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Introduction

IN THE summer of 1470, hundreds of people left their homes in the war-torn and impoverished northernmost parts of what is now France, a region then and now called Lorraine. These migrants traveled far and wide in search of better lives. Many, including a woman named Jehanne, found their way to Dijon, the capital city of the duchy of Burgundy.

Over more than a century of warring and marrying, the Burgundian dukes had amassed territory that stretched from the southeastern lordly vineyards of their ancestral lands around Dijon up north to the Low Countries, a region so wealthy and prosperous as to obtain in its own time the accolade of “promised lands.” These prized acquisitions only served to whet the appetite for more, with duke after duke aspiring not just to a French crown but to imperial heights.

As power had passed once and again from ducal father to son in the course of the fifteenth century, the glory and magic of Burgundian pomp reached frenzied heights. The elite indulged in luxuries and decadent extravagance. These rich and powerful savored their privilege (while they had it), toasting their success with the best wine and the most bountiful feasting, commemorating every occasion with fantastical pageantry and display. On such occasions, lions or elephants or giants came and went while the acrobats danced, and claims of great chivalrous deeds were met by oaths to crusade and to conquer. But the wildest of these increasingly wild inventions, their new duke Charles’s catastrophic ambition to carve out an empire for himself, would die an ignominious death in 1477 along with the duke himself.

Meanwhile, behind the tapestry, women like Jehanne faced hard realities. Sexual assault was one of a staggering number of threats to women's survival, in Burgundy as everywhere in Western Europe, as the Middle Ages moved toward an ending. Ecological crises and epidemics menaced alongside warfare, exacerbating the already omnipresent risks of destitution and starvation. A rigid social hierarchy kept most people in some kind of servitude and trapped in poverty. Law and custom alike placed women in positions of additional dependence. Pregnancy and childbirth, so often considered an essential duty for a good Christian wife, was also deadly dangerous. All this in lands golden with opportunity. Some could rise high, but many would fall.

Inequity was the right order of things according to royal and priestly authorities alike, but within certain limits. Men and women were not the same and should not be treated as such. Even so, each had their own respective rights and obligations. The wife ought to obey, but the husband was obliged to protect and to provide. He had to take responsibility for his spouse's conduct as well as his own. Similarly, up and down the social hierarchy, the servant had to serve, but the master should not abuse his or her authority, nor should a lord or lady excessively burden their subjects. As people negotiated these circumstances, difficult as their lives might be, some of them, men and women alike, proved remarkably resourceful and resilient.

Ideally, children came into this Burgundian world with the help of a midwife, or other women experienced in delivering babies. These women's knowledge and expertise included the use of prayers that helped the woman in labor to regulate her breathing, and to take what comfort she could in the promise of divine assistance. Many such prayers included rhythmic recitation of the names of holy women who had given birth to saints, or even the holiest of mothers, Anne, mother of the Virgin Mary, or Mary herself, as mother of Jesus, and went on to exhort the fetus directly: "male or female, dead or alive, come out into the light!"

In this way, women as well as men began their lives in Dijon. In addition to severing and tying off of the umbilical cord, washing and swaddling the infant, baptism was another essential task, one that happened

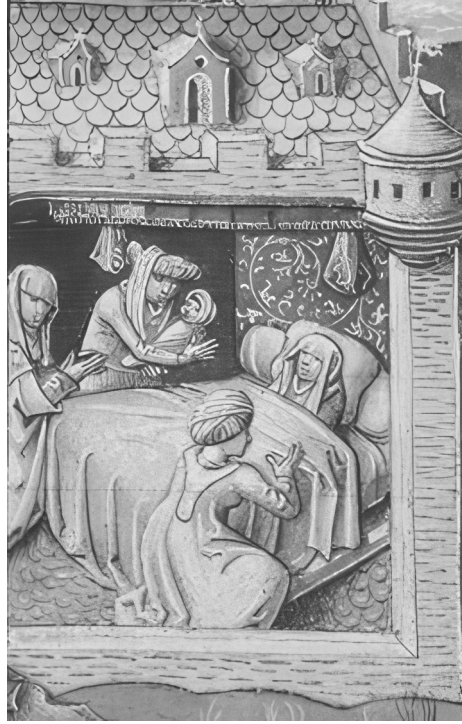


FIGURE 1. Childbirth. Jean Miélot (d. 1472), *Vie et miracles de Notre Dame, en prose française*. Jean le Tavernier artist. BNF ms Fr 9198 f. 145r.

either in a rush to save the newly born soul or with time, planning, and celebration, if the infant seemed healthy enough to risk the delay. Baptism ensured salvation, a place in the world to come. On earth, it was breast milk that had vital importance for a newborn, given the lack of safe alternatives. Infants needed this nourishment from either the mother or another woman, or women, for several months after birth.

