prostitution*, 21.

<sup>29</sup> Michelle Armstrong-Pardita, “Precarious Manhood: Adolescence and Gang Rape in Late Medieval Europe,” *Medieval Feminist Forum* 56, no. 2 (2020): 133.

<sup>30</sup> Armstrong-Pardita, “Precarious Manhood,” 133. For masculine youth culture and crime, see Ruth Mazo Karras, *From Boys to Men: Formations of Masculinity in Late Medieval Europe* (Philadelphia: University of Pennsylvania Press, 2003); Natalie Zemon Davis, “The Reasons of Misrule: Youth Group and Chivaris in Sixteenth-Century France,” *Past & Present* 50 (1971): 41-75.

<sup>31</sup> Gras, *Histoire de Dijon*, 80.

through the city, and those who worked alone or on the streets.<sup>32</sup> But public brothels or designated districts for sex work were in no way unique to Dijon, and the fourteenth and fifteenth centuries saw an increase in legalized areas for sex work across France.<sup>33</sup> Rossiaud tries to argue that prostitution curbed the sexual appetites of young men to an extent. There is no way to know definitively if more or less rape occurred before or after the public brothels were opened. Certainly, rape occurred despite their existence, and sex workers were subject to it as well.<sup>34</sup>

But despite the proliferation of sex work and the culture of masculinity and rape, the residents of Dijon did not seem happy about the city's rapes, as demonstrated by their willingness to testify against rapists and even apprehend them. Rossiaud, however, speaks of the victim/survivors of rapes as if no one cared for them. He writes, 'the victim, who had lost her good name in almost all cases, encountered real difficulty in regaining her place in society, and even in her own family...She herself felt shamed, guilty, the object of scandal...in her own eyes and those of her associates, the status of a raped woman was brought singularly closer to that of a common prostitute'.<sup>35</sup> Though the examples he cites, all from the end of the fifteenth century, speak to the shame women felt, and though victims/survivors likely did struggle with community judgment, shame was not the only personal feeling associated with rape, and ostracization was not the sole community reaction. If reintegration into the community was not possible, if experiencing rape was a persistent black mark against one, then why did witnesses to rapes

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<sup>32</sup> Rossiaud, *Medieval Prostitution*, 6-7.

<sup>33</sup> Leah Otis-Cour, *Prostitution in Medieval Society: The History of An Urban Institution in Languedoc*, (Chicago: University of Chicago Press, 1985), 30; See my Chapter 5, 264-7.

<sup>34</sup> See my Chapter 5 for instances of this.

<sup>35</sup> Rossiaud, *Medieval Prostitution*, 29.

support rape victims/survivors in court? Furthermore, very few of the neighbours and community members involved in witness testimony as analysed here participated in victim blaming. While there is evidence that some were less supportive of women who had poor reputations, there is also clear evidence that some understood rape as the fault of men who perpetrated it. The evidence does not suggest that the community response was as harsh or bleak as Rossiaud paints it to be.

### *Community Response to Rape*

Medieval courts were places in which reputations could be restored or destroyed, and in which a neighbourly bonds or feuds were put on display. Both the criminal and civil courtrooms became acknowledged as a spaces in which one could publicize and pursue an enmity or hatred for another person.<sup>36</sup> Smail argues law courts became a new ‘marketplace’ in which people could ‘pursue emotional satisfaction’, supplanting other acts of vengeance.<sup>37</sup> Medieval individuals viewed courts as appropriate spaces to negotiate interpersonal relationships and conflict, especially because what happened in court became public knowledge. Medieval court records are thus important sources for studying community bonds and morals, as well as community reactions to crimes.

McDonough’s *Witnesses, Neighbors, and Community in Late Medieval Marseille* argues that witnesses testified to both ‘legal standard’ and ‘unwritten paralegal community standards,’ making witness testimonies a valuable source for understanding the rules, morals, and inner

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<sup>36</sup> Daniel Lord Smail, *The Consumption of Justice: Emotions, Publicity, and Legal Culture in Marseille, 1264-1423*, (Ithaca: Cornell University Press, 2003) 94.

<sup>37</sup> Smail, *The Consumption of Justice*, 132.

workings of medieval communities. Witnesses acted as a collective, arguing for their neighbourhood's shared interest, and their testimonies give us insight into what was considered moral, good behaviour in a medieval city.<sup>38</sup> McDonough also argues that witnessing was an act that imbued one with social and economic power, as litigants 'depended' on them, and witnesses could choose whether they spoke or not.<sup>39</sup> Having many witnesses speak about the same thing, and mark it as common knowledge, was important for litigants but it also allowed community members to claim they were in the know.<sup>40</sup> Neighbours in Dijon acted in a similar manner to those in the Marseille civil courts, rallying around one another when needed and defining the parameters of acceptable community behaviour. Similarly, they acted collectively by repeating what they had seen and heard.

Community response to rape is essential to the study of victim/survivor perspective and experience because it has the power to positively or negatively impact victim/survivor mental health. By 'community response to rape' I specifically mean the way that residents of a locale, as well as its institutions, responded when one of its own members experienced rape. In a small medieval city such as Dijon, the community response might even have had significant impact on victim/survivor mental health and healing after rape. Psychology and sexual violence researcher Rebecca Campbell, whose work was discussed in Chapter 1, has examined the impact of community response to rape on victims/survivors in several studies. When victims/survivors today have positive interactions with community systems such as rape crisis centres, there are direct and positive mental health impacts. Similarly, when they have contact with community

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<sup>38</sup> Susan Alice McDonough, *Witnesses, Neighbors, and Community in Late Medieval Marseille* (New York: Palgrave Macmillan, 2013), 37-8

<sup>39</sup> McDonough, *Witnesses, Neighbors, and Community*, 47.

<sup>40</sup> McDonough, *Witnesses, Neighbors, and Community*, 48.

systems that are less supportive, such as medical and legal systems, they are more likely to experience 'poorer health outcomes'.<sup>41</sup> Legal systems are particularly onerous; in one study conducted by Campbell et al, 52% of the victims/survivors who utilized legal systems experienced 'hurtful' contact with them, and only 35% found the contact 'healing'. Notably, those who did not have their cases prosecuted rated their experiences as 'hurtful'. In contrast, 85% of victims/survivors who utilized religious communities post-assault found contact healing, and 75% found rape crisis centres to be healing.<sup>42</sup> There is no way to determine definitively whether medieval victims/survivors experienced healing or harm when in contact with community systems after rape, but these studies usefully demonstrate that such systems are likely to have appreciable impact, and that the way people and systems respond to victims/survivors when they disclose can gravely affect them. It may therefore be useful to think about which systems, structures, and community support medieval victims/survivors may have had contact with.

Medieval victims/survivors did not have access to rape crisis centres, but they did experience contact with legal systems, and medical examination within these. The justice system in Dijon may have been retraumatizing for victims/survivors because it required them to testify in detail about the experience, and some were subject to gruelling sets of questions.<sup>43</sup> Secondary victimization, or second rape, can occur when victims/survivors come into contact with systems that perpetuate 'victim blaming attitudes, behaviors, and practice' and thus 'further the rape

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<sup>41</sup> Campbell, et al., "Preventing the 'second rape'," 1253.

<sup>42</sup> Campbell, et al., "Preventing the 'second rape'," 1251.

<sup>43</sup> ADCO BII/360/1/8-8, 1431, case of Jehanotte de Vaults, my Chapter 4, 231-242. For the impact of retelling one's story of rape over and over, see Brison, *Aftermath*, 108; Campbell, *Emotionally Involved*, 1-13.

event, resulting in additional trauma for survivors'.<sup>44</sup> As Gonthier demonstrates, the Dijon court was very interested in the reputation of the victim/survivor in regards to proving a rape, with one case including 25 folios worth of testimony on the subject from 15 community members.<sup>45</sup> While the women in these trials may have felt comforted that the court was investigating their case, the experience was clearly not easy to endure, and the investigation did not guarantee that the rapist would be held accountable.

Susan Brison's own experience with the legal system in modern-day France highlights the difficulties of testifying, pointing us towards which issues to bear in mind when considering medieval evidence. She describes how the first deposition she gave from the hospital took her eight hours. She then retold the story countless times during the two-and-a-half-year period between the assault and the trial. She was asked about specific details such as the clothes the rapist wore and how long she had been unconscious. But during the assault, she was so focused 'only on survival' that she did not note such details. She describes a sense of relief after telling the story for the last time in court.<sup>46</sup> She could finally, 'let go of the details' that she had 'kept alive'.<sup>47</sup> The victims/survivors from Dijon endured a similarly arduous process. Gillote de Mons and Richote Mercerot both told their stories to others before the crime was reported to the town hall.<sup>48</sup> And the prosecution of the municipal court in Dijon was arduous, requiring specific details and descriptions from victims/survivors, sometimes just a day after the rape had occurred.

The Dijonnaise court occasionally had 'sage-femmes'[midwives] examine the

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<sup>44</sup> Campbell, et al., "Preventing the 'second rape'," 1240

<sup>45</sup> Gonthier, "Les victimes de viol," 16.

<sup>46</sup> Brison, *Aftermath*, 106-7.

<sup>47</sup> Brison, *Aftermath*, 108.

<sup>48</sup> ADCO BII/360/1/4-7, 1421, case of Gillote de Mons; ADCO BII/360/1/4-9, 1432, case of Richote Mercerot.

victim/survivor if they were young and claimed to be a virgin, and though this occurred elsewhere in Europe, it was not a widespread practice.<sup>49</sup> Hiram Kümper argues that when female medical practitioners were used by courts it was ‘for two kinds of ruptures: the loss of virginity and the rupture of a child’s genitals’.<sup>50</sup> So while we do not know how exactly these examinations proceeded, they were necessarily invasive and may have exacerbated trauma after a rape. They had the potential to be both physically painful and psychologically damaging.

Though the court subjected victims/survivors to an arduous set of questions, it also allowed the community to be vocally supportive (or unsupportive) of victims/survivors in their testimonies. It is only via these trial documents that we learn of how the Dijonnaise community tried to regulate and respond to rape within its neighbourhoods, and whether the demonstrated community support for victims/survivors had a positive impact on them post-assault. Community support via witness testimony could strengthen a medieval victim’s/survivor’s case in court, and after the case was concluded it might ensure that she remained safe from retaliation by the perpetrators and/or his friends. If the community knew that she had not lied about the rape, she would perhaps suffer less damage to her reputation. Community support and witness testimony therefore allow us a window into victim/survivor experience after the legal process was concluded. Furthermore, community support for rape may have in fact encouraged more victim/survivors to come forward.

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<sup>49</sup> Hiram Kümper, “Learned Men and Skillful Matrons: Medical Expertise and the Forensics of Rape in the Middle Ages,” in *Medicine and the Law in the Middle Ages*, (Leiden: Brill, 2014), 105-8, Gonthier, “Les victimes de viol,” 24.

<sup>50</sup> Kümper, “Learned Men and Skillful Matrons,” 108.

*The Limits and Uses of Testimony*

Though significantly removed from the depositions in their original spoken form, the Dijon testimonies perhaps represent the closest we can come to examining the experiences of victims/survivors in their own words. As Rosenwein reminds us, even if we had diaries, we would still be studying a subject mediated through language and text.<sup>51</sup> We should consider that the legal documents themselves represent an important facet of an individual's experience with committing, witnessing, or being victim to a crime.

I cannot find the unmediated subject of the victim/survivor in the Dijon testimonial records, but that does not mean that they cease to exist as subjects within the documents. The testimonies of victims/survivors are rife with descriptions of violent sexual acts, and include victim/survivor emotions and palpable fear. These interrogations records are neither the complete creations of the court scribe, mayor, and *procureur*, nor are they purely accounts of what the victims/survivors felt and experienced. They are instead a valuable source for studying victim/survivor experience as shaped by a court and a community.

Rape as a criminal act and rape as an experience are inextricably linked in sources that attest to it only because it was reported and/or investigated as a crime. While I seek here to understand victim/survivor experiences of rape in Dijon, the fact that they are bound up with legal discourses of rape is not necessarily a bad thing; it simply allows me access to one facet of their experience of rape. As discussed in Chapter 1, the victim/survivor testimonies from Dijon contain the type of ruptures that John Arnold describes:

The heteroglossic nature of the records leads to conflicts, oppositions and ruptures in the text; the subject speaks within competing discourses. So the ethical response of the historian to

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<sup>51</sup> Rosenwein, *Emotional Communities*, 26.

these sources is surely to provide a critical and effective reading of these ruptures, which will have the source speak against itself, against its own constraints.<sup>52</sup>

Victim/survivors in these testimonies are speaking within legal discourses, gendered discourses, and discourses of local rape culture and resistance to it. Often victims/survivors sought to align their stories or situation them within legal discourses, so that they were presenting a narrative of rape that was believable. Alternatively, this alignment might suggest that only women who were subjected to a certain type of rape reported it to the town hall in Dijon. That the legal discourse and the narrative of rape become so aligned suggests, as Johnson argues, that medieval people shaped their testimonies for court.<sup>53</sup> But in the case of rape, it also suggests something much darker: women were aware that their cases would only be investigated if they resisted in a specific way, and thus may have fashioned both their testimonies and their responses to rape *while it was occurring* to fit the ‘real’ rape script. It is clear though, that the legal discourse of rape was not all encompassing: women accused men of much higher status than them, the community intervened directly in rapes, neighbours and witnesses to rapes defended even those women who had poor reputations.

Residents of Dijon were well aware of how the criminal justice court functioned and how they could access it. In several cases of rape, women threatened their attackers with the justice of the *maieur* [mayor], essentially proclaiming their intent to report. Threatening the rapists with justice did not, in any of the cases studied here, convince them to cease their assault, but it could have strengthened a woman’s case in court if it was clear from the start that she had not consented. Furthermore it could have functioned as a way to engage the justice system via a

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<sup>52</sup> Arnold, “The Historian as Inquisitor,” 384.

<sup>53</sup> Tom Johnson, “The Preconstruction of Witness Testimony,” 145-7.

denunciation within the community. In Gillote de Mons testimony she stated that the rapists ‘non obstant quelle criant tresfort et quelle leur dist quelle sen plaindroit a justice’[did not stop despite her crying out forcefully nor when she said she would complain to the justice].<sup>54</sup> Anyone who heard this—and her neighbour Odote did hear her screams—would have known a crime was occurring.

Similarly, it is apparent that victims/survivors and women in Dijon understood what was needed in a testimony about rape. For example, in the testimony of Jehanotte de Vaults, who was raped by a group of ‘compagnons’[companions], she said that she cried out at multiple points, both during the kidnapping and throughout the rape.<sup>55</sup> The inclusion of such sustained, consistent resistance in her testimony points to knowledge that it was up to her to demonstrate non-consent and thus prove rape. She need not mention it were it not important, and the presence of crying was not prompted by the *procureur* asking her about it, rather it seems to stem from her own narration of events. I do not mean to suggest that Jehanotte did not actually scream as much as she said she did—it is entirely possible that she screamed both because she wanted to and because she knew that this was part of how a woman demonstrated she did not want to be raped. She likely also screamed so that her neighbours would hear and come to her aid.

### *Rape in the Community: the Cases of Gillote de Mons and Katherine Vougeot*

The story of rape prosecution in Dijon is very much one of rape and/or abduction being seen, heard, and documented by neighbours, friends, and others within the community. Similarly,

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<sup>54</sup> ADCO BII/360/1/4-7, 1421.

<sup>55</sup> ADCO BII/360/1/8-8, 1431. This is labeled as both case 3 and case 8, but it is in fact case no 8, in group 8.

their testimonies demonstrate the importance of hearing and speaking about things with one another.<sup>56</sup> Support for rape victims/survivors is present in the trial documents in two ways. First, the documents include witness testimonies that confirmed what rape victims/survivors said in *their* testimonies, and which affirmed the character and reputation of the victim/survivor to the court. Secondly, the documents include stories of direct intervention on the part of neighbours, who were successful in preventing rapes from occurring.

The case of Gillote de Mons demonstrates how people in Dijon could become witnesses to crimes and confirm victim/survivor experience even when it happened to someone they did not necessarily know. Late in the evening on October 21, 1421 Gillote and her husband, Thevenin, were asleep in bed while staying at the house of Guillaume le Norman, when Othenin de Monnot, Mathieu, and one other broke into the home and abducted Gillote. They took her to a nearby stable, where they proceeded to rape her: ‘lont chevauchee et cogneue charnelment malgre elle et a force et non obstant quelle crioit tresfort’ [they rode her and knew her carnally against her will and with force, not stopping when she cried out loudly].<sup>57</sup> The men tried to give her money, and she refused the sum of twelve *blancs* which was only equivalent to five *sous*, a very small amount.<sup>58</sup> After the ordeal was over, Gillote reported the crime to Humbert Thierry, the *procureur*, who initiated the investigation.

Gillote’s testimony reveals both the intimate, personal horror of the rape, but it is also a rather skilfully constructed story about her endurance of the ordeal. She describes being abducted from the bed where she lay with her husband, her cries, pleas, and threats to bring them to

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<sup>56</sup> For the emphasis on testimony including one of the five senses, see McDonough, *Witnesses, Neighbors, and Community*, 41.

<sup>57</sup> ADCO BII/360/1/4-7, 1421, summary of complaint.

<sup>58</sup> Gonthier, “Les victimes de viol,” 28.

justice, the money they offered her, and then, finally, the connection between the locale, ‘l’estable des chevaux’ [the stable for the horses] and one of the terms used to describe the rape, ‘chevauchee’. *Chevaucher* as a verb used to indicate rape, appears in both the summary of the complaint (quoted above) and in Gillote’s own testimony. When asked by Thierry which of the men raped her first, Gillote responded that it was Othenin, and then said that Othenin told the two others to hold her down by her arms and legs, and to gag her, while he ‘la chevauchoit’ [rode her]. Gillote concludes the details of the rape by stating that ‘en celle maniere la cogneurent tous charnelment’ [in this manner they knew her carnally].<sup>59</sup>

The difference between *chevaucher* and carnal knowledge is unclear, but it appears in other documents pertaining to rape from Dijon.<sup>60</sup> Gravdal notes that rape cases from fourteenth-century registers contain ‘unusual attention to narrative development [by the scribe], to the reproduction of direct discourse and to detail used for chilling effect’.<sup>61</sup> Certainly, ‘l’ont chevauchee’ used in conjunction with the locale is chilling, underscoring the degrading nature of rape, and of being abducted from bed, taken to a stable, and ridden. This particular narrative detail—that Gillote was treated like an animal—was not likely a fabrication on the part of scribe, but in fact seems to have been apparent to Gillote, as well as another witness who also used the term. Othenin and the other men may have intentionally brought her to a stable in order to humiliate her even further. *Chevaucher* is certainly not a verb of emotion, but its inclusion in this case draws an undeniable emotional arc. Gillote’s emotional reaction to the ordeal was not merely about the violation of her consent at multiple points, but about how it was violated within

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<sup>59</sup> ADCO BII/360/1/4-7, 1421, Gillote’s testimony.

<sup>60</sup> Gonthier, “Les victimes de viol,” 16.

<sup>61</sup> Gravdal, *Ravishing Maidens*, 135.

the context of the location of the rape. Afterwards they offered her a small sum of money, as if to indicate her potential value were she a sex worker.

There is no doubt that Gillote's experience caused her grave harm. The men had made it clear that she was not safe even while with her husband. However, Gillote was not entirely alone in the ordeal, as the testimonies from her husband and community members reflect their willingness to confirm to the court what had happened to her. Thevenin's testimony does not include much information that is not already in Gillote's, and rather than record the entire interrogation, the scribe merely wrote that things had occurred as already declared by Gillote, and that what she told Thevenin after the rape was what was in her own testimony.

Little information is given about Gillote and Thevenin's community standing; we only know that they were wine makers. If they were not local to Dijon, then they could have come from the surrounding area.<sup>62</sup> Still, several neighbours of Guillaume le Norman testified and confirmed the veracity of Gillote's story. Odote, a widow, who lived near Guillaume, heard Gillote's screams and got out of bed to see what was going on. She saw Othenin and the others abducting Gillote, though she did not know where they were taking her. The final details in Odote's testimony pertain to how Gillote was abducted, and were prompted not by the *procureur* asking a specific question, but by Odote herself. This is indicated by the phrase 'dit aussi', as in, 'she [Odote] also said', rather than via a specific question. Odote described how the men beat Gillote and threatened her with their weapons, because 'elle ne vouloit cheminer a leur plaisir'

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<sup>62</sup> The court records are full of mentions of 'vignerons' [wine makers]. On conflicts among wine makers in Dijon in the Middle Ages see Rudi Beulant, "Un terroir pour trois. L'évolution des rapports politiques et sociaux entre le duc de Bourgogne, la mairie de Dijon et les vignerons aux xive-xve siècles," *Crescentis: Revue Internationale d'Histoire de la Vigne et du Vin* 1 (2018): 140-158.