By the age of four or five, though, most children quickly found themselves put to work. Their tasks included watching over infants or small animals, assisting in the kitchen or with other domestic or agricultural duties, and running errands. Such expectations for youthful assistance with all the work that made medieval life possible would increase in the

years to come. Many young girls and adolescents stayed at home and continued to learn more tasks to help with the various kinds of labor their parents and other kin engaged in; others were put to work for more distant relations or neighbors who might teach them a trade as part of a more or less formal apprenticeship. Some children might be taught to read or to count. At the very least, they were taught some prayers. For most of these people, writing had an abstract and powerful force in their lives—needed but not something they could access or use without help. However they spent their days, few slept alone. At home or put to work elsewhere, those lucky enough to sleep in a bed usually shared it with at least one or two others. Privacy essentially did not exist. There could be safety, though, in numbers, as well as warmth.

Marriage for women in Burgundian towns and countryside, if it came, usually arrived in their mid-twenties. Ideally, pregnancy and childbirth followed only after marriage, but premarital sex took place with frequency. To be sure, the consequences were different for women and men. But beyond the fundamentally different biological costs of sex for women, sex and even pregnancy did not necessarily have the social consequences we might imagine. Virginal status, in theory essential for a medieval bride, did not matter so much in practice. A nice dowry, for example, could encourage a groom and his family to overlook rumors, or even the obvious presence of a baby on the way. The unwelcome discovery of an advanced pregnancy on the wedding night featured in many tales of the woes of the unhappily married bridegroom, a mocking reflection on this society's widespread inability to restrain sex to the confines of lawful marriage. Not all men could have borne such a threat to their masculine honor with dignity, or without violence, but surrounding these dark tales we can find regular indications of illicit sex and pregnancy posing no visible barriers to women's entrance into married life, for good or ill.

These unions, while sometimes enacted at the initiative of the couple, were often organized by parents and other relatives, or, in their absence, employers. Technically, marriages required the couples' freely given consent to count as legal and binding, but parents, employers, and other authorities had all sorts of means of applying pressure to ensure that

only the marriages they approved of took place. Marriage came with serious financial as well as familial considerations, creating all kinds of binding obligations. Once made, marriage in this world could not be unmade. Annulments, the only legal option, were a luxury only the wealthy could afford. For the rest, the most unhappy of spouses might abandon home and hearth, but the economic and social entanglements of marriage offered more incentive to endure than to flee.

It was in these ways most people reached adulthood, at least if sickness, violence, or some accident did not hinder them. Mortality rates seem to have been high, especially for infants and children, but we know of many people, some quite poor, living into their fifties, or beyond eighty. Women who lost their husbands to illness or to warfare frequently remarried, even multiple times. Many families included stepchildren and stepsiblings. These lives filled with labor, with sickness and troubles, also had their moments of celebration, of community gatherings, of feasting, dancing, and song, of theatrical performances, of games, and the indulgence of a visit with family or friends to a bathhouse.

Religion offered comforts as well as obligations, hope of redemption alongside threats of hellfire. Preachers gave sermons urging the best of all possible behavior, the avoidance of omnipresent temptation and sin. Priests encouraged men and women alike to trust in God, to make the best of a bad situation, and urged the faithful to accept their lot. They praised humility and obedience as the greatest of virtues. Women and children had a duty to obey within the family, and all peoples had to obey their priests and their lords. Bad things happened, but suffering was good for you. So was pain. Such hardships helped even the merest of mortals to stay on the right path, all the way toward an imitation of Christ. Just as with Jesus, as with the saints and martyrs, chastisement and punishment were considered wholesome: healing, cleansing, and purifying. This was all held to be true even, or rather, especially, when suffered by those who were wrongfully accused. Rewards for submission to the torments of this world would surely come in the next life, and perhaps already in this one.

According to Christian doctrines of that era, a cosmic struggle between divine and demonic forces drove the recurring catastrophes and

conflicts of their times, the various crises large and small that defined late medieval existence. In this grand schema, humans were weak and easily swayed sinners, constantly surrounded by threats to their salvation. All good Christians had to try their utmost to resist temptation, and to do what they could to make their world better, in any way they knew, against the odds. Rich and poor, powerful and weak, all could contribute to the cause of the greater good.

When vermin threatened their precious vineyards, the municipal authorities in Dijon instantly sent workers into the fields to fight them off, as well as organizing religious processions and pleas for divine intervention. When epidemic struck, as in 1457 or in 1467, these same authorities limited access to the city and expelled the vagrant poor, while donating vast sums to charitable causes in honor of the saints they prayed might spare them. People of much more modest means like Jehanne could contribute their prayers, and also their obedience to the various authorities, familial, secular, and religious.

Warfare ranked high among the many woes of this world. Technically, the Hundred Years' War was over by the time we meet Jehanne in 1472, but from her perspective it could just as well have been ongoing. The rulers of France and Burgundy alike, despite the fact that, or rather because, they were so closely related to each other, could not stop fighting over who should get to rule what and who should rule over whom. The dukes of Jehanne's native Lorraine were quite literally caught in the middle, with one of them captured in battle in 1431 and held for years as prisoner in Dijon until a staggering ransom was paid. This ransom included relinquishing to Burgundian authority the same region of southern Lorraine that Jehanne came from. England, meanwhile, was Burgundy's adversary as well as ally, as was the German empire. Within Burgundy, the peoples of the extraordinarily wealthy cities of the Low Countries, however well-off, were far from happy subjects of their domineering dukes. Those who dared to rebel, and even those perceived to show disrespect to the dukes, paid the heaviest of costs, their money or their pride if they were lucky, their lives if they were not.

The peoples of the county of Burgundy, meanwhile, had more than one prince to worry about. As inhabitants of the duchy, they were

Charles's subjects but also subjects of the French crown, as was the duke. This meant they had an at best complicated relationship to the French king, who in 1472 was Louis XI, known as the "spider king," a sort of combined compliment and insult. King Louis was technically Dijon's sovereign, and the duke's kinsman. The two men also shared and perpetuated their dark family history of plotting, counterplotting, and murder. King Louis was therefore a threat to the duchy and its inhabitants, as well as its overlord. After Duke Charles lost his wars and his life in 1477, Louis quickly wrested control of Dijon, and French Burgundy, from Charles's daughter Mary.

As Jehanne made her way south from Lorraine around 1470, she would have had to somehow avoid not just pitched battles but the soldiers and other men of war wandering the countryside, pillaging and raping. Travelers could seek safety in number or in the shelter of a church or walled city. These travelers, though, might be the victims as well as the perpetrators of theft and violence. It would have been difficult to know who to trust. There was also sufficient poverty to make it difficult for the inhabitants to welcome, feed, and house a foreign traveler even when they wanted to. Even so, the Christian mandate to help those in need clearly motivated at least some people in Dijon, at all levels of the social hierarchy, to act to provide some comforts.

Such a journey could therefore prove itself worth the risks. Despite its own dangers, Dijon beckoned with opportunities. It was a major center for trade, especially wine and cloth, for the production and sale of luxury goods, and for the highest of high culture. Inhabitants of the city suffered from regular outbreaks of epidemic but were largely spared the direct impact of war. It was as a result a city that attracted many strangers, seeking work or charity, or begging admittance to one of its hospitals.

The capital city of Dijon, surrounded by vineyards, offered in addition the promise of some measure of security with its tall stone walls. The city could be entered only through gates reinforced by towers. Those admitted inside these walls saw glorious churches, abbeys and monasteries, palaces and mansions with central courtyards. They found a city bedecked with pious art and more, covered in stone sculpture and



FIGURE 2. Earliest map of Dijon, 1574. Everard Bredin, *Le vray pourtraict de la ville de Dijon*. <https://gallica.bnf.fr/ark:/12148/btv1b55004788m/f1.item>.

images that proclaimed wealth and the potential prosperity of those newcomers who could find their own way toward profit.

Beyond the resplendent stone edifices with their dazzling panes of glass windows, the city was comprised almost entirely of wooden homes. As described from the distance of the nineteenth century by an erudite expert and aficionado named Henri Chabeuf, the medieval city was “a wooden town where private stone buildings are rare; but these buildings, made of square-edged beams joined by St. Andrew’s crosses, and carpentry of excellent materials, are as durable and fire-proof as any stone or brick dwelling. What’s more, the dividing walls are made of good masonry, the facade usually rests on a stone ground floor, and sturdy corbels support the overhanging stories. There are many of these homes in Dijon, most of which are clad in modern plaster.”