[she did not want to go at their pleasure].<sup>63</sup> Odote was not asked to provide these extra details—ones that do not even appear in Gillote’s testimony—yet she did anyway. Whether or not she was acting consciously, Odote’s testimony reflects an awareness of the medieval rape script that demanded a woman’s non-consent be demonstrably vocal, and that the act needed to be violent and violently resisted in order to be considered a rape.

Two more testimonies track the men’s route through the city that evening. Othenin, Mathieu, and the unnamed other stopped at the house of Marguerite and pounded on her front door aggressively. She spoke to them, and they asked where a certain Ysabel was. She did not respond, and they left, after which she went back to bed. Marguerite’s neighbour Simone also testified. The commotion at Marguerite’s prompted her to rise from her bed, and though she saw the three men approach Guillaume’s house, she testified that she didn’t know what exactly they did because she went back to bed. Compared to Odote’s testimony, Marguerite’s and Simone’s testimonies are scant in detail, and demonstrate perhaps an unwillingness to become more involved in witnessing a crime than they had to.

Finally, there is a testimony from Hugenin, who lived near the stables where the crime occurred. Hugenin bore closer witness to the crime or rape than any of the other neighbours who testified. His testimony corroborated many details of Gillote’s story: he heard her screams in the stable, and said that it seemed like they were raping her (‘chevauchioient’).<sup>64</sup> But he also provided details that are not included in Gillote’s testimony. She threatened the men with hanging: ‘et disant a eulx...qu’elle les feroit pendre’ [and said to them...that she would make

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<sup>63</sup> ADCO BII/360/1/4-7, 1421, Odote’s testimony.

<sup>64</sup> I translate ‘chevauchioient’ as rape here because part of what Hugenin hears is Gillote’s resistance; he did not present the sex he heard as consensual. Furthermore, in the context of this case, I think *chevaucher* does mean rape and a particularly degrading form of sex.

them hang]. When Othenin offered her money, she repeated the threat, and he responded by slapping her on her buttocks as payment (Hugenin heard them say this, and heard the slap as well).

Hugenin's testimony was grounded in hearing, rather than seeing the crime occur, but still, it provides remarkable detail and gives us further insight into Gillote's experience. In Gillote's own testimony, she said that she threatened to report the men to the justice; in Hugenin's testimony, he said that she specifically threatened them with the hanging that might result from seeking justice. Other victims/survivors made similar threats. Perenote Gauchot told her attackers that she would see them on a 'champ de bataille' [field of battle] and report them to the mayor.<sup>65</sup> Viote repeatedly called her attackers 'faulx murtriers' [false murderers] and threatened to report them to the mayor.<sup>66</sup> In Hugenin's testimony, Gillote repeated her threats more than once, retaining her conviction to see the men hang throughout the ordeal, and following through on the threat afterwards when she reported the crime. Hugenin's testimony paints the portrait of a woman whose non-consent was articulated thoroughly and throughout the act.

I am not suggesting that the descriptions of Gillote's sustained resistance in Hugenin's and Odote's testimonies do not reflect what may have actually occurred. Rather, I follow McDonough's assertion that memory is a 'synthesis of experiences' and that witness testimony therefore 'represents more than one person's recall of a particular moment'.<sup>67</sup> Hugenin, for example, may have remembered what he heard Gillote say differently than how Gillote

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<sup>65</sup> ADCO BII/360/1/3-3, 1414.

<sup>66</sup> ADCO BII/360/1/4-8, 1421.

<sup>67</sup> McDonough, *Witnesses, Neighbors, and Community*, 1.

remembered saying it. Furthermore, their memories of the events, and testimonies, were likely shaped by what they knew the court was looking for when it came to cases of rape. The details they remembered from what they witnessed of Gillote's ordeal and the details they chose to include in their testimonies reflect knowledge of the importance of resistance. Perenote's neighbour Nicole included similar pieces of information in her testimony, providing details of what she said to deter the men and her intent to report the incident to the justice.<sup>68</sup>

Gillote's case may have only been investigated because it included the type of evidence that medieval courts looked for during a rape. Had she frozen in fear, had no one else witnessed the abduction, had she not threatened the men with justice, she may not have been as confident in lodging the complaint. Gillote herself may have accessed knowledge of rape scripts when fashioning her testimony and perhaps even during the rape itself. Gillote's testimony, and those that corroborate it, include all of the hallmarks of a medieval 'real' rape script that fits rather exactly into Beaumanoir's definition: she was abducted from her husband's side, she made her resistance clear by screaming loudly throughout, she threatened the men with justice, and she did not let them pay her, lest this signal her consent. Again, I am not suggesting that Gillote's testimony was a lie, nor do I believe, based on the questions asked by the *procureur*, that she was merely a puppet of municipal justice. Rather, she knew how she was supposed to resist a rape, and knew how to testify effectively about it when it happened to her. Further to this, the witnesses also understood this 'real' rape script, and knew which aspects of the rape to comment on in their testimonies. That they did so indicates that their support of Gillote was conscious. Hugenin commented on the exact manner in which Gillote threatened the men with justice, and

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<sup>68</sup> ADCO BII/360/1/3-3, 1414.

Odote noted that she did not want to go with the men as they abducted her.

Gillote did not necessarily live in the neighbourhood of Dijon in which the crime occurred (she and her husband were sleeping at Guillaume le Norman's house), and yet two of its residents provided strategic testimony that corroborated her story. Dijon may in fact have had a problem with gang rape, as Rossiaud argues, but the community members were not unaware nor were they content to sit idly by. Rape often has no witnesses, and this means that very often public opinion of cases descends into a battle of he-said-she-said. Many of the women discussed in previous chapters, like Perrote Turelure and Cassotte la Joye, had no one else to validate their stories, and Cassotte's case surely suffered for it. Gillote certainly knew that what had happened to her was unprovoked and wrong, for she named it as a crime when she threatened to see the men hang, but she did not then have to suffer through being the only person who believed the crime had occurred. The court and the community of Dijon may have believed Gillote more certainly, as Hugenin confirmed he had heard a rape occur, and both her husband and Odote confirmed the abduction. And Gillote may have avoided blaming herself for the rape, or doubting her own response to it, because witnesses corroborated her story. The emotion that permeates these testimonies is Gillote's righteous fury at what was being done to her, and her own confidence in declaring herself as the victim/survivor of rape, rather than as acquiescing to it (as Othenin suggested by trying to pay her). These emotions were not lessened in the testimonies of witnesses, and in fact the witnesses may have even bolstered Gillote's confidence in herself and her desire for justice.

Witnesses did not always speak in favour of rape victims/survivors, nor did testimony always have the ameliorative effect that I suggest it did in Gillote's case. The case of Katherine

Vougeot similarly demonstrates the role that direct witnessing could play in a rape trial.

However, the witnesses called in her case were asked far more questions about her reputation than those testifying in Gillote's.<sup>69</sup> By 1447, the court had a different *procureur*, Jehan Rabustel, who may have had a different attitude towards questioning than Humbert Thierry.

On August 30, 1447, three men, including Sansonnet Baichet, accosted Katherine at her front door and then broke into her home.<sup>70</sup> Her husband was gone for the evening, but there were others with her in the house: her children, her sister, and Loiz Galant, a sick man who she was caring for. Katherine attempted to convince the men to leave, saying that she was a 'femme mariee'[married woman] and 'une bonne prudefemme'[a good, honourable woman], and that her young child and her sister were both in the home with her. Undeterred, the men beat Katherine and in order to stop her cries, gagged her. They each raped her and she defended herself. Before leaving, Sansonnet had his brother check to make sure that none of Katherine's neighbours, or anyone else, was in the street. They left, Katherine reported the crime on the 31<sup>st</sup>, and that same day the *procureur* began investigating.

Loiz Galant's testimony confirmed Katherine's. He interacted with the men once they had broken in, though they left him alone as he was sick. From his room, he heard Katherine's cries and heard the men call her a 'paillard ribaude et aultres injuriez'[wanton bad woman and other insults].<sup>71</sup> He also heard them rape her. The *procureur* asked Loiz if Katherine was a 'femme de malvais gouvernement' [woman of bad governance] and he said that he believed she was 'une bonne prudefemme' [a good honourable woman].

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<sup>69</sup> Most of these women are not given last names, and are instead identified as someone's wife. I have carried over their husbands' names in order to avoid confusion as some of them have the same or similar first names.

<sup>70</sup> ADCO BII/360/3/22-313,1447, testimony of Katherine Vougeot.

<sup>71</sup> ADCO BII/360/3/22-313, 1447, testimony of Loiz Gallant.

The fact that the men checked to make sure none of Katherine's neighbours were outside demonstrates that they were trying to avoid being seen—perhaps because they knew the power of witness testimony. But Katherine's neighbours did hear what was going on, including three women: Colote, Marguerite, and Jehanne. Colote and the two other women were in a cellar when they heard the altercation between the men and Katherine. The women discussed Sansonnet's reputation, and Colote admitted to the others that she knew who Sansonnet was, and that he was a 'malvais garnement' [evil scoundrel] and was known for doing bad things in the city at night.<sup>72</sup> However, Colote did not hear Katherine scream once they were inside, and her comments on Katherine's 'famie et renommee' were neutral, rather than positive. She said that she had not seen Katherine since the feast of Saint John the Baptist (June 24<sup>th</sup>), and did not, as Loiz Galant had, say that that Katherine was a 'bonne prudefemme'. However, she was willing to attest to the good comportment of Katherine's husband, and said she knew that Katherine was from Dijon, and that the two of them had never been accused of anything, as far as she knew.<sup>73</sup>

Another testimony included both a defence of Katherine and a startlingly direct confrontation of victim blaming. Angneaul said that she heard Katherine say she knew Sansonnet well, but not the others. And of Katherine's reputation she said: 'Katherine se gouverne comme bonne prudefemme mais se elle rid voulentif et se elle est joyeux femme, si ne fault il pas pour tant que len la vienne prendrent efforcer a force que len a fait quest mal fait que il semble' [Katherine governs herself like an honourable woman but even if she laughs freely and is a joyous woman, that does not mean one may come and rape her by force, as it seems this evil

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<sup>72</sup> ADCO BII/360/3/22-313,1447, testimony of Colote.

<sup>73</sup> ADCO BII/360/3/22-313, 1447, testimony of Colote.

deed was done]. While Angneaul did assert that Katherine was a good woman, she also commented on the possibility of Katherine being a 'joyeux femme'. Angneaul seems to have wanted to be honest with the court, or at least wanted to give them a testimony that would appear honest when compared against the others, but she doesn't seem to have wanted the court to conclude that Katherine's bad reputation was the reason the rape occurred. Angneaul was clear to state that even if Katherine was a woman of ill-repute in some manner, or overly friendly (after all, she knew Sansonnet), that didn't mean she deserved to be raped. These comments demonstrate an awareness of the fact that the court might exonerate or convict a rapist on the basis of a woman's reputation, as well as a desire to articulate the community's morals: just because a woman acted differently than what was acceptable, she did not deserve to endure sexual violence. Angneaul's comments take aim at victim blaming, one of the pillars of rape culture, and dismantle the notion that medieval witness testimony was constructed only by the legal system in which it took place. Rather than answering the *procureur's* question about reputation with a standard formula, Angneaul imported her own ideas about rape, gender, and reputation into her testimony.

Jehanotte de Long Champ, however, did not mount such a defence of Katherine. She said that Katherine was a 'joyeux femme' [joyous woman] and gave details of Katherine's specific behaviour in the city, describing how she refused to speak to people in Dijon who she knew by name. Then, she said that it was possible that 'malvaises gens' [bad men] had heard that Katherine was a 'bonne galoise' [good, lusty woman] and that this was why they sought her out. Jehanotte then said that she didn't believe this about Katherine because she'd never seen anyone

go into her home and her husband was a good man.<sup>74</sup>

Other neighbours were more supportive. Jehanne Vigellet, who was with Colote in the cellar, said that Katherine comported herself honestly, like the other ‘bonne prudefemmes de ladit rue’ [good honourable women of the said street] and that there were no charges of dishonour against her.<sup>75</sup> Denise’s testimony repeated this sentiment, and declared that Katherine comported herself like the other women of the neighbourhood. Whereas Colote was reluctant to admit she knew Katherine well, and while Jehanotte directly cast aspersions on her character, these more favourable comments signalled that Katherine was in fact a respected member of the neighbourhood.

Finally, there is a testimony from Jehan Bainchet, Sansonnet’s brother, who was not involved in the rape itself but saw the men break into Katherine’s home, and heard her scream. Katherine, like Gillote, had several witnesses to the crime: Loiz Galant confirmed that the rape had occurred, and every other testimony confirmed that Sansonnet had broken into her home. However, unlike Gillote, Katherine’s case was fraught with questions centred on her reputation, as if to suggest that she had brought the attack on herself. Whereas Gillote’s case gives the impression of a woman bolstered by the people around her, who portrayed her in their testimonies as firmly the victim of a crime rather than the cause of one, Katherine’s neighbours were somewhat split in their support of her. She thus may have suffered from feeling ostracized, both before and after the case.

Though we don’t know the verdict in this case, it is important to consider how verdicts in

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<sup>74</sup> ADCO BII/360/3/22-313, 1447, testimony of Jehanotte de Long Champ.

<sup>75</sup> ADCO BII/360/3/22-313, 1447, testimony of Jehanne Vigellet.

rape cases may have affected victims/survivors, and the very real possibility that reporting could have made them less safe. If Sansonnet was apprehended, imprisoned, and sentenced, perhaps she might have felt some measure of safety, protection, and emotional healing. But if he and the other men (who were not likely sentenced as no one knew their identities) remained in Dijon after the rape and investigation, Katherine might have felt a great deal of fear at encountering them again.

As modern-day readers of these text, it is perhaps easy to judge testimonies like Colote's and Jehanotte's for not being as firm in their support of Katherine as they could have been. Even Angneaul, who did not want to engage in victim blaming, still commented on Katherine's reputation as a 'femme joyeaux'. However, the testimonies in Katherine's case reveal that women in Dijon lived with a pervasive fear of being raped, as well as an understanding of how it could be wielded against them, and this might have influenced the content of their testimonies. In each of Colote's, Denise's, and Angneaul's testimonies, the women explain why they did not leave their homes to get a better view of the crime: 'elles ne ozerent partir horz dudit cellier' [she did not dare leave the celler], 'elle ne se ozer lever, ne son mary aussi qui est malade' [she did not dare get up, nor her husband who was ill], 'elle ne oza partir de son hostel' [she did not dare leave her house].<sup>76</sup> *Oser* meant to dare and to have the courage to do something—and none of these women dared to get closer to the crime.<sup>77</sup> Their use of the word suggests a fear of becoming victims of the *compagnons* themselves, and demonstrates a keen awareness of what it meant for a group of men to verbally threaten a woman and then break into her home. Though

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<sup>76</sup> ADCO BII/360/3/22-313, 1447, testimonies, in order, of Colote, Denise, and Angneaul.

<sup>77</sup> DMF, entry for "oser."

none of these women heard or saw the rape happen, they all seem to have known that it occurred or at least that it was the inevitable conclusion to the altercation they witnessed.

Their comments on reputation must thus be read within the larger context of the rape culture they lived in, and with the understanding that they too feared rape. By managing their own reputations, distancing themselves to an extent from women like Katherine, and avoiding encounters with violent men, women like Colote and Jehanotte might have been protecting themselves from rape in the only way they knew how. Carissa Harris identifies something similar in the *pastourelle*, arguing that the poems ‘shed further light on medieval ideas about violence prevention’ and

...depict mothers instructing their daughters to protect themselves from assault using risk-avoidance discourse, a popular but flawed antiviolence strategy that puts the responsibility on individual women to manage risk and avoid victimization by traveling in groups, limiting their alcohol consumption, not staying out too late, and assessing every man as a potential threat.<sup>78</sup>

Katherine’s neighbours might have expected something similar of her; perhaps they expected her not to associate with men like Sansonet, or make herself a target by acting like a ‘joyeux femme’. Furthermore, if Sansonet and the other men were not convicted, there was nothing to prevent them from returning to the neighbourhood to prey on other women. Katherine’s neighbours both wanted to help her and wanted to protect themselves, and their own reputations. There was tension, for women such as Angneaul, between both knowing that rape was not a woman’s fault and understanding that if and when it happened to them, they might be blamed regardless. Thus, they wanted to try and avoid being raped if at all possible, but may have also understood that there was little they could actually do against men such as Sansonet. Just as in

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<sup>78</sup> Harris, *Obscene Pedagogies*, 119.

Christine de Pizan's story of the Galatian Queen, when bad men chose to rape, there was little a woman could do to stop it (Chapter 2). Rape, after all, was not a woman's fault.

Of course, not only women witnessed crimes of rape in Dijon—and none of the men who witnessed what happened to Gillote or Katherine directly intervened in either. One might wonder why Hugenin did not intervene in Gillote's case, though he was one man against three. I am not suggesting here that these men did not care, as Hugenin's testimony demonstrates that he cared enough about being able to testify that he listened closely and made sure to include details about Gillote's sustained resistance. Members of the Dijonnaise community may have simply felt that the criminal justice was the best, and safest place for them to lend their support (though we do not know how they supported women after the fact). Approaching men like Sansonnet and Othenin, who committed crimes in groups, was not feasible without endangering oneself, and thus the residents of Dijon may have turned to the court as a space to articulate their community's values. However, some residents went a step further than the witnesses in Katherine's and Gillote's cases and actually intervened in rapes, providing victims/survivors with shelter after the crime and actually preventing rapes from occurring.

*Direct Intervention: the Case of Richote, fille de Perrenin Mercerot*

Richote, daughter of Perrenin Mercerot, was 16 years old and worked as a servant at the home of Hugon Fevre, a notary public. In the morning on June 11<sup>th</sup> 1432, Hugon, wearing just his night shirt, went to the bed where Richote was sleeping and attempted to rape her.<sup>79</sup> Richote

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<sup>79</sup> ADCO BII/360/1/4-9, 1432.

screamed and tried to fight Hugon off, and Hugon's neighbour, Geliote heard the altercation. She went to Hugon's door and pounded on it, which prompted Hugon to let Richote go. Richote fled Hugon, opened the door, and escaped. Geliote then verbally confronted Hugon about the attempted rape, allowed Richote to stay with her for the day, and contacted Richote's mother for help.

Richote's case is notable both because it expands our knowledge of the parameters of what constituted a sexual violation within the Dijonnaise community and because it demonstrates the conditions under which community intervention could occur. Richote was not raped by Hugon (though that was certainly his intention), but her testimony, full of excruciating detail, makes clear that she felt harmed and dishonoured by what did occur. After coming to Richote's bed, Hugon told her that 'il failloit quelle le baisast' [it was necessary that she fuck him], to which she responded 'non'.<sup>80</sup> He then 'la print par les bras et les lui cuidoit mettre dessoubz le doz et faisoit la plusgrant force qu'il pouvoit de soy bouter entre ses jambes pour la cognoistre charnelment mais elle se deffendit mieulx quelle peust...' [he took her by the arms and put them behind her back and tried with the greatest force he had to push between her legs in order to know her carnally, but she defended herself as best she could]. Then, because Hugon could not force her legs apart, he put his knees on her chest, and said again that he would make Richote 'le baisast' or he would never let her go. 'Baisast', from *baiser* could mean 'kiss', but here it refers to sex. Given the position Hugon was in, and how he had failed to force Richote's legs apart, he

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<sup>80</sup> ADCO BII/360/1/4-9, 1432, Richote's testimony.

might have been trying to force her to perform oral sex on him.<sup>81</sup> The physically descriptive nature of Richote's complaint might have been due to the fact that she was reporting only an attempted rape, and wanted to be clear about what Hugon had intended to do. To this end, Richote also described Hugon's erection and noted that he was not wearing underwear, which Gonthier interprets as being part of her keen awareness of what was going on and the dangers that servant girls faced.<sup>82</sup>

Richote had never had sex before, but she clearly knew exactly what Hugon was trying to do and understood it as wrong and violative. When asked by the *procureur* if Hugon had ever known her carnally, she replied that he had not, but that she 'tient et croit que l'eust deshonnoree se n'eust este ladit Geliote' [believed that he would have dishonoured her if it weren't for the said Geliote].<sup>83</sup> Richote may, as Gonthier theorizes, have lodged a complaint about the attempted rape on the counsel of the neighbourhood women, but still, both the complaint and her description of her own actions make it clear that she viewed the attempted rape as criminal and an assault in itself.<sup>84</sup> Furthermore, the assault was undoubtedly traumatizing for her. She had been sexually assaulted in her place of work and residence, and had to physically fight to protect herself from her employer. Her safety as a servant and her place of work had been compromised. Perhaps she found work elsewhere after the assault, but if not, she could have continued to endure sexual violence while working for Hugon.