The architecture pleased Chabeuf, the streets and other infrastructure far less so. He wrote disparagingly of the “tangle of streets that undulate, bend and break apart for no apparent reason; giving the impression of a plan drawn by a drunken engineer,” noting also the inadequate efforts to pave the capital’s city streets, with only the most important streets attended to in 1390, leaving the others unpaved, or poorly paved, and with “mediocre” stones, no less.

Even by the medieval municipality’s own standards, the city was something of a public health disaster. Dijon received its water from two rivers, the Ouche and the Suzon, as well as canals, wells, and fountains. But often that water was far from clean. There was a “pestilence” of butcheries and blood running into the Suzon, and who knows what else sullied the Ouche. Dijon had few and rudimentary sewers, and insufficient water to clean them regularly. Most houses probably did not have anything like a toilet; we know of only some public latrines on one street. All sorts of pollutants and sources of contagion, as well as noxious fumes, the medieval work of tanning, ironmaking, and dyeing did various harms. Livestock, wild dogs, and other animals roamed the streets. Efforts to regulate all this were just that. “Never was power less obeyed than in the Middle Ages,” Chabeuf wrote on the subject of public health measures, but the insight applies well beyond that narrow sphere.

By 1470 the city had reached a population of between twelve thousand and thirteen thousand souls. Tiny compared to Paris, to be sure, or compared to the far larger metropolises of Baghdad or Nanjing, but not inconsiderable on a European scale. These peoples in Dijon undertook many different kinds of labor to “earn bread.” The city’s various trades included everything from vinegar making (the quintessential Burgundian craft of mustard production fell into this category) to resale of used clothing. Women’s work included the usual run of domestic labor and nursing infants, caring for the sick and any livestock. In addition to doing laundry and spinning or carding, women engaged in all manner of cloth work, including luxury fabric and silk. The caregiving women did extended to expertise as healers or midwives, and to more administrative roles in managing hospitals. Women also helped with the

harvest and many a family trade, baking bread, harvesting grapes, selling and reselling wine. Their labor, often shared with their husbands, included oversight of the prison, the bathhouses, and also the brothels, both the one legal one and the many clandestine sites of sex work. Starting out, women might find a place as an assistant or apprentice, especially through the connection of a relative. If all else failed, women joined those seeking day labor, or they begged for the alms that were regularly distributed at the churches and hospitals, and subsisted in this way while waiting for opportunities.

But even for those who succeeded, the benefits that stemmed from residence in Dijon came with costs. The duke regularly imposed taxes upon the inhabitants to finance the wars and other princely projects. The inhabitants of Dijon faced additional taxes to repair the walls, artillery, and defense, as well as the roads. Dijon's various public works were also supported by contributions, voluntary or not, and with compulsory labor that included construction and repair work, supplementing the essential labor of tending for their precious vineyards, and other agricultural endeavors. Demands for money and labor came from greater and lesser powers, religious and secular. In essence, people with any sort of clout regularly demanded a share of the profits or proceeds of their neighbors' work. There were, moreover, all sorts of power, and a most unreliable authority at the top.

At the time of Jehanne's journey from Lorraine in 1470, Burgundy had a new duke, Charles, but he had not yet made his way south to claim his capital with the accustomed solemn rituals of princely entrance and oaths. The city awaited him with a mix of eagerness and dread. His parents' corpses, carefully embalmed, lay in wait as well. Their final interment at the family tomb just outside Dijon was delayed until their son finally made his "joyous entry," planned since summer of 1469 but not to be realized until winter of 1473. Meanwhile, the scaffolding, scenery, and costumes for the assiduously crafted *tableaux vivants* lay crumbling and rotting in storage. The script with a long list of selected themes, a painstakingly hashed-out order and number and rankings for the processions, the speeches, and the various symbolic acts had all been plotted out. All this lay in wait, ready for modification if any events



FIGURE 3. Entry of Duke Eudes III to Dijon. Manuscript commissioned by Pierre Crapillet (d. 1460), rector of the Saint Esprit hospital in Dijon. ADCO H DEP 239 1 A4.

unfolded that the city authorities needed to avoid any allusion to, lest they risk incurring the displeasure of their easily offended duke.