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<sup>81</sup> DMF, entry for "baiser, verbe," which lists among the definitions "posséder charnellement (une femme)" and "Accomplir l'acte sexuel."

<sup>82</sup> Gonthier, "Les victimes de viol," 21.

<sup>83</sup> ADCO BII/360/1/4-9, 1432, Richote's testimony.

<sup>84</sup> Gonthier, "Les victimes de viol," 14.

Richote's situation was certainly one of precarity, and the assault likely altered her life immensely. But she did benefit from considerable community support. Geliote, Hugon's neighbour, intervened and prevented the sexual assault from going any further. Geliote heard Richote's screams and went to Hugon's door to see what was going on. The door was locked, so she called Richote's name a few times and pounded on the door. Richote responded, and once Hugon let her go, she opened the door and came outside, crying and grieving. Geliote then reprimanded Hugon: 'disant qu'il estoit malvais homme de vouloir ansi deshonnoree ladit Richote qui estoit une bonne pucelle' [said that he was an evil man for wanting to dishonour in this way the said Richote who was a good virginal girl].<sup>85</sup>

Colote, a married woman, and Jacote, an eighteen-year-old single woman, both witnessed the scene outside involving Richote, Geliote, and Hugon. They both confirmed that Geliote had confronted Hugon, and Colote even provided further details about Hugon's recent actions in the neighbourhood. He had been gossiping about wanting to sleep with other women, and told Colote that he wanted to have sex with her. Another neighbour described similar actions, and described what Richote had said about Hugon after the attempted rape. Richote said that 'son maistre...l'avoit voulu despuceller'[her master had wanted to deflower her] and that this was why she was crying.

Richote received support from every neighbour whose testimony was recorded and survived, and Hugon was painted as a clear threat to the neighbourhood. Richote's experience of rape was shaped in part by a community that sought to protect her, and that bolstered her claims

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<sup>85</sup> BII/360/1/4-9, 1432, testimony of Geliote.

of wrongdoing and sexual assault. Richote's testimony conveys this as well. Hugon's actions—his state of undress, his erection, his physical violence, his threats—were characterized as instigating the assault, whereas Richote's actions were all reactionary. She was asleep when he came into her room, she told him no when he propositioned her, and she fought back when he turned to physical violence and assault. Neither Richote, nor her neighbours, spoke of the rape as inevitable or as her fault. They all said or implied that it was entirely motivated by Hugon's actions. However, Geliote's intervention speaks to a keen sense of the threats that women, and perhaps in particular teenage servants, were subject to. She knew what Hugon was trying to do merely from Richote's scream for help, underscoring the pervasive threat that men and male perpetrated violence posed within this community.

### *The Limits of Community Aid*

It is clear that women in Dijon made use of criminal justice, and sought it out as a potential method of holding rapists accountable. Gillote de Mons expressed a desire to seek justice as the crime was happening and threatened to see the men hang both before and after the rape. Rape was something for which one deserved to die, something that infuriated women, and something to which even men were careful to bear witness and testify. Dijon's rape culture was expressed by the groups of 'compagnons' [companions/conspirators] that terrorized women in their homes, but it was countered by the way that women responded to rape as victims/survivors, and by the way that community members responded as witnesses. Rape may have been endemic in Dijonnaise society, and certainly the women in Katherine's case seem to have been afraid of

it, but many residents understood it as wrong, harmful, and criminal, and fought back using the system of justice available to them.

However, it is difficult to determine how truly well-served the community and victims/survivors were by the mayor's office without complete information on sentencing. Similarly, the community itself did not help all victims/survivors equally. Though some of Katherine Vougeot's neighbours defended her reputation, others spoke ill of her, and told the court that she knew Sansonnet, the man she accused of raping her. We can hope that she took Angneaul's point of view and understood that the rape was not her fault—perhaps she found solace and comfort with other women in the city who had endured something similar.

Richote, on the other hand, benefited far more greatly from community support than did Katherine, as Geliote's intervention prevented the rape from occurring. Richote's story recalls the letter of Perrote Turelure: both were unmarried and virgins, both successfully escaped rape, and both received support from their community or family for their actions. Teenage girls who were able to sufficiently protect their virginity experienced more support from their communities than did those who had less positive reputations or who were sexually active in some way. One of the only death sentences for rape that is listed in the *Papier Rouge* pertains to the case of Katherine Malonne, who was only ten years old. Symonnet Verpillat was convicted and put to death for raping her.<sup>86</sup> In the case of Perrotte Bidon, who was also only a child when she was raped, the women of the neighbourhood banded together, armed themselves with pitchforks, and

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<sup>86</sup> ADCO BII/360/1/3-16, 1418, Gonthier, "Les victimes de viol," 13, 21.

dragged the rapist to prison.<sup>87</sup>

Victims/survivors were not therefore subject to the same treatment by the community across the board. Marital and social status mattered, as did age, and perhaps, whether or not the victim's/survivor's neighbours liked her. Similarly, they do not seem to have been subject to the same treatment by the court. But the community and the court were only two facets of victim/survivor experience, and certain cases from Dijon reveal much about one other essential component: the status of the rapist in comparison with the status of the victim/survivor.

### *The Leveraging of Power and Status*

Rape culture in medieval Dijon was also shaped by the type of men who perpetrated rape, who they chose to target, and how they leveraged their power over the vulnerable women they attacked. Some men, such as Sansonnet and Othenin, attacked in groups, overwhelming any defences the victim/survivor and her family might put up. Hugon took advantage of the fact that he was Richote's employer and of superior age. But these abuses of power pale in comparison to the way that noble men were able to kidnap and rape women of much lower status, with a complete disregard for the law, and ultimately without being held accountable by the court. Two cases from the first half of the fifteenth century demonstrate how this happened. The first, involving Jehanotte de Vauls, is a remarkable attestation to victim/survivor experience.<sup>88</sup> The documents include both her lengthy testimony and interrogation and a release for the crimes

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<sup>87</sup> ADCO BII/360/3/19-242, 1444.

<sup>88</sup> ADCO BII/360/1/8-8, 1431. 'de Vauls' is not her last name, rather, it was the last name of her stepfather. Her biological father's last name was Pardon, and he was deceased. I use 'Jehanotte de Vauls' because this is how she is named in scholarship by Gonthier.

committed. The second, pertaining to Jehanotte le Bonnet, also includes a similar amount of testimony, as well as incredibly valuable evidence of women supporting one another.

The cases are in some ways quite similar: both involve a teenage girl being abducted from a home by a group of men, and then brought to another location and raped. In both cases the men were of high, even noble status, and in both cases none of the noble men involved were called to testify. Neither Jehanotte de Vauls nor Jehanotte le Bonnet had had sex before, and like Richote Mercerot, they were aware of the threat the rapists posed to them because of this. Jehanotte de Vauls ended up releasing her attackers from the crime entirely. Jehanotte le Bonnet's case does not indicate a sentence or decision either way—though as the attackers included a jester from the Burgundian court, a nobleman from Picardy, and Corneille le Batard, son of Philip the Bold, they very likely went unpunished. They are presented as case studies and further illustrate previously made points about how community intervention, virginity, status, and reputation shaped victim/survivor experience, but also provide new evidence as to how those experiences could be shaped by the identity and social standing of the men who perpetrated rape.

### *The Case of Jehanotte de Vauls*

Jehanotte de Vauls was kidnapped and raped by a group of men, including a nobleman, the Seigneur de Scey. It is remarkable that a servant like Jehanotte de Vauls was able to accuse someone titled in the first place. She testified almost immediately after the ordeal was over, and her testimony reflects the pain and suffering she endured, and gives rare glimpses into her mental health. Two of the accused were deposed, though notably, the Seigneur de Scey was not, nor was

he named in the release from the crimes that Jehanotte and her family eventually agreed to, demonstrating how noble men wielded power within rape culture. Further, the men who attacked Jehanotte might have identified her as vulnerable due to her occupation, and gone after her intentionally, aware of the fact that it was unlikely they would be convicted.<sup>89</sup> However, that their crimes did not go ignored when both the court and the community cared enough to investigate them, speaks to a culture of resistance that existed alongside a culture of rape.

Jehanotte de Vauls was nineteen years old and worked for Jehanin Morrel. Her mother was named Marguerite and her father was deceased. Marguerite had remarried Oudot de Vauls, a wine maker.<sup>90</sup> On the evening of April 21, 1431, Jehanotte was abducted from Jehanin Morrel's house, where she was working, and where her mother was present. A group of men, including Guillaume Moisson, Jehan Fraingnot, and a man she named as Andrieu Neprein broke into the house, and despite Jehanotte's cries, abducted her by force.<sup>91</sup> Jehanin reported the crime to the mayor, and the *procureur* Humbert Thierry began the investigation. In Thierry's description of the charges, he included a lengthy account of apprehending the men at the home where they were keeping Jehanotte. He and several of the city sergeants had to break into the house, but they were successful in retrieving Jehanotte and taking several of the men to prison. Thierry also

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<sup>89</sup> Armstrong-Partida argues that men selected gang-rape victims/survivors who were vulnerable intentionally, especially if they were women who were virginal or of marriageable age and the same social status as the rapists because these women should have been sexually available to the men, Armstrong Partida, "Precarious Manhood," 162. Rossiaud comments that most of the targets of rape in Dijon were servants, textile workers, or daughters and wives of day-labourers. Rossiaud, *Medieval Prostitution*, 28.

<sup>90</sup> ADCO BII/360/1/8-8, 1431.

<sup>91</sup> There is some confusion in the documents over which men abducted her and which men raped her. Jehanotte lists Andrieu Neprein as involved in both, but he is not included in other testimonies. Andrieu Viat's testimony mentions Andrieu du Vernoy. Andrieu du Vernoy is listed in the release, while Andrieu Neprein is not. Perhaps they were the same person, and Jehanotte merely named him incorrectly.

discovered that ‘monseigneur de Scey’ was among those involved. The Scey family was a noble family from the Free County of Burgundy (Franche-Comté de Bourgogne), which was directly to the east of the Duchy of Burgundy.<sup>92</sup> Without further clues as to his age or name, it is difficult to know which member of the Scey family was involved in this rape. The court did not attempt to hide his identity or erase his presence from the testimonies, as he is mentioned multiple times in Jehanotte’s testimony alone.

After the men abducted Jehanotte, they brought her to the Seigneur de Scey and said that he could have sex with her. He grabbed her, dragged her into a room, and assaulted her. He did not relent, despite Jehanotte’s cries and resistance: ‘elle...se revaucht de sa puissance et crioit tresfort’ [she defended herself with her power and screamed loudly]. In her testimony, she described how she continued to fight back while he positioned himself, and told him that he was doing an evil deed to her. Jehanotte stated that ‘pour ce quelle se revanchoit’ [because she defended herself], the Seigneur de Scey hit her several times in the mouth with his fist. Then, despite her further cries, he deflowered and raped her.<sup>93</sup> Afterwards, three of the other men—Andrieu Viait (whose house they were at), Andrieu Neprein, Jehan Fraingnot—came into the room and raped her as well.

Jehanotte’s testimony is valuable evidence of how rape affected medieval women’s health and well-being after the assault was over. Thierry asked her twice if she had any pleasure during the rapes, to which she responded ‘non’. He also asked ‘se a l’ocasion des violences et

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<sup>92</sup> François-Alexandre Aubert de la Chesnaye des Bois and Jacques Badier, *Dictionnaire de la noblesse: contenant les généalogies, l’histoire et la chronologie des familles nobles de France*, (Paris, 1863), 4: 920-21, entry for “Ceys ou Scey.”

<sup>93</sup> ADCO BII/360/1/8-8, 1431, testimony of Jehanotte de Vauls.

force dessus dit elle a point este malade' [on the occasion of this violence and force was she at all ill] to which she replied, 'oyl et est encor de present tresfort' [yes and also greatly in the present].<sup>94</sup> *Malade* meant illness or ill health, and had a variety of other uses, including 'malade d'amour' [love sick] and 'malade du son corps' [sickness of one's body].<sup>95</sup> Here it can be read as referring to the physical harm, and perhaps even mental harm, that Jehanotte suffered from the rape. She spoke about the 'malade' as something that continued to affect her in the present, rather than something she had experienced just during the rape. Whether mental or physical or both, it was clear that Jehanotte viewed the rape as harmful both within the moment *and* out of it. Rape, therefore, was not only constructed as evil within the moment because it violated her consent and body, but as something harmful because it had lasting impact. In all of the cases previously examined, the women speak of their emotions around rape—predominantly fear—as pertaining to the moment it was actually happening. But Jehanotte spoke of hers as having an impact outside of the moment.

In addition to the testimony she gave, Jehanotte was examined by two matrons, Jehanotte de Reimley and Arnote, wife of Martin Trossier. They confirmed that she had been raped violently.<sup>96</sup> Perhaps the matrons were sympathetic and even enraged on Jehanotte's behalf, as Geliote had been for Richote, but the examination must have been difficult to endure. Though no details of what occurred during it were included, it likely involved an examination of Jehanotte's genitals.<sup>97</sup> There were multiple medical theories on how to determine if one was a virgin, though

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<sup>94</sup> ADCO BII/360/1/8-8, 1431, testimony of Jehanotte de Vauls.

<sup>95</sup> DMF, entry for "malade."

<sup>96</sup> ADCO BII/360/1/8-8, 1431.

<sup>97</sup> Kümper, "Learned Men and Skillful Matrons," 98-105.

the presence of blood after sexual intercourse was widely accepted. Blood was also acknowledged as proof of injury. Other tests included checking the size and feel of the uterus, the colour and clarity of urine, and determining whether the vagina was tight.<sup>98</sup> Any of these tests would have been horrific to endure, especially so soon after a rape that left her physically injured. Jehanotte may have felt as if she were being subjected to more physical humiliation and pain in addition to what she had already suffered, and because the damage to her body was needed as evidence, she may have felt as if her testimony alone was not enough.

At this point, Jehanotte had endured the abduction and rape itself, and then a lengthy questioning by the *procureur* and the physical exam. She was physically injured, likely exhausted, and yet still she was brave enough to answer the questions posed to her. We know that victims/survivors today find the process of retelling difficult, especially given the way that trauma evades narrative cohesion. Susan J. Brison's description of this process in her own case, right after the guilty verdict was read, is illuminating:

I could let go of the details I'd kept alive in my mind, the narrative I'd remembered, rehearsed, and, finally, delivered to the court. 'And how many times did you lose consciousness?' I'd been asked. 'Four— twice from blows to the head, twice from strangulation attempts.' 'And the sexual assault?' 'I was raped orally— 'Sucele', he'd ordered, repeatedly—not vaginally.' My memory had served me (and the criminal justice system) well...Now I could finally let down my guard, get fuzzy about the particulars, leave at least some of the horror behind...Now I could, in a sense, forget what had happened to me. Now I could afford to think about it.<sup>99</sup>

Brison had remembered the details of the crime that she could accurately testify and answer the court's specific questions. Jehanotte was put through something similar, prompted to describe the

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<sup>98</sup> Kelly, *Performing Virginity, Testing Chastity*, 28-29.

<sup>99</sup> Brison, *Aftermath*, 108.

exact manner in which the Seigneur de Scey positioned himself and asked multiple times about her own pleasure. She even gave details about the order in which the other men raped her. That Jehanotte was able to give such a detailed testimony mere hours after being rescued from the home where she'd been kept is remarkable, but also underscores the demands of the criminal justice system. Rather than resting with her family, she had to testify and endure a physical examination, perhaps so that the evidence would be fresh in her mind and on her body. And Jehanotte acknowledged the hurt, or 'malade', that she had endured and was still enduring. Despite the fact that Jehanotte's case was one of the rare cases that was investigated, and despite the fact that the matrons confirmed that she was telling the truth, the intensity of the legal process likely added to the trauma of rape.

Jehanotte's case further illustrates how the community of Dijon supported rape victims/survivors and sought to extricate them from the attackers. Her employer Jehanin gathered around ten men from the neighbourhood and went in search of her. When they couldn't find her, he went to the town hall and the city sergeants helped him in his search. They were able to locate Jehanotte because several of the people who lived on the same street as Andrieu Viait heard Jehanotte's cries as she was brought into his house. Jehanin's proactive approach to rescuing Jehanotte led to her subsequent liberation by Humbert Thierry and the apprehension of the rapists.

Further testimony from her neighbours bolstered Jehanotte's claims. Jehan Chandevon heard her cries as she was abducted and said she was 'une bonne fille et de bon gouvernement, bon famie et renommee'[good girl and of good behavior and good reputation and name], Jehan

Aubeitan heard her scream for her ‘maistre et maistresse’ [master and mistress] and saw her being dragged through the street by her captors.<sup>100</sup> Jehan Faumenney spoke to both the abduction and her good reputation. Notably, all of the men who spoke of Jehanotte’s reputation, and aided in the search for her, were from Dijon. This was not the case, however, for all of the men who abducted and raped Jehanotte. Jehanotte was a girl from Dijon who had community ties and who was attacked by men she did not know. This, combined with her age, unmarried status, and good reputation, perhaps bolstered the community’s desire to support her.

However, despite the fact that Jehanotte had community support and despite the willingness of the mayor’s office to investigate, the Seigneur de Scey was a powerful man who was able to avoid accountability for the rape. A key element of this was that rather than abduct Jehanotte himself, he had others do it for him. While the Seigneur de Scey himself never testified, two of the other men involved did: Andrieu Viait and Guillaume Moisson. Andrieu Viait was twenty-two years old and from Dijon. He contended that he had played no part in the kidnapping, and instead, recounted a long story in which he and a few other men had dined that evening with the Seigneur de Scey, and had then gone out to find a ‘bonne dame’ who they knew. She was not at home, however, and so they moved on to the next woman. Andrieu Viait left them with her, and went back to his house. A few hours later, the Seigneur de Scey, along with Andrieu du Vernoy and Guillaume Moisson, knocked on his door. He let them in, and they brought Jehanotte with them. Then, the Seigneur de Scey brought Jehanotte into the room where he raped her. However, in Viait’s account of this, it was entirely consensual. The *procureur*

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<sup>100</sup> ADCO BII/360/1/8-8, 1431, testimonies of Jehan Chandevon and Jehan Aubeitan.

asked if Jehanotte had gone up the stairs with the Seigneur de Scey ‘de son bon gre’ [of her own free will] and whether or not she had screamed. Andrieu responded that she had gone of her own free will. After the Seigneur de Scey raped her, both Andrieu Viait and Andrieu du Vernoy raped her multiple times.<sup>101</sup> Again, Andrieu Viait related these events as if they were completely consensual. Thierry questioned this, and asked whether or not she had cried out. Andrieu Viait said that she did not scream, but she did pray. Thierry also probed Andrieu for any prior relationship to Jehanotte that he might have had, and he responded that they did not have a prior relationship. He did, however, claim to know that she was not in fact a virgin at the time of the abduction and rape, and that Jehanin Morel’s valet had deflowered her a year ago.

Guillaume Moisson similarly did not want to confess to his crimes, or implicate the Seigneur de Scey for rape, but he was a bit more forthcoming about his involvement than Andrieu Viait had been. He admitted that Jehanotte cried out during the abduction, but he said that he did not see the Seigneur take her into a separate room as she related in her own testimony. Guillaume was absent from the house during the rape itself, so he did not know what exactly went on, but he did hear the other men discussing the fact that the Seigneur had had sex with Jehanotte. Guillaume repeated the story about Jehanotte’s virginity and Jehanin Morel’s valet, as well as further indicating that she had a poor reputation.<sup>102</sup>

These two testimonies from men involved in the abduction and rape reveal the tension between their reluctance to admit that a crime had occurred and the undeniable fact that Thierry

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<sup>101</sup> See note 91. Andrieu du Vernoy was possibly the same person as Andrieu Neprein, or, he was simply named by Andrieu Viait and in the release, but Jehanotte did not include him in her testimony for some reason.

<sup>102</sup> ADCO BII/360/1/8-8, 1431, testimony of Guillaume Moisson.

had found Jehanotte with them. Andrieu Viait's testimony demonstrates that he was aware of how to frame the sexual encounters as consensual, by denying that she had screamed and saying that she consented to go with them. Furthermore, in stating that he had not participated in the abduction, he attempted to frame himself as completely innocent. Both men, however, made a point of stating that Jehanotte was not a virgin, indicating that they were aware of the importance of this in rape accusations and trials, and that they had perhaps discussed this story before giving their testimonies.

The Seigneur de Scey was not one of the kidnappers, and his crimes were therefore less on display to the neighbourhood than the other men. Many witnesses had seen and heard the abduction, but no one outside of their group had witnessed what occurred inside Andrieu Viait's home. Furthermore, the Seigneur did not use his own lodgings as a place to commit the crime. It thus became his word against Jehanotte's, and though she was firm in her assertion that she had been raped, Andrieu Viait was adamant that she had gone with the Seigneur willingly and that everything had been consensual. Jehanotte was the sole person to testified that the Seigneur de Scey had raped her.

That Andrieu Viait and Guillaume didn't attempt to erase his presence that night from their testimonies suggests a few things, though. First, they may have known that he would not be held accountable, and/or they hoped that proximity to him would exonerate them as well. Secondly, because he was not involved in the abduction, and because Andrieu Viait presented the sex as consensual in his testimony, there was no crime—within the narratives of that evening that the accused presented—that the Seigneur de Scey had committed. If he was innocent, there

was perhaps no need to deny his involvement.

Furthermore, the men may have been directed to take the fall for the crime of abduction. The dynamics of the group certainly demonstrate that the Seigneur de Scey was their leader. He did not abduct Jehanotte, and instead waited for the men to bring her to him. He did not use his own lodgings in the city, and instead used Andrieu's Viait's home. Not all of the men who abducted Jehanotte raped her (there are at least two men involved in the abduction who she does not name as rapists) suggesting that they were hired or tasked solely with the purpose of bringing the Seigneur de Scey a girl. And finally, there is the fact the Seigneur raped her first. If he knew she was a virgin, the implications are particularly damning. But regardless, it appears that after they had no luck finding a woman they knew, the Seigneur directed the group of men to abduct someone for him, and after he had his way with her, he allowed them what they saw as the spoils.

Jehanotte de Vauls' case reveals that powerful men of noble status were able to avoid culpability for rape, even in a city that was interested in controlling and prosecuting it. This is further demonstrated by the fact that she released the men from their crime on April 28<sup>th</sup>, just seven days after she had been abducted, and six days after she had given her testimony. Interestingly, the Seigneur de Scey was not named in the release. The release was written with the support of Jehanotte's mother, her mother's husband, her uncle, as well as other 'amis charnelz' [close relations]. Beginning with 'Je, Jehanotte', it includes a brief description of the crime that occurred and the men who were involved in it, but it does not mention the Seigneur at all. The release named Andrieu Viait, Loys de Celsoy, Andrieu du Vernoy, and Guillaume

Moisson, 'et aultres leurs consors et complices' [and others their companions and accomplices]. Jehan Fraingnot and the Seigneur de Scey were not explicitly named, and Loys, who Jehanotte had not identified as one of the rapists in her testimony, was. The release does not describe the crime very fully, only noting the abduction and rape at the hands of those named. And with it, Jehanotte agreed to release the men from the crime now and in the future. But, Jehanotte did not, at least, need to say that the crime had not occurred. It had, and the release confirmed that, but it also prevented her and her family from further trying to hold the men accountable.

Jehanotte and her family may have thought that a release was the most sensible option. Though she had community and familial support, though many witnesses had seen her abducted, and though the matrons of the city swore she was a virgin, she was still accusing someone far superior to her in status. Jehanotte was certainly 'multiply disadvantaged' especially when compared with the Seigneur de Scey.<sup>103</sup> She was young and a servant, from an entirely different social class, and vulnerable due to her gender. The release might have been Jehanotte's way of negotiating an end to the ordeal—it is unclear, after all, if she instigated the investigation, or if it was inevitable due to the fact Thierry found her at Andrieu Viait's home. In addition to the abduction and rapes she endured, she was then questioned at length in court and subjected to a physical examination. The prospect of pursuing any further legal action against the men—who were either of high status or connected to one who was—may have been daunting, and she and her family may have felt that her reputation would only suffer for it. Though Jehanotte's employer and neighbours tried to intervene they ultimately could not rescue her, nor could their

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<sup>103</sup> Harris, *Obscene Pedagogies*, 105.

support prevent the band of rapists from getting away with their crime. Even an entire neighbourhood of support was perhaps not enough to combat the threat of power and influence that someone like the Seigneur de Scey posed.

### *The Case of Jehanotte le Bonnet*

The case of Jehanotte le Bonnet from 1442 underscores the vulnerability of young women in Dijon, and further demonstrates the way that noble men could avoid culpability for their crimes. Jehanotte le Bonnet, unlike Jehanotte de Vaults, was not a servant, nor was she economically disadvantaged or from a lower class. She was only fifteen, and her father, Perrenot le Bonnet, was deceased. She was under the care of her uncle, Jehan Lourdon.<sup>104</sup> Jehan was a sergeant of the Duke of Burgundy, and was married to Damoiselle Guillotte de Poinart. Duke Philip the Good's son, Corneille le Batard is listed among the men involved in the abduction and rape of Jehanotte, as well as two other nobles, and a man named Droguezelle. A Droguezelle was a fool employed by the Duke of Burgundy in 1430.<sup>105</sup> Given the uniqueness of the name, the fact that the documents do not list his last name, and the involvement of Corneille le Batard, it seems likely that it was the same person.

In addition to demonstrating startling, yet perhaps expected and even routine abuses of power, this second Jehanotte's case is marked by her keen awareness of what was going on and what was expected of her as a victim/survivor. Her testimony reveals not only the exact manner

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<sup>104</sup> ADCO, BII 360/3/17-212, 1442.

<sup>105</sup> Léon de Laborde, *Les ducs de Bourgogne, études sur les lettres, les arts et l'industrie pendant le XVe siècle et plus particulièrement dans les Pays-Bas et le duché de Bourgogne* (Paris: Plon Frères, 1849), 1.2: 258. The name Droguezelle is listed as a fool in an account book dated 1432.

in which she was abused, but also her feelings on the rape and how it gravely affected her. Jehanotte le Bonnet was perhaps not as vulnerable as a servant like Richote Mercerot or Jehanotte de Vaults, but she was still a child, and not a noble herself. That she lodged the accusations she did against multiple members of the nobility and included Corneille le Batard in those accusations is astounding, and speaks to how strongly she believed she had been harmed. Power certainly shielded these men from accountability, but their noble status does not seem to have made Jehanotte view the crime as any less heinous than it was.

Jehanotte was at her uncle's house with his wife on the evening she was abducted. Much like what happened to Jehanotte de Vaults, a group of men, including Seigneur Jehan de Cleres, Droguezelle, and Corneille le Batard, as well as unnamed others, broke into the house. Jehan and Guillotte attempted to defend Jehanotte, and became injured in the process, and the men prevailed in kidnapping her. They took her to the 'Hostel de Saint Eloy' and locked themselves in a room with her. The mistress of the Saint Eloy, Jehanotte Vesne, heard Jehanotte's screams and tried to open the door and banged on it. Because of this confrontation the men then removed Jehanotte to a house nearby, where Jehan de Cleres beat her because of her resistance and raped her. Afterwards, they brought her back to the Saint Eloy, where Droguezelle raped her and kept her with them all night. They tried to give her money, which she refused to take, and so they put it inside her purse. Meanwhile, Jehanotte Vesne had gone to Lourdon's home and alerted him of where Jehanotte was being held. He did not feel that he could go himself, as he and his wife were injured, but he sent two men to rescue her, and they brought her home.<sup>106</sup>

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<sup>106</sup> ADCO, BII 360/3/17-212, 1442, testimony of Jehanotte le Bonnet.

Like many of the other women in the Dijon records, Jehanotte said that she screamed throughout: during the abduction, when they got to the hotel, and during the rape. She revealed in her testimony that Jehan de Cleres was the first man to rape her, and her description of the first rape is eerily similar to Jehanotte de Vauls's in that they both emphasized how well they fought and how they nearly prevented what happened: 'Et illec s'efforca de la despuceler mais il ne peust pour la grant deffence et resistance que elle y mist tant de crier comme de soy deffendre ainsi que elle pouvoir' [and he tried to deflower her but he could not because of the great defense and resistance she mounted against him with cries and she defended herself as best she could].<sup>107</sup> She then hit him many times. It was only after this struggle, and after he had moved her to another room with a smaller bed, that Jehan was able to 'la viola et despucela' [rape and deflower her]. Jehanotte must have been aware that she needed to fight back, and to emphasize this in her testimony to the court, in order to demonstrate that the rape had truly occurred. Similarly, she highlighted how often she cried out, mentioning it five times. And she made sure to show that her defences did not cease after the first rape, as she fought back against Droguezelle when he raped her as well. Given the similarities between her testimony, those of Jehanotte de Vauls and Richote Mercerot, and even Perrote Turelure's letter of remission, it is clear that young, virginal women understood that a hallmark of being raped, and perhaps of a believable, 'real' rape script, was fighting back and nearly—or completely—preventing the rape from happening.

Jehanotte was clearly extremely distressed by what had happened to her, and the ordeal had caused her great physical harm. Jehan Rastubel, the *procureur*, noted this at the beginning of

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<sup>107</sup> ADCO BII 360/3/17-212, 1442, testimony of Jehanotte le Bonnet.

the deposition. He described how her face, eyes, and lips were battered and covered in blood, and noted the strength of her complaint. Jehanotte described how Droguezelle had beat her: ‘ledit Droguezelle la batoit tellement que a grant peine pouoit elle plus mot dire’ [the same Droguezelle beat her such that she had a great pain she could hardly speak of]. When the men tried to forcibly give her money, she refused, and Droguezelle beat her again such that ‘elle n’en pouoit souffrir’ [she could not suffer any longer].<sup>108</sup> She had endured something that she could not adequately articulate, pain such that it was unexplainable, and she had endured it up until the moment she no longer felt she could. While Rabustel was asking her specific questions, much of this detail came from Jehanotte without his explicit prompting. When he asked her about the money, she described the entire ordeal and her suffering. Jehanotte had endured prolonged violence and trauma, from the abduction to the multiple rapes and beatings, and throughout the evening as she was forced to share a bed with Droguezelle. Her testimony demonstrates that rape was greatly distressing and harmful, and even traumatic. Trauma may not have been a medieval concept, but using trauma as a category of analysis reveals that victims/survivors were not without the words to express ideas and feelings in relation to traumatic experiences.

Jehanotte le Bonnet’s experience with rape was shaped to a degree by community intervention and aid, but especially in terms of aid from another woman. Jehanotte Vesne, mistress of the Hôtel de Saint Eloy, tried her best to intervene despite the obvious disparity in status between herself and the men and despite being outnumbered. She heard Jehanotte’s screams, recognized whose voice it was, and immediately rushed to the door. She grabbed an axe and began banging on the door with it. She told them that they were ‘malvais gens’ [evil men]

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<sup>108</sup> ADCO, BII 360/3/17-212, 1442, testimony of Jehanotte le Bonnet.

who wanted to ‘despuceler et deshonnoree ceste pucelle’[deflower and dishonour this virgin].<sup>109</sup> Droguezelle beat her for her actions, and she got into an altercation with Jehan de Cleres. She grabbed a torch, and ran to find Jehan Lourdon, who was still at home with his wife. She told them what she had heard, and the Damoiselle de Poinart said that she had tried to report the case to the mayor but had not been able to, and Jehan Lourdon (her uncle) said that he dared not fight them as they had already beaten him and his wife soundly. Madame Vesne asked whether they had any men they could send to rescue Jehanotte, which prompted Jehan to do so. This is reflected in his testimony—only after Madame Vesne arrived did he send men out to rescue his niece.<sup>110</sup> And that evening, the two men failed to rescue Jehanotte, as Droguezelle refused to speak to them. Jehanotte was not liberated until the next morning, despite her uncle knowing about the abduction and rape since the evening it had occurred. While Jehan Lourdon appeared afraid to engage the men in combat, perhaps because they all had connections to the Duke, and he was a mere sergeant while some of them were nobles, Jehanotte Vesne directly confronted them. Other members of the community testified that Jehanotte was a good girl with a good reputation. Ultimately, Jehanotte was supported by those who testified in her favour and by another woman who attempted to intervene. But she was failed by both the criminal justice system that was unavailable that evening to help her (they had been able to help Jehanotte de Vauls eleven years earlier) and to a degree by her uncle.

Jehanotte’s experience with rape was also shaped by the identities of the men who raped her, and the way they were able to wield power. This is apparent in the way that she and her

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<sup>109</sup> ADCO, BII 360/3/17-212, 1442, testimony of Jehanotte Vesne.

<sup>110</sup> ADCO, BII 360/3/17-212, 1442, testimony of Jehan Lourdon.

uncle, Jehan Lourdon, spoke about the incident, in whom they named for what crimes, and when. When Jehanotte narrated the crime in her testimony, she did not specify who had abducted her. She first referred to the men as ‘les gens’ [the men] rather than by name. In every other case examined here, the victims/survivors included as many names as possible at the beginning of the case. As we saw in Katherine Vougeot’s deposition, she only really knew Sansonnet, but she identified the others by the colour of their clothing and size, and these details were brought forward throughout her deposition. Jehanotte only mentioned names when she began telling Rabustel about the rape. It was then that she identified Seigneur Jehan de Cleres by name. She identified Droguezelle after describing the encounter with Jehan de Cleres. After she had finished describing what had happened, Rabustel asked her if she knew who had taken her from her uncle’s house. It was only then, when prompted, that she said that Corneille le Batard, as well as Jehan de Cleres and Droguezelle, had been involved in the abduction. And while Jehanotte described rapes and beatings at the hands of both Jehan de Cleres and Droguezelle, no specific actions other than the abduction (which was described in vague terms) were assigned to Corneille le Batard. Where did he go once they arrived at the Saint Eloy? Was he involved in the ensuing violence—or did Jehanotte intentionally not include his name among those she accused of rape? It seems likely that she knew who they were from the beginning, due to her uncle’s connection to the court, though she may not have known them by name.

Jehan Lourdon, who had probably helped Jehanotte report the incident, was hesitant to mention the nobility in his deposition. He framed Droguezelle as the instigator of the abduction, and when asked if he knew any of the men aside from Droguezelle, he said no, except for ‘Corneille Monseigneur Batard de Bourgogne qui...ne faisoit semblant de riens...’[Corneille, my

Lord Bastard of Burgundy who...did nothing].<sup>111</sup> Jehan Lourdon was willing to admit Corneille's presence, but he would not accuse him of actually doing anything. Of course, Jehanotte's testimony makes it clear to us that Corneille *was* involved in the abduction. He may not have raped her, but he had participated in the activity that typified Dijonnaise rape culture: the abduction of a vulnerable girl or woman from her place of residence. He was not held accountable by the court, nor was Jehanotte's family willing to accuse him of any wrong doing.

The court also seems to have considered the identities of the men involved when they wrote the case summary, which laid out the complaint being investigated. Only Droguezelle was named in the summary, as the man who had raped and deflowered Jehanotte. However, in Jehanotte's description of the rape, Jehan de Cleres had been the first man to rape her, and thus the man who had taken her virginity. While Droguezelle was equally culpable, and while his actions towards Jehanotte were monstrous, he had not abducted her alone, nor had he been the only man to rape her. Though it is clear that the town hall in Dijon was willing to investigate rapes of all types of women, including those who were married and those who were sex workers (Chapter 5), it did matter, both to the court and to the community, that Jehanotte was a virgin.<sup>112</sup> This is apparent in how the act was presented in her testimony, using the verb 'despuceler' [to deflower] and in how Jehanotte Vesne described her as a 'bonne pucelle' [good virginal girl].<sup>113</sup> It is not by chance that Droguezelle was named as the man who both raped *and* deflowered Jehanotte—these were both serious charges, and the court likely did not want to level them at Jehan de Cleres.

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<sup>111</sup> ADCO BII 360/3/17-212, testimony of Jehan Lourdon.

<sup>112</sup> Gauvard, *De grace especial*, 814.

<sup>113</sup> ADCO, BII 360/3/17-212, 1442, testimonies of Jehanotte le Bonnet and Jehanotte Vesne.

Drogezelle, Jehan de Cleres, and Corneille le Batard were accused of levels of criminal activity that correlated with their status relative to one another. Drogezelle was the only person accused within the case summary, and he was named by Jehanotte, as well as her uncle, and Jehanotte Vesne. Jehan de Cleres was accused by Jehanotte of abducting, raping, and devirginizing her, and Jehanotte Vesne named him as well. But Jehan Lourdon did not mention him at all. Corneille le Batard was accused by Jehanotte of participating in the abduction, but she did not describe any of his specific actions, perhaps intentionally making it difficult to discern his exact level of involvement. And Rabustel did not ask her many specific questions about Corneille, aside from ascertaining how well she knew him. Meanwhile, her uncle mentioned that Corneille was present at the abduction but said that the Duke's son had done nothing. Corneille existed in the testimonies, perhaps because his presence was an undeniable fact, but what he did, and what crimes he might have committed, were nearly completely erased from the narrative. He exists in this case only in traces, his presence clear but his actions undefined, slipping into view only when the witnesses and Jehanotte were prompted by the *procureur* to admit that he had in fact been there.

While it is not surprising that men such as the Seigneur de Scey, Jehan de Cleres, and Corneille le Batard were not held accountable for participating in and very likely planning and leading gang rapes, it is astonishing that two girls, both vulnerable due to their age, and one vulnerable due to her occupation, were brave enough to accuse them. While one reading of the cases of Jehanotte de Vaults and Jehanotte le Bonnet is that they demonstrate how rape culture has always shielded the most powerful men from accountability, a more interesting and positive reading is that teenage girls felt that they too had a measure of power in being able to make

accusations, and used it to accuse men of much higher status. That Dijon was a dangerous place for a woman or a teenage girl is undeniable, but its dangers were not so pervasive that they prevented women from forming their own communities and discourses of resistance.

For teenage girls like Jehanotte de Vaults, Jehanotte le Bonnet, and Richote Mercerot, that discourse comprised a keen awareness of how important their virginity was to the court and to the community. During their testimonies, they made sure to describe the specific resistance they mounted against their attackers, presenting themselves as trying their best to protect their virginity. Though this emphasis on virginity might feel decidedly anti-feminist to a modern reader, for teenage girls in the fourteenth and fifteenth centuries, emphasizing their virginity's presence and then loss was a key part of making their cases to the court. It provided them with the framework to articulate the multiple wrongs they had suffered, in a similar manner to how it provided Florie la Closiere and Cassotte la Joye with a framework to articulate sexual wrongs that happened during betrothals (Chapter 3). Not only had Jehan de Cleres raped and beaten Jehanotte le Bonnet, but she was young, unmarried, and had never had sex. What was likely her first sexual experience was marred by violence and was deeply traumatic. Her virginity mattered to her, and to others, and thus it became an integral part of her experience with rape. Virginity's importance both socially and legally meant that all three girls were able to effectively craft a narrative of resistance in their testimonies around it, and it also may have carried a deep personal meaning that motivated them to report the crimes as they did.