While Charles busied himself with his court and courtiers, his wars, his imperial dreams, and the fierce repression of all who provoked his ire, Jehanne made her way south. She was just one of the many migrants

seeking a better life in Dijon. To those who asked, she said she was Jehanne, the wife of Jehan of Relanges, a small town about 150 kilometers northeast of the city in the Vosges plateau of the duchy of Lorraine. “Jehanne, the wife of Jehan of Relanges” tells us tellingly little. It was in ways like this that a woman’s identity was so often subsumed by the men in her life in the European past. It is a confounding and frustrating erasure for us as it obscures entirely her family and origins, but this slipperiness of identity in the Middle Ages could prove extremely useful for women like Jehanne who wanted a new start.

The people she met in Dijon by winter of 1472 described her as a beautiful blonde and well-dressed. Jehanne’s apparel shaped people’s perceptions of her just as much as her hair and her figure did. There is no overstating the importance of clothing for medieval identity. Who you were, what you could do, what others could or could not do to you might all be determined by what you wore.

Jehanne’s clothes marked her as female above all. This technically excluded her from many professions and privileges but also designated her as deserving of special protection. The quality of the cloth, the colors it was dyed with, and the fur lining that kept her warm all identified her as someone with money or at least as connected to someone with money. That Jehanne covered her “long beautiful hair” with a sort of bonnet or hood, called a *chapperon*, marked her as a respectable married woman, or matron, *preudedefemme*. The message projected was: I am honorable, a good Christian woman. I deserve your respect and consideration. But also: Do not touch me. I am married; you cannot have me. I am well provided for. You cannot hope to tempt me with any gifts.

Her appearance and apparel invited attention, but she mostly tried to keep to herself, hidden from view. By December of 1472, Jehanne was concealed inside the home of a widow who offered her lodging and care during the final weeks of her pregnancy. This widow lived just outside the city walls, in the middling poor community of the parish of Saint Nicolas. Jehanne stayed in, but the neighbors did not stay out.

Early January in Dijon was a time of frigid cold short on daylight with long nights. It was also a time of drunken feasting, dancing, and



FIGURE 4. Woman sewing, wearing a bonnet. This image has a lot to offer of a city that would have looked something like Dijon (we have no medieval representations of Dijon that we know of). David Aubert, *Conquestes et croniques de Charlemaine*. Illumination by Jean le Tavernier. KBR, ms. 9066, f. 11r, Brussels. <https://opac.kbr.be/LIBRARY/doc/SYRACUSE/18272528>.

violence. Observance of holy days such as the Feast of the Innocents, commemorating the Biblical massacre of infants at King Herod's orders in his efforts to find and kill the infant Jesus, culminated in riotous carnivalesque rites known as the "feast of fools."

In a year regarded at the time as 1472, but that our calendar marks as 1473, this feast fell on a Friday, January 1 (the new year for them began around Easter). On that cold winter eve, the revelry ensued with the usual accompaniment of violent disorder. As the first weekend of January came to an end, the city's authorities learned of the abduction and abuse of two women on two successive evenings. One woman's abductors forced her to pay a ransom to escape being trafficked to their

garrison's brothel. Her name was Richarde. The other woman was Jehanne, assaulted while in the final stages of pregnancy.

Rumors about these crimes reached the city prosecutor, and by Monday morning an investigation was well underway. Such speed was not out of the ordinary, but the municipal authorities had extra incentive to act in this case. If we take them at their word, they wanted to find some way to restrain the violence and disorder that consumed their city. The documentary record of their efforts in this case begins with that very complaint: they wanted the people of Dijon to be able to sleep safely and securely in their beds. They would not get their wish, but at least they would try.

The task of investigating fell, as it almost always had for more than twenty years, to one man, the intrepid substitute prosecutor Jaques Borestel. Jaques took his orders from the city's mayor and aldermen, from his boss the longtime prosecutor Jehan Rabustel, and also, less formally, from Jehan's wife and son. When the elderly and ailing Jehan became too ill to continue giving orders, Jaques served the two men appointed to act in Jehan's stead. Beyond his duties to the city, Jaques also worked for the duke's representatives in Dijon, and for the bishop of Langres, Dijon's bishop. These are just the most obvious people to whom Jaques was variously beholden.

Jaques spent over five decades doing this work for the municipality in Dijon, but we know little of his life. In 1445 he made a reference in one document to his birthplace of Cuiseaux, a fortress town one hundred kilometers south of Dijon: "I Jaques Borestel from Cuiseaux in the County of Burgundy cleric and notary public living in Dijon sworn cleric of the court of M. the duke of Burgundy and *tabellion* of the court of Langres."