### *Culture of Rape and Culture of Resistance*

The documents from Dijon attest to the existence of a rape culture and to the existence of

a culture of resistance, both of which shaped victim/survivor experience. Dijon's rape culture in the fourteenth and fifteenth centuries was characterized by groups of men attacking women, who were often vulnerable either in status or because they were alone. They might attack a woman who was alone in her home, or overwhelm those who sought to defend her. Women and girls were not entirely safe in their homes, nor at their places of employment, nor with their families. The rapes were almost always physically violent, and often more than one man would rape the victim/survivor. Women were aware of the danger, as demonstrated by the neighbours who testified in Katherine Vougeot's case who were too afraid to do more than watch and listen as Sansonnet invaded her home. And teenage girls had a keen understanding of what being abducted and raped would do to their virginity, and emphasized this in their testimonies. The rapists themselves had more power or status than the women and teenage girls they preyed on, and they relied on strength in numbers.

Dijon's rape culture was also shaped by the court's concern for reputation, and the community's intimate awareness of one another. In every case examined here, aside from Gillote de Mons, the victim's/survivor's reputation and behaviour was questioned by the *procureur*. In Katherine Vougeot's case, some of her neighbours were hesitant to be completely supportive of her, with more than one of them casting aspersions on her character. Comportment and reputation was even topical when the victim/survivor was quite young, as witnesses in the cases of Jehanotte de Vauls, Richote Mercerot, and Jehanotte le Bonnet were all prompted by the *procureur* to comment on their character. That nobody spoke ill of them suggests that the community thought that teenage girls deserved protection from rape. That the court still inquired about the reputations of teenage girls indicates that the line between a child who had been

unlawfully attacked and a woman who had brought an attack on herself was very thin.

The women who appear in the documents as witnesses rather than victims/survivors understood the threat of rape and the danger it posed. The testimonies discussed in this chapter demonstrate that all women in Dijon were subject to its rape culture, even if they were not specifically victimized. And so it makes a great deal of sense that women were able to become some of each other's strongest defenders in real life and as advocates in court. Dijon's culture of resistance to rape was characterized by the willingness of its residents to testify in favour of one's neighbours, the ability of community members to organize themselves and directly intervene in rape, and an understanding that rape was damaging, harmful, and not the victim's/survivor's fault. In none of the cases examined here do any of the victim's/survivor's neighbours testify that an abduction or rape did not happen. Though some were less forthcoming with information than others, and though some were less kind in their comments on the victim's/survivor's reputation and behaviour, none of them said that a victim/survivor had lied. Their testimonies overall reflect a desire to accurately report rapes and abductions that had occurred within their community, especially those that were visible. Hugenin made sure to listen to the entirety of the rape and violence being perpetrated by Othenin against Gillote de Mons, and he carefully related what he had heard to the *procureur*, providing Gillote with a direct witness to the rape. Katherine Vougeot's neighbours, while not entirely on her side, still placed Sansonnet at her house that evening and testified that he had in fact broken in. Furthermore, Katherine was not abducted from her home, and thus her experience with rape conformed less to a 'real' rape script than did someone such as Jehanotte le Bonnet, yet she still garnered some support from her neighbours.

Neighbours, family members, and others within the community were willing to directly intervene in rapes as well. Richote Mercerot was saved from rape by a woman in the neighbourhood who heard her scream, and Jehanotte Vesne was more committed to helping Jehanotte le Bonnet than her own family seemed to be. Jehanin Morel organized a group of men from the neighbourhood to try and find Jehanotte de Vaults, and they were ultimately successful.

Despite the pressure on women and girls to comport themselves to the community's standards, Angneaul, a witness in Katherine Vougeot's case, still displayed a startling level of awareness of how wrong it was to blame a woman for her own rape because of her reputation. Similarly, Jehanotte de Vaults and Jehanotte le Bonnet do not seem to have internalized blame for the rapes they suffered even though the rapists and kidnapers were of much high status than they were. Gillote de Mons swore that she would see Othenin hang for his crimes, underscoring her rage, but also her belief that she was not at fault for what had occurred. Dijon may have had a rape culture, but women resisted it, both in their role as witnesses and neighbours and when they themselves were subjected to rape.

These two cultures shaped victim/survivor experience in specific, tangible ways. Women were afraid of large groups of men, and understood the threat they posed. Women who were subjected to an assault likely experienced a great deal of violence, humiliation, and pain. None of the rapes described here were perpetrated without extreme violence—all of the women described fighting back, and being hit and beaten. Some, like Jehanotte le Bonnet were brutalized to such an extent that the *procureur* even made note of it. Gillote de Mons was humiliated emotionally as the rapists sought to treat her like an animal. The fear, distress, and anger that these women felt in response to such brutality is often palpable within their testimonies. They continued to

resist, even when they had been subject to multiple rapes at the hands of multiple men. This was a community and court in which rape was signified by physical violence, both on the part of the attacker, and on the part of the victim/survivor. Their experiences were thus shaped by what they knew was expected of them: resistance, defending oneself, and trying to prevent the rape from happening.

After the rape, victims/survivors who reported to the court were then subject to lengthy periods of questioning, and had to describe the attacks in great details. Jehanotte le Bonnet was questioned so closely to the time of the rape that her face was still beaten and bloody. Jehanotte de Vauls was subjected to a physical examination as well. That some of these women likely experienced a ‘second rape’ or further trauma from the intensity of the prosecution is likely, though impossible to prove.

The testimonies from victims/survivors in Dijon are evidence of their attempts at articulating their own experiences of trauma. Though they seem to have understood how to construct a narrative of ‘real’ rape, there are moments in each of their testimonies where it is clear that they struggled. Jehanotte de Vauls spoke of the pain she still felt in the present, and Jehanotte le Bonnet described her experience with Droguezelle as causing her such pain that she could not adequately speak of it. Though the legal process was undoubtedly difficult for medieval victims/survivors to endure given the amount of scrutiny that was applied to their character, Susan J. Brison suggests an alternative, more hopeful model of how we might view trauma and testimony. Trauma avoids narrative cohesion, at least in the form of memory, but Brison found that repeating her story, though painful, was also useful: ‘By constructing and telling a narrative of the trauma endured, and with the help of understanding listeners, the

survivor begins not only to integrate the traumatic episode into a life with a before and an after, but also to gain control over the occurrence of intrusive memories'. Brison found repeating her story to multiple parties therapeutic, because it transformed her traumatic memories which felt 'passively endured' into a narrative that was 'the result of certain obvious choices'.<sup>114</sup> There is no doubt that victim/survivor testimonies from Dijon were constructed with 'certain obvious choices' in mind, many of which pertained to demonstrating that they had in fact been raped, by including key element of a medieval 'real', believable rape script. A necessary component of this process, however, is having understanding, empathetic listeners. I do not suggest that we can know whether or not Thierry or Rabustel were such listeners, but the wider community of Dijon seems as if it might have been, especially in instances of rape that conformed to 'real' rape scripts and were being investigated by the town hall.

Dijon may have been a place that was relatively accepting of women who had experienced rape. Though we do not know, for example, how Richote Mercerot's neighbours and family treated her after the depositions had been given, she was to some extent surrounded by people who believed her and who had wanted to protect her. Jehanotte de Vaults was employed by a man who was willing to rally the community in support of finding her. While telling her story—which was one of great pain and trauma—to the court could have been either damaging or helpful, experiencing support from her community during and after the abduction could have only had a positive effect. Some of the victims/survivors studied here—such as Gillote de Mons who wanted to see the men who raped her hang for their crimes—might have gained some degree of comfort from telling their stories to the court and to the *procureur*. Others perhaps felt

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<sup>114</sup> Brison, *Aftermath*, 53-4.

that the pain of trying to speak about trauma so close to the moment it had occurred was overwhelming. The emotions apparent in Jehanotte le Bonnet's and Jehanotte de Vauls's testimonies certainly hint at this. Victims/survivors and women in Dijon may have been subject to a rape culture, but they also had access to a culture of resistance and community support. As Brison argues,

the communicative act of bearing witness to traumatic events not only transforms traumatic memories into narratives that can then be integrated into the survivor's sense of self and view of the world, but it also reintegrates the survivor into a community, reestablishing bonds of trust and faith in others.<sup>115</sup>

This is an idea echoed by Judith Herman, who states that 'trauma isolates; the group re-creates a sense of belonging. Trauma shames and stigmatizes; the group bears witness and affirms'.<sup>116</sup> The victims/survivors in these documents did not always suffer through the trauma of rape alone, and were quite often surrounded by a community that sought to help them and which bore witness to their trauma. There was life, of course, after rape, and a community like Dijon may have in fact provided the space to live that life safely and within a network of support.

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<sup>115</sup> Brison, *Aftermath*, xi.

<sup>116</sup> Judith Herman, *Trauma and Recovery: From Domestic Abuse to Political Terror*, (London: Pandora, 2001), 214.



## Chapter 5: Sex Workers and the Right to Consent

### Why Sex Workers?

Experiences of rape in medieval France and Burgundy were primarily influenced by two factors: knowledge of rape and rape culture, and social status. Sex workers were a group of women who were extremely vulnerable to rape due to the nature of their employment, social status, and the manner in which men tended to treat them. They also often lived with or near other sex workers, or socialized with them, and thus had access to a base of knowledge about rape, sex, rape culture, and male perpetrated violence. Sex worker experiences of rape therefore must be studied as being informed both by their marginalized position but also by the knowledge and community that their employment afforded them. While sex workers may have had less access to the courts than women of higher status, they were somewhat protected by rape laws in medieval France. The legal records contain evidence of sex workers experiencing sexual violence, naming it as such, and then accessing the legal system after it had occurred.

Though *all* medieval women were vulnerable to rape, they were not all subjected to sexual violence in the same ways, and their experiences of rape were shaped by marital status, age, whether or not they were sexually active, occupation, social status, and reputation within their community. The women who were most protected by their communities and the courts, both in Dijon and France, were those women who were virginal, unmarried, and young. These attributes made them vulnerable to rape, especially if they were on their own (as Perrote Turelure was) or if they were working away from home (as many young servants in Dijon did), yet also allowed them to garner more community and familial support if a rape had occurred. Married women or sexually active women were also subject to rape, and even being in one's own home

or with one's husband did not guarantee protection.

Overall, the most marginalized women had the most to fear from rape, both in terms of being victimized by it and in terms of community and court outcomes. This chapter examines three sex worker experiences of rape, and analyses them as occurring within the wider context of medieval rape culture and as being shaped by the women's occupation and marginalization. A letter of remission from Palaiseau involving Jehanotte la Charronne demonstrates that she did not view her consent as linked entirely to payment, and that money given after a rape did not transform a violent rape into consensual sex for the sex worker in question.<sup>1</sup> A second letter pertaining to a woman named Gilon demonstrates that sex workers did not believe they had to accept all clients, and that they possessed firm boundaries around their own consent. Both letters reveal hints of the community connections that sex workers relied on for knowledge and access to the court system.<sup>2</sup> Finally, a case from Dijon involving Jehanotte de Briefville demonstrates that sexual experience and knowledge informed how sex workers viewed rape and their own consent, but that they were nevertheless subject to the worst that rape culture had to offer.<sup>3</sup>

### *Sex Workers, Subjectivity and Language*

The language of sex work is, as Leah Otis-Cour puts it, 'often a stumbling block for writers'. Many terms are offensive and others are inaccurate and imprecise. In Middle French there are many words and euphemisms for sex worker, with slightly different meanings. *Filles communes* [common women] or *filles publiques* [public women] referred to sex workers who

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<sup>1</sup> AN JJ 126, f.170r, no 273, 1385. All letters consulted online at HIMANIS, <http://himanis.huma-num.fr/app/> unless otherwise noted.

<sup>2</sup> AN JJ 154, f.322r, no 589, 1399.

<sup>3</sup> ADCO BII 360/1/2-5, 1409.

worked in public brothels. The term *fille de vie*, used multiple times in the letter of remission involving Gilon, referred more generally to sex workers of all types, as did *fille de joie*. *Filles secrets* referred to women who were clandestine sex workers.<sup>4</sup> In the letter pertaining to Jehanette la Charronne, she was described as a woman who was ‘acoustume de faire secretement pour les hommes’ [accustomed to having sex secretly with men].<sup>5</sup>

In Latin, the term was *meretrix*. *Meretrix* referred to a ‘type of woman,’ and Karras maintains that it translates better as ‘whore’ rather than ‘prostitute’.<sup>6</sup> A woman could be labelled a *meretrix* merely on the basis of reputation, and treated as if she were a sex worker even if she had not engaged in sex work. Karras points out that the meaning of the word *meretrix* was not about money or labour, but rather the existence of women who ‘were abandoned to sin’.<sup>7</sup> Otis-Cour finds that by the fourteenth century *meretrix* was no longer used to describe women who worked in municipal brothels in Languedoc, suggesting that people made distinctions between women who had poor reputations and were labelled *meretrix* and women who were acknowledged as being licitly employed in sex work.<sup>8</sup>

Much modern scholarship still uses the term prostitute to describe medieval sex workers, despite the fact that many present day sex workers and activists groups have rejected the term.<sup>9</sup> The term ‘sex work’ was coined by Carol Leigh (‘The Scarlot Harlot’) in 1980 as she sought to

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<sup>4</sup> Otis-Cour, *Prostitution in Medieval Society*, 94-96, 49-50, Gauvard, *De Grace Especial*, 333.

<sup>5</sup> AN JJ 126, f.170r, no 273, 1385.

<sup>6</sup> Ruth Mazo Karras, “Prostitution and the Question of Sexual Identity in Medieval Europe,” *Journal of Women's History* 11, no. 2 (1999), 162.

<sup>7</sup> Karras, “Prostitution and the Question of Sexual Identity,” 163.

<sup>8</sup> Otis-Cour, *Prostitution in Medieval Society*, 50.

<sup>9</sup> See, for example, Jamie Page, *Prostitution and Subjectivity in Late Medieval Germany* (Oxford: Oxford University Press, 2021). In 2014, activists lobbied the Associated Press to replace the term ‘prostitute’ with ‘sex worker’ in their style guidelines, “Activists Urge the AP to Adopt ‘Sex Work,’” Global Network of Sex Work Projects, October 21, 2014, <https://www.nswp.org/news/activists-urge-the-ap-adopt-sex-work>.

‘reconcile my feminist goals with the reality of my life’ and struggled to find appropriate terminology.<sup>10</sup> She writes, ‘the words used to define us contain a century of slurs,’ and rejected the term prostitute because it ‘is yet another euphemism...“prostitute” does not refer to the business of selling sexual services—it simply means “to offer publicly”’.<sup>11</sup> Leigh chose to use ‘sex work’, instead because it is inclusive of all types of sexual work done for money, and it ‘acknowledges the work we do rather than defines us by our struggle’.<sup>12</sup> Here, I use the term ‘sex worker’ and ‘sex work’ rather than ‘prostitute’ and ‘prostitution’ in order to emphasize aspects of labour, but also to avoid using a euphemism. Moreover, ‘sex work’ and ‘sex worker’ convey more respect and are not slurs. I also use ‘sex worker’ because it is more inclusive than any other term, medieval or modern, and the sources are not always clear on which type of sex work a woman was engaged in, whether it be employed at a licit brothel or working clandestinely. Furthermore, as the two letters of remission involving Gilon and Jehannette la Charronne were both written for rapists seeking grace, their assessments of the women’s employment cannot necessarily be trusted. A woman might be labelled as a *fille secrète* or *fille de joie* without actually having engaged in sex work, and in such instances I use the phrase ‘possible sex worker’ to describe her.

The problems with accessing the subjectivity of regular medieval people—that they left few or no written records of their own, that they appear in sources only mediated through other voices and discourses, and that men are represented in the sources far more than women—are even more pronounced when studying medieval sex workers. This is because many sex workers,

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<sup>10</sup> Carol Leigh, aka Scarlot Harlot, “Inventing Sex Work,” in *Whores and Other Feminists*, ed. Jill Nagle, (New York: Routledge, 1997) 225.

<sup>11</sup> Leigh, “Inventing Sex Work,” 229.

<sup>12</sup> Leigh, “Inventing Sex Work,” 230.

especially if they did not work for a licit brothel, were poor and often marginalized physically and socially from the wider community. They are in the record in bits and pieces only; some of the best information we have on sex work is related to sexual violence and other criminal activity. The evidence which might speak to their lives outside of sex and violence is lacking, thus, there are limits on how much we can understand of their subjectivity and identity.

Ruth Mazo Karras examined prostitution as a sexual identity in 1999, and concluded that ‘prostitutes’ sexuality...led to their demarcation from the rest of medieval society and was seen as constituting the core of their being. In other words, prostitution was a sexual identity’.<sup>13</sup> She states that the evidence is insufficient to allow us to determine whether there was ‘individual identification’ or ‘group solidarity’, and thus her theory of sexual identity hinges on the creation of that identity by medieval society rather than as named by sex workers themselves. Determining how medieval sex workers self-identified is difficult and perhaps impossible, but Karras is too conservative in her assertion that ‘We simply do not have the sources through which to hear subjects’ voices’.<sup>14</sup> We may not know how sex workers identified, but we certainly have sources that allow us to examine them as subjects.

Page has recently examined sex workers, gender, and agency in medieval Germany through three case studies, with a focus on individual sex workers rather than group identity. In the interrogation records relating to the poor labour conditions at a municipal brothel, Page finds that ‘in a field of inquiry shaped profoundly by silences in the sources, the testimony given by the Nördlingen women in the winter of 1471 stands out as a remarkable exception’.<sup>15</sup> Ultimately

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<sup>13</sup> Karras, “Prostitution and the Question of Sexual Identity,” 171.

<sup>14</sup> Karras, “Prostitution and the Question of Sexual Identity,” 162.

<sup>15</sup> Page, *Prostitution and Subjectivity*, 68.

he concludes that despite the way the women in record shift between ‘victimhood and agency,’ their ‘collective agency’ is still one of the record’s chief attributes.<sup>16</sup> When he turns to the case of Gerdrut Birckin, who was accused of theft and whoredom, he finds that her agency was eroded by the court to such an extent that she was forced to admit that she led a ‘miserable, shameful life,’ and that the court used her subjectivity as a sex worker to frame her as powerless and thus enforce their moral agenda.<sup>17</sup> Page grapples with contradictions apparent in medieval sex worker identities, as they were at once both aware of how to access legal systems and exert agency, and greatly disadvantaged by it.

My approach here shares much with that of Page, as my focus remains on the individual. In the materials used for this study, sex workers have left as much of a trace in the archives as other victims/survivors. Though we may not be able to answer every question we might pose of their subjectivity, and though it may be difficult to determine whether or not they viewed themselves as sex workers, I am able to understand how they viewed their ability to consent, and how this was related to their experiences with sexual violence.

### *The Regulation of Sex Work in Medieval Society*

Sex work was tolerated widely in medieval France, though it was regulated through laws and the creation of districts and municipally run brothels. The laws that regulated sex work shaped sex worker experience and livelihoods, as did the attitudes and biases of those around them. Furthermore, sex workers were engaged, to a degree, in advocating against regulations that

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<sup>16</sup> Page, *Prostitution and Subjectivity*, 111.

<sup>17</sup> Page, *Prostitution and Subjectivity*, 138.

harmed them, demonstrating that they knew how to access and interact within legal systems and that they could act collectively. Because sex workers were subject to gendered sexual violence while working, understanding the regulations they were subject to while working and how they built communities based around that work is crucial to understanding sex worker victim/survivor experiences.

Leah Otis-Cour argues that in the twelfth and thirteenth centuries statutes in many French towns dictated that sex workers live outside of the city walls or were barred from living in neighbourhoods where ‘ “honest” citizens resided’.<sup>18</sup> Louis IX’s program of moral reform included two statutes on prostitution. The first from 1254 expelled ‘public prostitutes’ from the fields and towns. The statute from 1256, Otis-Cour argues, marked a ‘return to established custom’ and ordered that public prostitutes had to be expelled from the centre of town and placed outside of city walls.<sup>19</sup> These statutes, combined with those of other French towns, represented a trend towards ‘government intervention’ which was furthered by the creation of ‘red-light’ districts in the thirteenth and fourteenth centuries. In 1285 Montpellier designated a specific street as the official residence of the city’s sex workers from which they could not be expelled, and by the early fourteenth century other towns in the Languedoc had similar rules. The Capetian monarchs sought to limit red light districts, but by the end of the fourteenth century both ‘municipality and throne’ were working to create a ‘positive policy’ on prostitution.<sup>20</sup> Municipally run brothels were a development of the fifteenth century. Dijon had established one by 1417, and in the Languedoc region privately owned brothels were taken over by

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<sup>18</sup> Otis-Cour, *Prostitution in Medieval Society*, 17.

<sup>19</sup> Otis-Cour, *Prostitution in Medieval Society*, 20.

<sup>20</sup> Otis-Cour, *Prostitution in Medieval Society*, 30.

municipalities from the late fourteenth century through the fifteenth.<sup>21</sup>

The regulation of sex work and the implementation of municipal brothels were not intended to protect sex workers. Rather, city governments sought to regulate sex work as a way of maintaining social order, and to restrict its practice by relegating it to certain areas of the city. Additionally, cities made laws about what days and hours sex workers could practise their trade, how and when they moved through the city, what they could charge, and what they could wear.<sup>22</sup> This way, sex workers would be separated from the better parts of the city, but still accessible.<sup>23</sup> Brian Pullan has argued that sex work in Italian cities was legal but regulated because the existence of debauched women who were available for sexual contact was thought to be a necessary ‘lesser’ evil. Men might redirect their desire to rape, engage in extra-marital sex, or sodomy towards debauched women, thus making society safer for honest women and preventing homosexual activity.<sup>24</sup> Ghirardo argues that authorities in Ferrara, which had legalized and regulated sex work in the fifteenth century, were more concerned with ‘the conjunction with space and sex’ than they were with ‘immoral activities’.<sup>25</sup> Rossiaud has argued that brothels in Dijon served the purpose of curbing the sexual appetites of unmarried men.<sup>26</sup> This obviously did not work, as women were clearly still subject to male perpetrated violence, and as I will argue

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<sup>21</sup> Gras, *Histoire de Dijon*, 80; Otis-Cour, *Prostitution in Medieval Society*, 34

<sup>22</sup> Otis-Cour, *Prostitution in Medieval Society*, 163; Diane Yvonne Ghirardo, “The Topography of Prostitution in Renaissance Ferrara,” *Journal of the Society of Architectural Historians* 60, no. 4 (2001), 402; James Brundage, “Sumptuary Laws and Prostitution in Late Medieval Italy,” *Journal of Medieval History* 13, no. 4 (1987) 343-55.

<sup>23</sup> Brian Pullan, *Tolerance, Regulation and Rescue: Dishonoured Women and Abandoned Children in Italy, 1300-1800* (Manchester: Manchester University Press, 2016), 29.

<sup>24</sup> Pullan, *Tolerance, Regulation and Rescue*, 30-32.

<sup>25</sup> Ghirardo, “The Topography of Prostitution,” 402. Sex workers in Ferrara were severely restricted. They could not leave their rooms in the brothel except on Saturdays to go to the public market, and they had to wear a yellow mantle to identify themselves. If they flouted these rules and were caught, they could be whipped, tortured, or publicly humiliated. Otis-Cour provides examples of this from Genoa, Venice, Toulous, and Strasbourg, *Prostitution in Medieval Society*, 83.

<sup>26</sup> Rossiaud, *Medieval Prostitution*, 48.

here, sex workers were regularly subjected to it as well. In Dijon, despite the existence of municipal brothels, sex work happened widely throughout the city and took place in several bath houses in addition to clandestine brothels. Social control could not have been the city's only reason for establishing municipal brothels; it seems likely that they wanted to make money as well.<sup>27</sup>

Municipally run and owned brothels did in fact offer sex workers some protections. Sex workers who had an established place of work in a district or in a licensed brothel were more protected by the law than those who were clandestine, *filles secrètes*, and who were not supposed to be working in other parts of the city. In the Languedoc region, as municipal brothels and sex work districts became more common, the divide between licit and illicit sex work became more pronounced. Women working outside of a city's official district or house could be fined, or in some cases, they were forcibly taken to the municipal brothel or district. Overall, however, illegal procurement was considered a far greater crime than illicit sex work.<sup>28</sup> Karras notes that many cities had laws that protected sex workers from being beaten by the keeper of the house or forcibly detained there.<sup>29</sup> On the other hand, some of these licensed brothels took the entire fee that the client was charged, leaving the women to earn money from tips.<sup>30</sup>

Otis-Cour has concluded that in general, sex workers were somewhat protected under rape laws in late medieval France, both in the north and the south. Some towns had specific

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<sup>27</sup> Erik Spindler argues that the fines charged to brothels in Sluis effectively functioned as license fees, as they were neither high nor did they actually repress sex work. Erik Spindler, "Were Medieval Prostitutes Marginals? Evidence from Sluis, 1387-1440," *Revue Belge de Philologie et d'histoire* 87, no. 2 (2009): 254.

<sup>28</sup> Otis-Cour, *Prostitution in Medieval Society*, 94-5

<sup>29</sup> Karras, "Prostitution and the Question of Sexual Identity," 163.

<sup>30</sup> Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval Europe* (Oxford: Oxford University Press, 1996), 33.

statutes that mandated fines for raping a sex worker and such laws were enforced to an extent. That the punishment was a small fine, however, indicates that it was not as serious a crime to rape a sex worker as it was to rape any other type of woman, and the fines may have functioned to prevent citizens from facing far worse punishment. Additionally, because many towns had municipally run brothels from which they made money, it was in their best interests to ensure that sex workers were protected from rape—at least by men who did not pay.<sup>31</sup> However, despite laws which criminalized the rape of sex workers, men did not necessarily respect their right to deny consent.

Otis-Cour describes a system of brothel ‘farming’ that occurred frequently in Languedoc in the fifteenth century. The brothel owner would contract with a middleman (who was a man or a woman), who then received the profits of the house directly and paid the owner a fixed sum.<sup>32</sup> The sex workers in the brothel were thus subject to the farmer’s control. They were happier to work under a female farmer who had previously been a sex worker herself than a man.<sup>33</sup> In 1462, women of a public house in Toulouse brought a complaint before the *parlement*, with a lawyer, in which they alleged that the practice of selling the contract to a male farmer should be stopped. They asserted that the male farmer was essentially a pimp who wanted to ‘extort the maximum from the women, therefore encouraging illicit intercourse’.<sup>34</sup> They then proposed that a woman should be head of the house, and that each sex worker in the house should contribute money for its running.<sup>35</sup> Sex workers in these houses, whether they were controlled by a farmer or by the

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<sup>31</sup> Otis-Cour, *Prostitution in Medieval Society*, 69.

<sup>32</sup> Otis-Cour, *Prostitution in Medieval Society*, 57.

<sup>33</sup> Otis-Cour, *Prostitution in Medieval Society*, 61.

<sup>34</sup> Otis-Cour, *Prostitution in Medieval Society*, 61, document quoted in footnotes, 185, n77-79.

<sup>35</sup> Otis-Cour, *Prostitution in Medieval Society*, 185, n80.

owner, did not earn nearly as much as either the owner or the farmer. Otis-Cour concludes that the *Procès des Fillettes* from Toulouse thus demonstrate the transition from ‘a system of direct exploitation, involving only the proprietor and the prostitutes, to the system of a middleman or brothel keeper, which seems to have encouraged a more efficient exploitation of the profitability of the authorized houses’.<sup>36</sup>

However, what is even more striking is that sex workers in Toulouse were clearly aware of how they might improve their situation and were organized enough to present their case to the *parlement*, demonstrating that they wanted to make their work in the municipal brothel somewhat more profitable and safe. Jamie Page has studied interrogation records relating to working conditions in a municipal brothel in Germany in the fifteenth century, which were investigated by the municipal justice after a woman employed as a kitchen maid there lodged a complaint. The sex workers at the brothel detailed their ‘desperately bleak life,’ and how they were all in debt to the brothel-keeper, who ‘made them virtual prisoners’.<sup>37</sup> Furthermore, given that many groups of sex workers lived (and were sometimes cloistered) in the same houses as one another or in the same districts, they would have had close neighbourly ties with one another. Kathryn Reyerson has found that this was exactly the case in Montpellier, where a group of sex workers lived outside of the city walls in Campus Polverel.<sup>38</sup>

Sex workers were certainly disadvantaged and did not have power on their own, but collectively they were at times able to advocate for better working conditions, and they were not without ideas on how their situation could be improved. While women in Dijon had knowledge

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<sup>36</sup> Otis-Cour, *Prostitution in Medieval Society*, 61.

<sup>37</sup> Jamie Page, *Prostitution and Subjectivity in Late Medieval Germany*, 66

<sup>38</sup> Kathryn Reyerson, *Women's Networks in Medieval France: Gender and Community in Montpellier, 1300-1350* (Cham: Springer, 2016), 131.

of their city's rape culture and the courts, and thus were able to protect one another by testifying in court and even directly intervening in rapes, sex workers likely had knowledge of rape culture that was specifically shaped by their occupation. Their knowledge would have been influenced by their own experiences with men, brothel farmers, and the risks of sexual violence that came with their jobs.

### *The Impact of Regulation*

An analysis of medieval sex work, as it intersects with experiences of sexual violence, needs to take the impact of regulation into account for multiple reasons. Firstly, there is the fact that the regulations did not necessarily protect sex workers, and certainly did not protect them equally. Sex workers who worked illegally, rather than in licit brothels, may have been subject to more hardship and violence, with few ways of seeking legal protection. Secondly, there is the fact that medieval sex workers were aware of these regulations and had ideas about which regulations might serve them best. In *Revolt of Prostitutes: the Fight for Sex Workers' Rights* Molly Smith and Juno Mac argue that the most effective way to protect sex workers is to view it through the lens of labour first and to decriminalize it fully.<sup>39</sup> Sex work, Smith and Mac say, 'is the vault in which society stores some of its keenest fears and anxieties,' and thus people often treat 'prostitution as a site of metaphor' rather than as 'an actual workplace'.<sup>40</sup> Treating sex work as labour means that sex workers can then be accorded labour rights: 'When sex workers assert that *sex work is work*, we are saying that we need rights'.<sup>41</sup> Similarly, when sex work is legalized

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<sup>39</sup> Molly Smith and Juno Mac, *Revolt of Prostitutes: The Fight for Sex Workers' Rights* (London: Verso, 2018), Chapters 2 and 8.

<sup>40</sup> Smith and Mac, *Revolt of Prostitutes*, 10-11.

<sup>41</sup> Smith and Mac, *Revolt of Prostitutes*, 54.

but over-regulated, or when the clients of sex workers are criminalized, sex workers are harmed because their ability to find work has been damaged, or they are unable to practice sex work in the ways prescribed by the law.<sup>42</sup> Decriminalizing sex work, on the other hand, ‘describes a situation where sex work is legal *as the default position*’.<sup>43</sup> In a system of decriminalization, laws criminalizing sex work are over turned, and it is treated as being subject to labour laws instead.<sup>44</sup>

Medieval sex workers were subject to laws that regulated their wages and the hours and places that they worked. They were also, as we have seen, subject to brothel farmers and procurers that further regulated their wages and ability to work. Sex workers may have thus viewed what they did as being work first and foremost, and not as a fulfilment of the societal need for sex with immoral women so as to curb the desires of men, nor as an expression of their sinful nature. Jehanotte de Briefville, for example, described herself as a ‘gentil femme’ who had turned to sex work out of desperate financial need.<sup>45</sup>

Viewing sex work as work allows us to move beyond a formula in which the sex worker exchanges the entirety of her consent for money, which is important given that both medieval courts and culture viewed it in this manner. This is demonstrated by the cases from Dijon in which the men attempted to pay the women or teenage girls that they had raped, and the scrutiny the court applied to determining whether or not the victim/survivor accepted the money. Accepting the money would presumably have signalled her consent to the acts, even if it was given after the fact. In trying to give victims/survivors money, rapists implied that the women

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<sup>42</sup> Smith and Mac, *Revolting Prostitutes*, 163.

<sup>43</sup> Smith and Mac, *Revolting Prostitutes*, 156.

<sup>44</sup> Smith and Mac, *Revolting Prostitutes*, 169.

<sup>45</sup> ADCO BII 360/1/2-5, 1409.

were sex workers, and attempted to humiliate them.<sup>46</sup> Jehanette le Bonnet, for example, made it clear in her testimony that she had tried her very best to refuse the money that the men offered her, and that they had put it in her purse despite her unwillingness to accept it. Smith and Mac state that ‘one of the key ideas used to treat prostitution as ‘not-work’ is the idea that we are simply holes: that we are offering up purchased consent’.<sup>47</sup> They use the example of a massage therapist to illustrate why this point of view is so problematic. Massage therapists also work with their bodies and yet they do not sell their services under the assumption that their clients have thus purchased the rights to do whatever they want with their bodies. Sex workers sell sex under specific terms and with specific expectations, just as anyone else does when selling a service.<sup>48</sup> While medieval sources may present sex work as an exchange of money for consent, in considering how medieval sex workers may have felt about consent and rape, I utilize Smith and Mac’s construction of sex work as work.

### *Jehannette la Charronne*

A 1385 letter of remission pertaining to the assault of Jehannette la Charronne demonstrates how sex workers and women who were assumed to be sex workers were denied the right to be consenting individuals by the men who perpetrated violence against them. It further complicates the relationship between sex work, consent, and payment, demonstrating that money did not make consent clear. Finally, it underscores the way that sex workers’ interactions with one another could be construed as dangerous within legal narratives but in actuality were likely

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<sup>46</sup> Gonthier, “Les victimes de viol,” 28.

<sup>47</sup> Molly Smith and Juno Mac, *Revolting Prostitutes*, 45.

<sup>48</sup> Molly Smith and Juno Mac, *Revolting Prostitutes*, 45.

helpful connections.

The letter was written for Micaut Bellare, Colin Gervaise, Tassin Roussel, and Guillaume le Trechet, all of whom were around 20 years of age. The crime—though the letter hardly acknowledges that one occurred—took place after the festival of Saint Martin in the town of Palaiseau. After the feast day had passed, Micaut found a woman named Jehannette la Charronne, whom the letter describes as being known to clandestinely have sex with men, at the house of a Philipot de Jargneau. At this point, a fifth man, Guillaume le Breton, became involved. He took Jehanette behind a building in the village and attempted to rape her there, beating her when she did not comply. After Guillaume le Breton left, Jehannette went back to the other men, and told them what had occurred. Then, as the letter narrates it, she had consensual sex with them, and eventually with Guillaume le Breton as well. Afterwards, the men gave her money which she agreed to take. Then, twelve days later she reported the men to the *prevost* of Paris, and they were detained as prisoners in Palaiseau.<sup>49</sup>

The story the letter narrates is circuitous, and employs several strategies to absolve the men of guilt and deny the presence of sexual violence. Critical to this is the manner in which Jehannette is described, and how she is framed within the community of Palaiseau. Jehannette is introduced in the following manner: ‘une jeune femme nomee Jehannette la Charronne qui a acoustume de faire secretement pour les hommes’[a young woman named Jehannette la Charronne who was accustomed to having sex with men secretly]. The phrase ‘faire secretement pour les hommes’ indicates that Jehannette was a sex worker of some type. Perhaps she practised clandestinely, or she may have only done sex work occasionally. The letter also states that ‘la

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<sup>49</sup> AN JJ 126, f.170r, no 273, 1385.

dicte Jehannette est communement diffamee et que len lavoit lors veue et trouvee avec une autre femme de bordel'[the said Jehannette was commonly defamed and seen and found with another woman from a brothel]. Jehannette had been seen drinking with her at a tavern. Jehannette was thus constructed as both being a sex worker of some type and as having connections to a wider community of sex workers, but not as being a public sex worker employed at a brothel. Her reputation was poor, and this was widely known in Palaiseau.

Framing Jehannette as a sex worker was crucial to demonstrating that the sex was consensual, as was the inclusion of Guillaume le Breton in the narrative. Guillaume le Breton was not named as one of the supplicants seeking remission, yet he was the only man whom the letter admits perpetrated violence against Jehannette. Le Breton attempted to force himself on Jehannette, but she did not want to have sex with him: 'Et pour ce quelle ne l'avoit pas agreable et quelle se defendoit de son pouoir, ycellui Breton sacha un bandelaire quil avoit et l'en fery du plat en la cuisse sans mehaing ne sant ou plaie...' [And because she was not in agreement and she defended herself as best she could, the said Breton took up a sword he had and hit her with the flat side of the blade on the thigh, without serious injury or wound]. Jehannette's resistance was met with violence, as Guillaume hit her with his sword. Though, the letter makes it clear that the violence she endured was not particularly bad as it states that she was not seriously injured or wounded. After the attempted rape, the supplicants apparently admonished Guillaume le Breton for his actions, telling him that he had done wrong. Then, Tassin had sex with Jehannette, 'sanz ce que elle il meist contre dit ou refus...' [without her doing anything against him or refusing].<sup>50</sup> The others, including Colin, Micaut, Guillaume le Trechet *and* Guillaume le Breton had sex with

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<sup>50</sup> AN JJ 126, f.170r, no 273, 1385.

her. None of their actions are described as violent, or against Jehannette's consent. Moreover, Tassin gave her money which she took 'agreeablement' [agreeably]. Taking the money further signalled that Jehannette had consented to the sex, and because the letter had already made a point of framing Jehannette as a sex worker, it figures as a believable detail; of course she took the money, after all, she was accustomed to taking money from men in exchange for sex.

However, if all of the sex that took place was consensual, then why did Jehannette report the men to the *prevost*? The letter does not say for what exactly she reported them; it merely states that she reported 'de ces choses' [of these things]. In other words, she lodged a complaint about the actions that the letter had narrated. Guillaume le Breton was the only person in the letter who attempted to commit a crime, but he was not named as an *exposan*, and he was not detained in prison. It is clear that what actually happened was that the men, including Guillaume le Breton, raped Jehannette. First, there is the fact that she did not want to have sex with Guillaume le Breton, and that he beat her during the attempted assault. She had attempted to demonstrate her non-consent, and had been hit with a sword as a result—when she had sex with the supplicants she was injured and likely emotionally distressed. Secondly, she was vastly outnumbered, and could not have fought off five men. Furthermore, there is no explanation given as to why she changed her mind about having sex with Guillaume le Breton. Her supposed consent to sex with the men was therefore rendered within an unequal power dynamic, under the threat of rape and violence should she refuse, and via violent coercion from Guillaume le Breton.

Medieval women were expected to demonstrate non-consent via verbal and physical resistance. This construction of consent rarely allowed for experiences like Jehannette's to be termed rape. But the representation of Jehannette's consent in the letter, and consent in general,

is convoluted. The letter ascribes to her multiple ways of consenting and not consenting. She is able to refuse to have sex with Guillaume le Breton and defend herself from him, as any woman might. She is also able to signify her consent to sex with the other men by accepting money and by not physically defending herself. Jehannette's acceptance of the money is critical for the narrative that the letter constructs, in which no crime of rape occurred. Money is thus represented as being able to transform non-consensual sex into consensual sex. But if a woman like Jehannette frequently had sex for money, then on what basis did the authors of the letter predicate her resistance to Guillaume? After all, he could have offered to pay her after the fact, as did the other men. Yet, the other men do not admonish Guillaume le Breton for not paying Jehannette, rather they admonish him for trying to rape her. The letter also goes to lengths to frame the sex with Tassin and the others as consensual even *before they paid her*, meaning that money clearly could not do the work of consent by itself. The letter thus tacitly acknowledges that even women who were sex workers could determine for themselves which men they wanted to have sex with—regardless of payment. Furthermore, that the justice in Palaiseau detained the men in prison suggests that they took Jehannette's claim of rape seriously, and that even as a marginalized woman she had some right to seek justice.

Jehannette did not consent, and the men knew that she had not. But ultimately, because they did not respect her ability to consent, or accord her one, it ceased to matter. As a sex worker, Jehannette perhaps faced both the trauma of sexual violence and the trauma of then being informed, via the letter, that she had not in fact experienced it, and that her right to consent did not matter. There is a very real possibility that Jehannette knew the contents of the letter, as during the ratification process, it would have been read before a judge and both parties. It is

impossible to know if this letter was actually ratified, but the version of the story that the letter presents could have only been distressing for her.<sup>51</sup> Had she reported the men for rape—and there is no other apparent crime in the letter to which remission referred—then the letter served as nearly a complete denial of her experience. Her story and experience with the remission process, which was shaped by her marginalized status as either a sex worker or presumed sex worker, was markedly different from many of the other experiences in remission letters studied here. Unlike Perrote Turelure, Marion du Cyne, and Guiette la Salles, who had their ability to consent reaffirmed by their letters, Jehannette’s ability to consent was degraded.