Before attaining his position as cleric and notary public, it is unclear how many years Jaques studied law, if at all. He probably went to school. There was one in his hometown, and a handful in Dijon, where he could have studied reading and writing and rhetoric, but most likely he did not attend university. He made no claim of any law or other university degree when writing about himself and listing his various offices and titles. Like many of his colleagues, and even his superiors, Jaques might

have acquired his knowledge of law and legal writing in a sort of apprenticeship to a notary and cleric, or from a school rector. In Burgundy the rectors were sometimes also scribes and notaries, who taught students or apprentices to copy out the books or contracts that constituted their workload.

However many years he had spent as student or apprentice, Jaques soon put these skills into practice. From 1440 onward, he was at work in Dijon writing up all manner of legal texts, contracts, litigations, decrees, and deliberations. This work also soon included investigation after investigation, conducted and recorded on behalf of his superior, the prosecutor Jehan Rabustel.

The man behind all that labor is a cipher. I cannot tell you much beyond his approximate age at the time of the investigation, most likely his early fifties. I am also not sure where precisely he was living in 1472, save that it was probably somewhere in the parish of Notre Dame in Dijon, since a few years later he lived on the rue “au quarre du champ damas.” There’s no sign he ever married or had any children. I have found no trace of Jaques among the hundreds of men and women who regularly appeared in the tax records and other documents to arrange rent or sale. The closest I have come to any hint of the personal for Jaques lies in a series of letters addressed to him by Jehan Rabustel, and Jehan’s ne’er-do-well son Pierre. These letters mostly date to 1457, when the Rabustel family had fled Dijon due to an epidemic, leaving Jaques in charge of their home and their personal as well as professional affairs. Here is one such from Pierre:

To Jaques Borestel, cleric dwelling at Dijon in the residence of honorable man Jehan Rabustel, prosecutor and etc.

From P. Rabustel.

Very dear and special friend, I humbly commend myself to you beyond my capacity. And please know that we are all in good health thanks to God’s mercy to whom I pray it be the same for you. I want you to know that I have previously written to you by the city messenger, I don’t know if you

have received my letters. Nonetheless, I am considerably astonished that you haven't written to me anything about how you are nor about your good disposition, so I do not in fact know if I have in any way offended against your great triumphant majesty, that which I would not at all dare to have done, and I swear to you if I did it was out of ignorance for which you must pardon me, and I request your goodwill.

My lady mother is very displeased to not have done for her anything concerning her dresses, if you have kept them or returned them as she had instructed, nor if you have called upon the wife of Simon Naissant as she had told you to, to bring back these dresses, hats and other things. You have not taken into account as concerns us in these parts that we are strangers and had to flee, and about us we could be likened to the children of Israel when they were cast out of Egypt while you are so fortunate as to be dwelling and situated in the *bonnes villes*, you shouldn't be so ungrateful as to fail to recognize the good that God does you, and beware that you are not cast down by the wheel of fortune. The dress that madame my mother asks after must be in the pantry by the windows and is fur-lined wrapped with a paltry old black cloth, and it ought to be also the case that the violet bonnet of my sister Phileberte is in that pantry, in a basket, if you could find them and take haste, and if you have found them have them delivered here for my little sister.

I again doubt my fortitude if you did not deign to reply, but it is for you to be forgiven since the new wines of this year are a bit heady and impede somewhat reason and memory.

We really don't have much paper here, nonetheless I do not guard it as dear as you have done. There is nothing else that I have to ask of you, but if none of this moves you to write, I will do it if I wish, and in dissatisfaction I burn this said letter in four pieces, and know that I have a bow and a quiver to fight you and bestow a sharp blow on you. Don't