However, Jehannette’s letter also reveals that she either had some degree of community support, or at the very least was aware of the options for pursuing justice after a rape. The letter puts forward a narrative in which Jehannette did not report the rape because she truly wanted to, rather the authors would like us to believe that she did so at the instigation of someone else: ‘Et depuis bien douze jours ou environ ycelle Jehannette par l’enortement dau truy ou autrement de sa volente se complainy de ces choses au prevost de paris’ [and after twelve days, by the instigation of someone else or other than her own will, Jehannette complained of these things to the *prevost* of Paris]. The phrases ‘par l’enortement dau truy’ and ‘autrement de sa volente’ further the narrative idea that Jehannette was devoid of agency and unable to consent, which the authors of the letter previously planted in framing the rape as consensual sex. She allowed someone else to manipulate her into reporting, just as she allowed the men to have sex with her. Jehannette was denied a will within the letter’s narrative even when reporting the rape.

If the letter was in fact telling the truth, though, and if Jehannette had reported because

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<sup>51</sup> See my Introduction, 38-9, for ratification.

someone else had urged her to, then it seems she had friends within the community who wanted to see her to attain justice. However, this doesn't make complete sense given that the letter also would like us to believe that Jehannette's reputation in Palaiseau was quite poor. If the community knew her as a sex worker, and if, as the letter stipulates, the sex was consensual and paid for, who then would have urged her to report? The only logical conclusions are either that she told someone about what had happened, or there were witnesses to the crime, or she in fact reported entirely alone. If the sex was consensual and the incident with the group of men merely a routine part of Jehannette's job, then it doesn't stand to reason that she would have told anyone about it and indicated that there was violence involved. And if someone saw it happen, and urged her to report, then they must have thought a crime had occurred.

I believe that the letter is implying that the 'femme de bordel' manipulated Jehannette into reporting. Or, it was only by association with a 'femme de bordel' that Jehannette would have been perhaps wicked enough to report the innocent men. The only other person in the letter is Philipot, and nothing is said of his reputation or who he was beyond the owner of the house Jehannette was staying at. Perhaps he acted as a pimp, but the letter does not allude to this. Women's speech, particularly to one another, had great potential to be disruptive and even criminalized. In late medieval England women could be charged as scolds for voicing disagreement in public, in an 'objectionable' or 'inflammatory' manner.<sup>52</sup> Women who were accused of being sex workers were also often accused of being scolds. These were women who were thought to disturb the social order and who, as Karras remarks, were independent and thus

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<sup>52</sup> Sandy Bardsley, *Venomous Tongues: Speech and Gender in Late Medieval England*, (Philadelphia: University of Pennsylvania Press, 2006), 110.

‘had to be regulated’.<sup>53</sup> Kane notes that ‘garrulous women’ were often depicted as meeting in taverns where they engaged in disruptive speech that undermined the patriarchal order, and women’s speech was at once both ‘trivial’ and ‘dangerous’.<sup>54</sup> The letter includes both the setting for gossip, a tavern, and the right type of women, sex workers. Urging another woman to report a sexual incident as rape would certainly disrupt the patriarchal order, especially if both of those women were sex workers whose right to consent often hinged on the exchange of money. Furthermore, the letter’s narrative is more convincing if we are to assume that the ‘femme de bordel’ told Jehannette to report.

Despite the letter’s attempt at subverting the rape narrative, it actually reveals a great deal about Jehannette’s view of her own consent. There are two possibilities. First, Jehannette might have understood what had happened as a rape, regardless of the money she’d been given. Thus, her actions in reporting the men delineate a clear distinction of rape from consensual sex, one that was based not on money earned but on personal agency and will. Or, Jehannette might have been distressed by what had occurred, but confused about how to report it and whether it constituted an illegal rape. With this in mind, we can read the ‘enortement d’autruy’ as perhaps referring to the person who helped Jehannette make sense of the incident. Another sex worker, one who was well aware of the threat of rape that the job entailed, and who worked at a brothel and understood the laws that regulated sex work, would have been well equipped to help Jehannette. Women’s speech was regulated in part because it allowed for shared knowledge whereby a young, economically disadvantaged woman like Jehannette could access systems

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<sup>53</sup> Karras, *Common Women*, 138-40.

<sup>54</sup> Bronach Kane, *Popular Memory and Gender in Medieval England: Men, Women and Testimony in the Church Courts, C.1200-1500*, (Woodbridge: Boydell & Brewer, 2019), 60.

normally out of her reach.

Jehannette's experience with sexual violence was shaped by her status as a possible sex worker, her connections with other sex workers in her community, and the fact that she was economically disadvantaged. Her story demonstrates that while there was little space in real life, and the law, for sex workers to articulate their own consent outside of rejecting or accepting money, this did not extend to their own view of themselves. Jehannette clearly did not view herself as owing the men her consent or acquiescence, and even if she hesitated to report them, she seems to have had access to a network of knowledge that gave her the tools to understand her legal options. Furthermore, based on the logic that the letter employs and the narrative decisions it makes, it is clear that the men involved understood her as having the right to consent as well—they simply chose to violently, brutally ignore it.

### Gilon

A letter of remission involving a woman named Gilon further demonstrates that despite being treated as if they did not have the right to deny consent, sex workers were invested in their own safety and reported crimes to the local justice where they lived. In 1399, Gilon was subjected to an assault that was similar to what happened to Jehannette. Ferry du Tertre (the supplicant) and several others, including four men and two 'filles de vie', Marguerite and Sézille de Drion, travelled to Châlons for the evening. They went to the home of Colemas, looking for a woman named Rosecte who was a 'fille de vie'. Rosecte was not there, but inside the house they found Gilon, who was 'une jeune femme' [a young woman], 'qui par commune renommee faisoit le plaisir des compaignons pour argent et autrement'[who was known to have sex with

men for money and other things].<sup>55</sup> Gilon was set up as a sex worker in a similar manner to Jehannette la Charronne. Both women's status as a sex workers was predicated on the fact that it was widely known within their communities that they sold sex. Gilon and Jehanette may not have actually been sex workers, but they were considered to be by the communities they lived in and by the narratives of the remission letters.<sup>56</sup>

The group then forcibly kidnapped Gilon and brought her to a brothel: 'Icelle Gilon prinrent et emmenerent par force et oultre son gre et fut par ledit suppliant et les dessus diz menee jusque au lieu dit le bordel ou les filles de vie ont acoustume de seoir et reposer pour fair leurs volentez' [Gilon was grabbed and taken by force and against her will and brought, by the said suppliant and the others, to the place called the brothel where the *filles de vie* were accustomed to stay and rest in order to do their will].<sup>57</sup> Removing Gilon from where she was residing and/or working was clearly done against her consent, as indicated by 'oultre son gre'. The letter begins the sentence with 'Icelle Gilon...' rather than with the subjects who were doing the 'prinrent et emmenerent'. It is clear that Ferry and the other men (and perhaps Marguerite and Sézille as well) are the subject of 'prinrent et emmenerent' as they are both in the third person plural. Yet the choice to situate 'Gilon' at the beginning of the sentence centres not the action or culpability of the kidnappers, but rather the identity of the victim. Furthermore, nowhere does the letter make clear who exactly does the kidnapping. It might have been all of the men and the two women mentioned, or perhaps it was Ferry and a few others. The unclear subject here serves to deny culpability for the clear crime of kidnapping against Gilon's will.

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<sup>55</sup> AN JJ 154, f.322r, no 589, 1399, and partially transcribed in CdPC 241-3.

<sup>56</sup> For a discussion of how any woman deemed immoral could be labelled a sex worker, see Otis-Cour, *Prostitution in Medieval Society*, 29; Karras, "Prostitution and the Question of Sexual Identity," 162.

<sup>57</sup> AN JJ 154, f.322r, no 589, 1399.

Because the letter does not state *who* violated Gilon's will and kidnapped her, the reader does not know who was at fault for the crime.

Gilon was accorded the right to deny consent to being kidnapped, but not to having sex. Once they took her to the brothel, they brought her to a room and raped her: 'ledit suppliant, tempte d'art de l'ennemi, et pour ce quil bien beu, congunt charnelment icelle Gilon, et aussi firent aucuns des autres dessusdiz'[the said supplicant tempted by the devil and because he was drunk, knew Gilon carnally, and so did some of the others already mentioned].<sup>58</sup> Sexual violence here is indicated by the excuses made for Ferry's behaviour, namely 'tempte d'art de l'ennemi', which was a common reason that people gave for committing crimes in remission letters, but Gilon's consent or non-consent is noticeably absent.<sup>59</sup> She had not consented to be brought to the brothel—surely she did not consent to having sex with Ferry or the others either, but the letter does not try to argue that she did or did not. In bringing her to the brothel, they perhaps sought to make it seem as if she was definitely a sex worker.

Almost every action within the letter is influenced by the presence of sex workers. Not only does the letter imply, at discussed above, that the group of people responsible for the kidnapping included Sézille and Marguerite, but the implication may also be that they influenced Ferry and the other men to perpetrate the crime in the first place. Then, there is the fact that the group was looking for a specific woman, Rosecte, who was also a sex worker, and who Gilon either lived or worked with. Gilon was taken to the brothel 'ou les filles de vie ont acoustume de seoir et repairer pour fair leurs volentez' [where the *filles de vie* were accustomed to stay and

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<sup>58</sup> AN JJ 154, f.322r, no 589, 1399.

<sup>59</sup> Gauvard, *De grace especial*, 429.

rest in order to do their will]. Gravdal asserts that *faire sa volonté* was often used to describe sexual violence perpetrated by men in Old French, though the literal, gender neutral translation, ‘to do one’s will’ could mean something else.<sup>60</sup> The DMF defines ‘accomplir/avoir/faire sa volonté’ as ‘satisfaire son désir avec quelqu’un’ [to satisfy one’s desire with someone] and does not limit it to a male subject.<sup>61</sup> But when used to imply sexual violence, it inevitably took a male subject. In the 1350 remission letter of Thevenin le Bourguigon, discussed in Chapter 2, ‘eust fait sa volonte’ is used to obscure the violence of the rape that Thevenin was accused of perpetrating against Jehanette le Boucher. Thevenin merely ‘did as he willed’, and despite it being against Jehanette’s will, the authors of his letter still claimed that he could not have raped her.<sup>62</sup>

*Faire sa volonté* thus ascribes sexual agency and action to the subject, who ‘does their will’ or ‘satisfies their desire,’ without necessitating mention of the other person involved and their consent. *Faire sa volonté* does not imply or deny consent, rather, it encapsulates the idea that sex is something one *does*—consent is not part of the equation. That the letter describes the ‘filles de vie’ as ‘doing/satisfying their will/desire’ imbues them with sexual agency, but also sexual immorality and sexual availability. It also reverses the standard sexual script, in which a man enacts sex on a female object or in fact rapes her, and makes the ‘filles de vie’, female sex workers, the subject. I am not suggesting that the authors of the letter meant for the ‘filles de vie’ to become the perpetrators of rape. Rather, within the letter, the brothel becomes a space in which a certain type of woman enacts their sexual desires on men, and in being taken to the brothel, Gilon was associated with these qualities. The letter uses the presence of sex workers to

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<sup>60</sup> Gravdal, *Ravishing Maidens*, 2.

<sup>61</sup> DMF, entry for “volonté.”

<sup>62</sup> AN JJ 78, f.139v, no. 251, 1350; See my Chapter 2, 137-9.

exonerate Ferry and the other men from complete guilt, as it is unclear who was committing the crime of kidnapping Gilon. Then, it uses the identity of the ‘filles de vie’ and their sexual agency, to construct a situation in which Gilon was perhaps enacting *her* sexual desire on Ferry, rather than the other way around. Along with Ferry’s excuse that he was tempted by ‘l’ennemi’ [the devil] to rape Gilon, the letter uses the ‘filles de vie’ as a way of demonstrating that he was not to blame for his own actions.

Gilon, however, clearly felt as if the men’s actions had been criminal, as she complained of the incident to the local system of justice. Both Gilon and Jehannette la Charronne were sex workers who, despite being constructed by those around them as not being able to consent, still felt as if their consent mattered, and when it was violated, they were brave enough to report. As Pateman theorized in ‘Women and Consent’, consent alone is not enough to prevent rape from occurring when society itself does not view women as individuals capable of consent.<sup>63</sup> Gilon was not constructed as being able to consent, or to deny consent, both by the supplicants and the letter. This is underscored by the fact that one of the reasons the letter gives for Ferry’s actions, in addition to the temptation of the devil and his drunken state, is that Gilon was a ‘femme disolue et mal renommee’ [corrupt woman of poor reputation].<sup>64</sup> Bad women, sex workers, and rumoured sex workers, were not always able to deny consent in their relationships, and perhaps lived their lives under the constant threat of rape and violative sexual actions. But despite this, Gilon and Jehannette la Charronne still believed that they *should* have had the right to deny consent, and sought out the local justices where they lived in order to see that right enforced.

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<sup>63</sup> Pateman, “Women and Consent,” and see my Chapter 1, 86-88.

<sup>64</sup> AN JJ 154, f.322r, no 589, 1399.

It may well have been that because they were sex workers, and were likely constantly exposed to men who sought to violate their consent, they understood the threat of rape keenly and thus valued their own consent. Their clients were expected to pay for the sex they had, and sex workers were protected by rape laws to an extent. They could have understood their consent and themselves as something worth protecting, and as being worthy of legal recourse when they were violated. Similarly, they may have understood how to access the legal system, either from their own experience or by asking other sex workers. The implication is that Jehannette la Charronne reported because of the ‘femme de bordel’ she was friendly with, and Gilon too had connections to other sex workers within her community. Neither woman was entirely alone or without connection to a wider community. Smith and Mac note the ties between community aid and sex work in other contexts. In the nineteenth century, sex workers in Great Britain and Ireland ‘created communities of mutual aid’ and ‘women in colonial-era Nairobi formed financial ties to one another, paying each other’s fines or bequeathing assets to one another when they died’. Sex workers may also provide one another with ‘mutual defence’ when one of their community is subjected to violence.<sup>65</sup> The *Procès des Fillettes* from Toulouse certainly demonstrates that medieval sex workers were able to band together to advocate for their community, and also demonstrates that they had access to legal systems and knowledge.

Furthermore, the fact that most medieval sex workers in France would have been confined to specific districts, streets, brothels, houses, and areas outside the city walls meant that they physically lived near one another and may have been more likely to foster community connections and learn from one another. In an analysis of sex workers living in Montpellier,

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<sup>65</sup> Smith and Mac, *Revolting Prostitutes*, 14.

Reyerson finds that they interacted regularly with one another and aided one another financially. She concludes that horizontal ties were pronounced among these women, understandably for a group of marginals whose acceptance in society was doubtful'.<sup>66</sup>

That sex workers were often so physically marginalized from the rest of the community meant that they would have had to find connections with one another or perhaps not at all. This would have been more difficult, perhaps, for women who worked clandestinely or occasionally. Jehannette la Charronne was constructed as a woman of ill repute, and as a sex worker herself, partly because of her association with a 'femme de bordel.' But this connection may have also been an important one for her sense of community, happiness, and safety. Gilon similarly lived with at least one other sex worker in Chaalons, and thus we can envision that after the sexual violence had occurred, she was able to discuss it with other members of her community who perhaps helped her make the complaint. These two letters perhaps leave us with more ideas about sex work than definite answers, but together they demonstrate that sex workers, though marginalized, were far from isolated and may have been able to reflect on experiences of sexual violence together.

*'De son bon gre': the Case of Jehanotte de Briefville*

Despite their communities, sex workers were still some of the most vulnerable women in medieval society. Gilon and Jehanette may have benefited from knowing other sex workers, but they were still ultimately subjected to gross sexual violence because of their status and

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<sup>66</sup> Kathryn Reyerson, *Women's Networks in Medieval France*, 144-5.

employment. It is not merely that Jehanotte's and Gilon's consent was violated, rather, they are not presented by the letters as having the full capability to deny consent to begin with. What is apparent in both letters, though, is that despite the way that the legal system constructed their consent, sex workers had their own ideas about their capacity to consent. The case of Jehanotte de Briefville not only reiterates how vulnerable sex workers were to being raped, but also more thoroughly demonstrates how they conceived of their own right to consent to sex.

Jehanotte de Briefville's case is dated 1409, and was taken to the court by Claux, a squire and her pimp.<sup>67</sup> The case documents include the complaint, Jehanotte's testimony, and the testimony of Richard Perrin, one of the men who raped her. Her testimony includes both valuable information on her life and work, as well as a detailed account of the rape that occurred.

Jehanotte said that she was a 'gentil femme' from Briefville (modern French Bréville). The court was quite interested in her sexual history prior to the rape she suffered and questioned her on her marital status and how many other men she had had sex with. She said that she had been married previously to a man named Jacquemin, who had been dead for about a year. They had one child, who Jehanotte had left in the care of her father. She left Briefville when her husband died, and had been living and traveling with a knight. Prior to her relationship with the knight, she had not had sex with anyone other than her husband. Eventually, she met Claux de Fromont, and began a relationship with him. However, she said that he was unable to support her on his own and so 'pour pauvreté elle estant en la ville de Rochefort fut cogueue de son bon gre et pour gaingnier de plusieurs compaignons de la dicte ville'[because of poverty, she was in the

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<sup>67</sup> ADCO BII 360/1/2-5, 1409, and see Gonthier, "Les victimes de viol," 17 for a brief discussion of this case. She transcribes the name as Briesville, but in the document it is clearly an 'f'.

town of Rochefoit by her own consent, in order to know and earn money from many men of the said town]. Jehanotte practiced sex work out of economic necessity. ‘De son bon gre’ translates to ‘of her own consent’, and given that this was from Jehanotte’s own testimony, it indicates that she was not coerced into sex work by anyone. However, there is the possibility that Claux coerced her into starting sex work, and she may not have wanted to make the court aware of this for fear he might retaliate. Afterall, she was not a licit sex worker from one of Dijon’s brothels. Furthermore, she did not start sex work until she met Claux, and it is clear that he acted as her procurer. In her testimony she stated that Claux ‘la fianca en la dicte ville’ [prostituted her in the said town].<sup>68</sup>

They were staying in Dijon, and at night they were attacked by a group of men, including Richard Perrin, one man who was dressed in white, and another dressed in green. The men took Jehanotte by force and ‘oultre son gre’ [against her will]. Interestingly, in Jehanotte’s testimony it is also states that she was taken against ‘le gre et volonte dudit escuier’ [the will and choice of the said squire]. Within Jehanotte’s own description of the events, she treated Claux as having some control and consent over who she had sex with, and whether or not the men were allowed to take her. Claux attempted to defend Jehanotte, but the men took his dagger and threatened to kill him. They took Jehanotte to a barn, where they attempted to rape her. Afterwards, they brought her back to the inn, and two of the men raped her there. Then, Richard took her to his lodgings ‘oultre son gre et volonte’ [against her will and choice] and ‘la cognut comme elle dit deux fois oultre son grey et volonte’ [knew her as she described two times against her will and

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<sup>68</sup> ADCO BII 360/1/2-5, 1409, testimony of Jehanotte de Briefville. Gonthier is sure that Claux was Jehanotte’s pimp, and Rossiaud notes that ‘fiancé’ was a term used for pimp, protector, or procurer. I’ve translated ‘fianca’ to reflect this. Gonthier, “Les victimes de viol,” 17; Rossiaud, *Medieval Prostitution*, 31.

choice].<sup>69</sup> He kept her there throughout the evening, and in the morning, the other men came to his lodgings and raped her again. Then, Claux rescued her.

Each time Jehanotte mentioned that she was raped, she said that it was ‘oultre son gre et volonte’ [against her will and choice] making it clear that throughout the ordeal she had not consented. Interestingly, Jehanotte did not describe any of her physical resistance to the men, and the court did not ask her to either. ‘Oultre son gre et volonte’ may have been clear enough on its own and implied resistance, especially given how often Jehanotte repeated the phrase. Similarly, the fact that the men were not successful during their first attempt at raping her might indicate that she struggled and fought against them considerably.