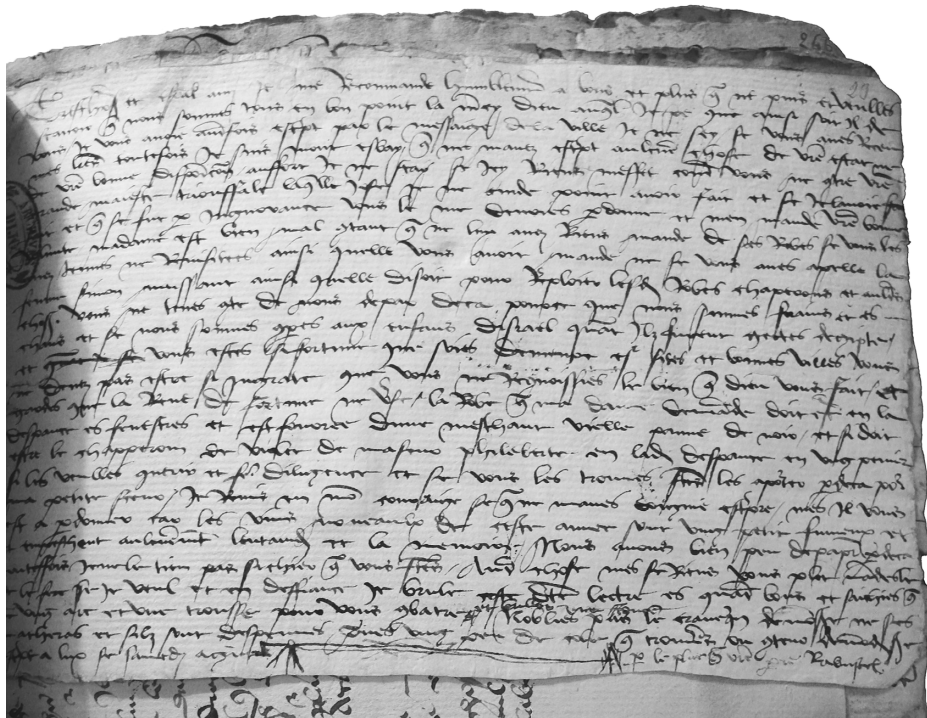


FIGURE 5. A letter to Jaques. Photograph by Cécile Becchia. Original on paper, 216 × 140mm. AM Dijon B 481 no. 20.

forget my lord father's crossbow nor his bolts, if they are taken down that will take a bit of wrath that you will find in the mettle of my lord father. Written in Lux this Saturday to its destination.

This letter offers a tantalizing hint as to the relationship of this prosecutor's son to the subordinate left behind in the family residence, tasked with their varia, and at a time when the wealthy and powerful had fled the city to escape disease. It surely reveals more about the sender and his family than about the recipient. At least we gain from it an impression of the recipient's circumstances in that moment. The letter hints, too, at the relative wealth and privileges of his superior, comforts that Jaques might have aspired to one day attain for himself.

Jehan Rabustel, as a model Jaques might have hoped to emulate, had also come to Dijon an outsider. He then evidentially advanced himself at least in part through marriage into a prominent and well-to-do family. Jehanne Mutine, Jehan's wife, figures in the background of the letters Jehan and her son Pierre sent to Jaques in 1457, as well as in a few notarial documents. Jehan's request for the addition of her name to the deed of their residence as one of her early acts as his wife, we can interpret as undertaken, as he wrote, to "appease" her. As Jehan's widow, she maintained her status as "born from and among the good, wealthy, and eminent," while defending her claims to her late husband's property.

Evidently Jaques never managed to make anything like such a useful match himself. But marriage did not always make the man. As we have seen, Jehan Rabustel and his wife Jehanne had at least one daughter, Phileberte of the violet bonnet; she married not Jaques but his colleague Girard Bernard. Even so, neither Girard nor Jaques in the end obtained the position of prosecutor after Jehan's death. Nor did Jehan's son Pierre, who evidently lacked the capability as well, perhaps, as any interest in his father's line of work.

When we meet Jaques in 1472 he was probably in his fifties, though quite possibly even older. He had spent the last thirty years investigating dozens of cases of theft and violence, suspicious death, heresy and sorcery, treason and sedition, abduction and assault, with more to come. We can in passing note two such investigations, bookending his work. In 1445 Jaques had been deputized to collect testimony concerning an accusation that a barber-surgeon had engaged in medical malpractice in his efforts to cure a baker's swollen and inflamed penis. In 1483 Jaques was investigating one of far too many sexual assaults, in this case an attempt on a widow in her thirties named Oigiere. By this point, his colleagues increasingly took up more of the work, but Jaques continued to conduct the odd investigation as late as December of 1490. Over forty years of investigating is impressive even for someone who did not have to live through the Middle Ages.

To understand Jaques's role in these investigations, we need to be precise about what he did. Despite his title of substitute prosecutor, Jaques's job was not actually to prosecute cases. The work of a



FIGURE 6. “Jaques.” Jean Miélot (d. 1472), *Vie et miracles de Notre Dame, en prose française*. Jean le Tavernier artist. BNF ms Fr 9198 f. 19r. <https://gallica.bnf.fr/ark:/12148/btv1b8451109t/f49.item#>.

medieval municipal prosecutor most closely resembles that of a modern French investigating magistrate. It was not Jaques’s job to judge—that task lay with the mayor and aldermen. Jaques’s principal duty as substitute prosecutor was to investigate, and to write. Indeed, he made his living primarily as a writer paid by the page, recording investigations, but also performing a range of other notarial and clerical tasks. It was his bosses who presented cases to the municipal authorities to deliberate over, and who represented the city in disputes appealed to higher courts.