Jehanotte’s sexual history and her experience of rape reveal that although she started sex work due to unfortunate circumstances or was in fact coerced into it, she still had a firm grasp on her own sexual agency and right to consent. She had been married and had at least one other relationship with a man prior to turning to sex work. The language of consent in Jehanotte’s testimony speaks to both affirmative consent and non-consent. First, she described her sex work as being ‘de son bon gre’ and then, she repeated the phrase ‘oultre son gre et volonte’ in relation to sexual violence.<sup>70</sup> Furthermore, she perhaps knew what positive, consensual sexual relationships were like due to the relationships with her husband and the knight, who were both long-term partners.

Jehanotte clearly drew distinctions between men and clients she chose to have sex with, and men who subjected her to sexual violence. However, she also acknowledged that Claux had

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<sup>69</sup> ADCO BII 360/1/2-5, 1409, testimony of Jehanotte de Briefville.

<sup>70</sup> ADCO BII 360/1/2-5, 1409, testimony of Jehanotte de Briefville.

some control over her right to consent and/or select clients, as indicated by the fact that in her testimony the kidnapping is said to occur against both her and Claux's 'gre et volonte'. She perhaps made this point in order to underscore the fact that the sex the men subjected her to was not sex work that Claux had found for her, but rather non-consensual rape. Jehanotte's testimony reveals that because she had a complex sexual history and engaged in sex work, she had a similarly complex understanding of consent, sex, and rape.

Jehanotte de Briefville's right to consent was severely undermined by those around her. In Richard Perrin's testimony, he described the sex as consensual, and as having occurred 'de son gre et volonte' [of her will and choice]. Further to this, he framed the other men as the instigators of the action and stated that they had each paid Jehanotte a certain amount. Jehanotte de Briefville left the issue of payment entirely out of her testimony, perhaps because she, like Jehanotte le Bonnet knew that money equalled consent.<sup>71</sup>

Jehanotte, unlike Gilon or Jehannette la Charronne, does not seem to have been connected to a wider community of sex workers. While she likely came into contact with other sex workers in Rochefort, she and Claux were transient. While it is clear that Claux was her procurer, what is not is whether they were on good terms, and how much he actually wanted to protect her. Claux may have rescued Jehanotte from Richard Perrin and the others because he genuinely wanted to help her, or, he may have felt slighted that the men did not pay him first. Without his testimony it is difficult to know, but the complaint he made to the town hall was primarily concerned with the kidnapping and beating Jehanotte had endured, rather than anything that had been done to him. The reality of Claux and Jehanotte's relationship was likely very

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<sup>71</sup> ADCO, BII 360/3/17-212, 1442, case of Jehanotte le Bonnet, my Chapter 4, 244.

complex. He was her procurer and protector, and may have also been a companion who cared for her. He also might have coerced her into sex work, and pursued the claim of the kidnapping in court partially because he felt he also had been wronged.

Jehanotte de Briefville's testimony reveals much about the multiple factors that could lead a woman to turn to sex work, and how being a sex worker shaped the way she understood her own consent. She had multiple relationships with men out of a necessity. Her husband had died, and she was involved first with the knight, and then Claux, because they were able to support her financially and perhaps offer her protection. She had never done sex work prior to her husband's death, nor had she had sexual relations with any other man. Sex work was a desperate, economic decision for Jehanotte, and Claux may have also coerced or forced her into it. Perhaps it was only because Jehanotte had had sex with other men after Jacquemin (her husband) died that she understood what was rape and what was consent; what was 'de son bon gre' and what was 'oultre son gre.' She did not go to lengths in her testimony to prove what was rape and what was not—she simply stated that she had not consented to Richard Perrins and the other *compagnons*.

### Conclusion

We can readily understand why it would have been necessary for medieval sex workers to have such a clear understanding of rape, consent, and the laws around them. They were subjected to sexual violence because of the occupation, as Jehanotte de Briefville had been, and within their places of work, as Gilon had been. Despite laws meant to protect them from rape, men viewed their consent as unimportant, and in some ways, non-existent. Jehanette la

Charronne was treated as sexually available regardless of her consent, and framed by the men who raped her as consenting despite obvious indications that she had not.

Connections and friendships with other sex workers, previous experience with men and sex work, and living near other sex workers likely informed and shaped the experiences of these women, giving them the tools to understand consent and rape, and helping them access the legal system. Both Gilon and Jehannette la Charronne had connections to sex workers within their communities. Gilon possibly lived with other sex workers, and Jehannette was friendly with a woman of the local brothel, who may have helped her report the incident to the justice. These types of connections make sense given that sex workers were marginalized, both socially and physically, from the wider communities. They had to form their own communities and networks of knowledge, which in turn helped them navigate the pervasive culture of sexual violence to which they were subject.

Jehanotte de Briefville understood herself as being able to choose her sexual partners, and deny consent where she saw fit. Jehanette la Charronne knew that she did not have to consent to a group of men just because she was a sex worker, nor did the payment they gave her prevent her from reporting the gang rape as the crime that it was. Within a rape culture that limited the rights of sex workers, men perpetrated sexual violence against them as if they were not individuals capable of giving or denying consent. The women studied here, however, did not view themselves in this manner. Sex workers, just like every other group of women studied here, including teenage girls, servants, and married women, had a nuanced understanding of their own consent.





## Conclusion

### Medieval Rape Culture

This has been a study of women and rape, of what they endured and how they survived it, of how they felt and thought, and how they struggled to see justice done. Again and again the sources speak to their desperation to not endure the violent act about to be perpetrated: to not be taken, to not be beaten, to not be raped, to not be coerced, to not give in. And: to be vocal, to be careful, to seek justice, to be listened to, to choose.

Consent, too, was central to the experience of rape and living in a rape culture for many women. The discourse of consent in late medieval France and Burgundy was rhetorically powerful in defining the act of rape for the victim/survivor and those around them. When Gillote de Mons screamed that she would see the rapists hang, she voiced her non-consent in such a striking manner that one of her neighbours noted it in his testimony. And when she later brought the case to court, and spoke about the crime, she reiterated her own non-consent, and thus her personhood, her will, and her ability to choose, and so marked the acts as rape. Perrote Turelure knew she had not consented to Brunet, and thus knew that the murder she committed was in fact done in self-defence.

Consent is even powerful in those narratives of rape which sought to prioritize the rapist's point of view. Jehanette la Charronne *knew* that *she had not consented* to the gang rape that was committed, and this allowed her to tell someone else about the rape and/or report it to the justice on her own. Just as no amount of money given to her by the rapists could make the sex act consensual, no amount of narrative manipulation on the part of the rapists can erase the fact of her choice from the record.

However, rape was not rape unless it was violent. In all of the cases studied here in which the sexual violations perpetrated were explicitly described as rape, both by the victim/survivor and by the legal process, those acts were violent. Violent resistance to rape was conceived of as an appropriate response. Christine de Pizan's Galatian queen was triumphant, and morally just, in cutting off the head of the man who raped her. And letters of remission framed women involved in the killings of rapists as doing the right thing in order to protect themselves. While consent was a powerful discourse for victims/survivors, they may have believed that they *had* to enact and articulate it in a specific way for it to be believed, and they may have fashioned their resistance to rape and their presentation of it in court and in remission letters around this script. To a certain extent, women were expected to prevent rape from happening.

But even within the narrow boundaries of what counted as illegal rape and appropriate resistance, women still pulled back at rape culture and understood a wider array of male perpetrated sexual actions as harmful.<sup>1</sup> They knew that the men closest to them could perpetuate these harms: men might coerce them into sex with promises of marriage, and husbands could weaponize the conjugal debt against them.

Their options for response, resistance, and justice were limited, and the choices they made often desperate. Jacquette Turbette claimed that she had been deflowered and that Robin had reneged on their promises of marriage. When she sought out the justice of the church court, she risked that the community would become aware she was no longer a virgin, but she may have had few other options. Women like Cassotte la Joye and Florie la Closiere, who became pregnant after having sex with men they likely believed they would marry, may have used the

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<sup>1</sup> See Gavey, *Just Sex?*, 94 for the idea that people can “pull” at cultural pressures.

church court as a way to gain financial support for their children. When Guiette de Salles's husband tried to have sex with her even though he had syphilis, she reacted first by trying to reason with him, but ended up in a fight for her life. Guiette may not have thought of his actions as constituting rape, but she understood them as harmful and sought to make her own choices, regardless of the conjugal debt.

Furthermore, community aid was available to victims/survivors. Women were aware, collectively, of the threat that rape posed to themselves and to others in their community. The Dijon testimonies reflect a culture of resistance in which women directly intervened in rapes, stood as witnesses to aid their neighbours, and understood how to avoid being raped themselves. Richote Mercerot was saved by the intervention of Geliote, who heard and understood what was going on. And though Jehanotte le Bonnet still suffered at the hands of the men who assaulted her, Jehanotte Vesne did all she could to rescue her. Men, too, became key witnesses in support of victims/survivors and mobilized to try and intervene in kidnappings.

Angneaul's testimony in support of her neighbour Katherine Vougeot further underscores just how aware women were of rape culture. She knew that Katherine had a poor reputation, but still maintained that Katherine did not deserve to be raped because of it. She understood, then, that women could be blamed for rape and she chose to push back against this idea.

Sex workers perhaps occupied the most fraught space in rape culture, as they were subject to sexual violence as they worked and because their occupation was highly regulated. But because sex workers often lived in the same spaces due to these regulations, they were able to share knowledge and in some instances, advocate collectively. They too understood the threat of

rape, and despite the fact that men often treated them as if they did not have the ability to deny consent, they wanted to be able to make choices for themselves.

That sex workers, and women with poor reputations, were able to make rape accusations despite their apparent marginalisation demonstrates that nearly any type of woman was able to do so. One did not need to be a virgin, or married, or of particularly good community standing to lodge a rape complaint—one merely had to have experienced what was understood as rape.

It is abundantly clear, then, that medieval women, regardless of class, occupation, or marital status, understood rape culture. They knew that they were subject to it, yet they did not internalize it to the point of believing it was right. Regardless of how men perpetrated rape and sexual violations, whether by violence or coercion, women (and many men) knew that these acts were harmful and wrong. Moreover, women spoke about this harm, in their testimonies, in remission letters, and to one another. The women in Dijon knew which men to avoid.

By examining and paying attention to the experiences of victims/survivors, we arrive at a finding of considerable importance for understanding rape culture in the Middle Ages—that there was a counter narrative of resistance, and even support. Communities and to an extent, courts, cared about a woman's ability to make sexual choices for herself. While making rape accusations was a risky endeavour, and while women were still subject to the threat and reality of rape, rape culture was not all powerful and women were at times given the space to say no.

### *Changing a Rape Culture*

These facts about the medieval past are important to consider as we attempt to find a way through and out of our present-day rape culture. Victims/survivors are increasingly encouraged to

speak up about their experiences with rape. The Me Too Movement, started by Tarana Burke in 2006, and popularized on Twitter in October 2017, was one of the main catalysts for this. While it was initially used as a hashtag by women in the entertainment industry to share their experiences of sexual abuse, it culminated with women across the world taking part.<sup>2</sup> The idea was that survivors might find comfort in knowing that they did not suffer alone, and that others might start to understand the pain that sexual violence causes. The hope quickly became that by collectively sharing their stories, women might wield some power against the men in Hollywood who had perpetuated sexual abuse, assault, and harassment.<sup>3</sup>

With a few notable exceptions, men targeted by Me Too have rarely been held accountable. While Harvey Weinstein, famed producer and notorious sexual abuser, has now been incarcerated, this was largely due to the actions of two journalists, and Weinstein was convicted on charges that represented a mere fraction of the women he had assaulted. Some men in Hollywood have faced temporary criticism but have managed to make successful comebacks. Louis CK, who has admitted to the abuse he perpetrated, still sells out comedy shows.<sup>4</sup>

Moreover, despite the fact that Me Too gained international attention and began to permeate American culture, there was much it could not and cannot do. Dr. Christine Blasey Ford accused Supreme Court nominee Brett Kavanaugh of sexual assault in 2018.<sup>5</sup> He was

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<sup>2</sup> #MeToo, used by Alyssa Milano on Twitter in 2017, is somewhat distinct from the Me Too Movement, which was founded in 2006 by Tarana Burke, though the two uses of the term are both focused on survivors acknowledging one another. See Me Too Movement, "History and Inception," 2022, <https://bit.ly/3L05xT4>.

<sup>3</sup> Burke's intention was never to target men in Hollywood, but this was how the movement gained steam on Twitter. See Anna North, "The #MeToo movement and its evolution, explained," *Vox*, October 11, 2018, <https://bit.ly/34dTcJU>.

<sup>4</sup> Srivivivasan, *The Right to Sex*, 18, and 18-20 for more examples.

<sup>5</sup> See Nicholas Fandos, "Brett Kavanaugh and Christine Blasey Ford Duel With Tears and Fury," *New York Times*, September 27, 2018, <https://nyti.ms/2NH06zA>.

confirmed, to a lifetime position on the highest court in one of the wealthiest, most powerful countries in the world, despite the acknowledged honesty of her testimony. There is hardly a loftier position to achieve, and no crime that could make one less fit to fill it. That sexual assault did not disqualify him from serving on the Supreme Court is as unsurprising as it is horrifying.

Victims and survivors who speak up and share their pain are still too often subject to derision and humiliation. In 2022, Johnny Depp sued Amber Heard for defaming him in an op-ed she wrote in which she alluded to the abuse she had suffered at his hands. She did not specifically name him. She counter sued, but ultimately, the jury awarded Depp more money. But regardless of the jury's decision, the court of public opinion had already been swayed firmly in Depp's favour, and Heard was demonized and belittled across the internet to a startling degree.<sup>6</sup>

Whether or not this case will be an insurmountable setback for the Me Too movement remains to be seen. But what is clear is that we cannot ask victims/survivors to speak up about their experiences without then offering them support and protection. We must ask ourselves whether or not such displays of pain, like that of Dr. Ford and Heard, are truly how we dismantle rape culture. We must interrogate if asking women to speak up is truly the best way to fix a culture that allows men to perpetuate such gross and awful abuses in the first place.

Furthermore, does saying, again and again, with hashtags and protests and vigils, that rape is wrong, that it hurts, that it harms and traumatizes and wrecks lives—does that really do anything that we have not already done?

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<sup>6</sup> See Moira Donegan, "The Amber Heard-Johnny Depp trial was an orgy of misogyny," *The Guardian*, 1 June 2022, <https://bit.ly/3xyBH3q>.

After all, don't many of the men who rape, abuse, and harass already *know* that it is wrong, that it hurts, that it traumatizes? Amia Srinivasan argues that men in fact have always known the harm they perpetrate, in part because 'men have always lived alongside women who contested the rules'. Me Too does not mark a sudden change in what is expected of them, and

those who insist that men aren't in a position to know better are in denial of what men have seen and heard. Men have chosen not to listen because it has suited them not to do so, because the norms of masculinity dictate that their pleasure take priority, because all around them other men have been doing the same.<sup>7</sup>

The medieval men featured in the documents studied here had opportunities to understand the harm that rape caused, as they too lived among women who understood the importance of consent and who were vocal and physical in their resistance to rape.

I have rarely discussed here the men who perpetuated medieval rape and who are, as a group, the reason why this study is necessary. What is clear—and this is a rather obvious point but one which warrants repeating—is that men are and were the cause of rape, the beneficiaries of rape culture, and the group that must be targeted for change if we want to prevent gendered violence.

I do not deny that encouraging victims/survivors to speak up is positive, and that it can help them find solidarity and healing, and be cathartic. Furthermore, encouraging people to listen to victims/survivors, and more crucially, to believe them, can have positive, measurable impact. Bearing witness to victims and survivors as they share their pain has the power to reintegrate them into the community and help them in 'reestablishing bonds of trust and faith in others'.<sup>8</sup> And believing victims/survivors reaffirms that what occurred was not their fault, and that their

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<sup>7</sup> Srinivasan, *The Right to Sex*, 21.

<sup>8</sup> Briston, *Aftermath*,

experiences matter. For example, In January 2018, over 150 women and girls made impact statements as part of the trial against Larry Nassar, who had been accused of—and was later sentenced for—sexually abusing over 368 people in his capacity as the USA Gymnastics team national doctor.<sup>9</sup> The impact statements were harrowing to watch, emotional and unforgettable in their tenor, and representative of bravery in the face of pain and fear. The hope, and one achievable goal of Me Too, is that such processes allow victims/survivors catharsis.

But victims/survivors speaking up, sharing their stories, and reporting rapes, cannot do the work of dismantling rape culture entirely because these actions do not tell or teach men—and for that matter women—anything that they do not already know, or cannot readily learn. And speaking up about rape and male perpetrated violence is still a highly risky endeavour. Moreover, it requires the victim/survivor be vulnerable in a way she may not want to, and it is a process fraught with pain even in the best circumstances.

Even if there are some men who have not yet realised the harm rape and coercion cause, this ignorance is only possible to maintain if they wilfully ignore the evidence around them and persist in viewing women's pain as less important than their own pleasure or that of other men. Moreover, as shown by Dr. Ford's case and by USA Gymnastics' gross failure to protect its athletes, our institutions desperately need changing as well—and institutions are rarely swayed by women's pain.

The point is not that listening to victim/survivor stories and experiences in the present and studying them in the past should be jettisoned in favour of teaching men in the present and

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<sup>9</sup> See Christine Hauser and Maggie Astor, "The Larry Nassar Case: What Happened and How the Fallout Is Spreading," *The New York Times*, January 25, 2018, <https://nyti.ms/34jlhzK>.

learning yet more about them in the past. The point is instead that the past shows us what the present easily forgets: that women have always known—yes, even and especially in the Middle Ages—and that men have also always known, but have not yet been forced to care.

The work of dismantling rape culture is in getting them to care. The work is in creating a culture in which men value the lives of women more than they value their own pleasure. The work is in creating a culture in which sexual pleasure is tied to choice, and in which sexual scripts do not dictate that when the woman retreats, the man advances further still.

These findings have important implications for the fields of gender history and medieval studies. If women have always known, and been vocal about their knowledge and their pain, and thus men have always had access to evidence of rape's harm, then we cannot use the past as a way to justify the present's failures, nor laud the present for fixing the failures of the past. As Judith Bennett argues in her seminal essay 'Patriarchal Equilibrium', 'history-as-continuity' rather than 'history-as-change', provides a better framework for studying women's history because there has been 'much change in women's experience; no transformation in women's status relative to men'.<sup>10</sup> History-as-continuity applied here allows us to see the continuity in women's status as the victims and survivors of rape culture, and men as the beneficiaries and perpetrators. Not only does this further underscore the fact that men must be responsible for changing rape culture, but the evidence for this continuity, and the continuity in how harmful and wrong women have always found rape to be, is so overwhelming that no narrative of progress is possible.

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<sup>10</sup> Judith Bennett, *History Matters: Patriarchy and the Challenge of Feminism* (Philadelphia: University of Pennsylvania Press, 2006), 75-6.

If we cannot use the past as a way to frame ourselves as better, we are then challenged with making real, foundational changes to our present rape culture. And in our study of the past, we must stop making assumptions about how women thought of themselves and how they were treated by men, and instead pay closer attention to what the sources actually indicate. Here, I have found that there was a relatively strong counternarrative to medieval rape culture, and that it was widespread enough to exist in multiple source types, in multiple courts, and in multiple locales. Even marginalized women could and did make rape accusations, demonstrating that this counternarrative was widely accessible. If we approach rape culture as something which could have always been challenged and subverted, and in fact directly countered, then we will not only read medieval and other historical sources more accurately, but also approach our present moment with more ideas and hope for how we can enact radical change.

### *Life After Rape*

The sources I've used here make explicit what these women did not want, what was *oultre*, or against their *gre et volonte* [will and choice]. But what of the positive inflections of *volonte*? What did they desire? What choices did they make? What work did they do? What did they enjoy? What friendships did they forge and nurture? Who and how did they love? Who loved them in return? What lives did they try to forge for themselves?

These are questions that remain unanswerable. Yet, despite the record only offering up glimpses of these women as they endured suffering, we still know their humanity. What is more human than the expressions of will and choice, of anger and fear, of perseverance and pain, so often offered up by the records of the victims/survivors studied here?

Of course we must believe, based on such startling evidence of human life, and of feeling, that Jehanotte le Bonnet and Marion la Garniere and Katherine Vougeot felt and loved and toiled and existed. We can know that they were more than their experiences of trauma and pain because they were human, and because we know ourselves to be human and more than such moments of our own.



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