We cannot know Jaques’s precise motivations as he went about all his work, but it is worth contemplating. He might not necessarily have wanted Jehanne, or any other victim, to say, for example, that she had been abducted or assaulted, depending on who the victim was, or perhaps especially who it was that she accused. It’s equally possible he might not have cared one way or the other.

Whatever Jaques wanted, it bears repeating that as we look for Jehanne, we take our best path forward when we intentionally rely on him as our guide, following his lead instead of blindly wandering off into our own efforts to reconstruct events that we know about only through him. The testimony he collected was the result of a collaboration, to be sure. Willingly or not, people said what they said in response to his questions. People talked, or not, but we know this only because of Jaques and from what Jaques wrote.

In this instance in early January, Jaques's bosses had instructed him to investigate the rumors of assault, abductions, and violence that weekend in the parish of Saint Nicolas, in the neighborhood just outside the walls. Given this charge, he needed to see when he could learn from witnesses, victims, and alleged culprits about what had happened. He needed, as well, to produce a written report that could be used by the city authorities to help them to decide what, if anything, was to be done.

Doing that work well required consideration of the various political and social concerns faced by the city authorities. It also required at least a basic understanding of the law in Dijon. What the laws were, what was thought to constitute a given crime, what might be needed to prove a crime had been committed, what difference gender, status, age, and so on might have made in the proceedings or definitions of the crimes or jurisdictional issues mattered for Jaques's work. All that would inform the questions he asked, and how he framed and recorded the answers he got.

Regardless of the number of years he might have spent at school, Jaques knew that abduction and sexual assault, as with all offenses deemed "public crimes," were, at least in theory, serious crimes, capital crimes. But he also knew from experience how rarely such crimes were punished with execution, or even punished at all.

In the late medieval practice of law, ideas about abduction or sexual assault drew on a heady mix of Roman and religious or jurisprudential texts, in addition to royal and ducal statutes, and regional customary law. Abduction ranked as a grave crime, and of long standing. The ancient and early medieval texts that served as the main authorities for medieval lawmaking—Biblical, Roman, and "Germanic"—all in their

own ways condemned abduction, variously defined as the taking of people and of things. Most of these texts shared a special horror at the abduction of women and girls, out of fear that such abductions would lead to sexual assault, or marriage against the wishes of the women's family. In many of these early writings, the injured party was often considered to be the woman's kin, or the husband from whom she was "taken."

With Christianity came increased interest in the woman herself, and questions of her possible complicity or culpability, as well as how the crime might change her status. First of all, theologians and jurists alike asked, did abduction or assault pollute or change the victim's status in some way? Could a daughter still be offered in marriage? Could a nun keep wearing her veil? Did a wife or widow retain her status and honor? The answer, more often than we might expect, was a resounding yes. Reeling in horror from the sack of Rome by the Visigoths in 410, Saint Augustine wrote in his *City of God* of the "violation of wives, of maidens ready for marriage, and even in some cases of women in religious life." As long as these women resisted, even just "in their minds," there was no sin or stain.

In the Middle Ages, legal ideas about the abduction of women increasingly focused on the woman's consent, or the absence of such. New emphasis in medieval law on the violation as committed against the woman herself rather than her kin, and on her consent, developed alongside legal teachings that prioritized women's freedom to choose a spouse. By the eleventh and especially twelfth centuries, according to canon law a marriage made without the consent of "parties"—the woman as well as the man—was no marriage. This was a radical notion, too radical for its own time. This idea had legal force, but families and rulers fiercely resisted in practice, managing to maintain a great deal of control over who married whom, especially daughters. Nonetheless, people could legally marry without parental consent, and some did so.

As for sex, comparable attention to the woman's own wishes and will emerged at the same time, but in a very different context. Marriage was a good thing. Sex, meanwhile, was considered sinful and even criminal, except within lawful marriage and done in a manner that was at least

potentially procreative. As a result, women's consent to sex could be immaterial in measuring the sinfulness or criminality of the person who had sex with her. If a man had sex with a woman who was not his wife, he had committed a crime whether she consented or not. The woman's consent mattered in that it could make the crime more serious an offense for the man who had sex with her, but it was already a crime. As for the woman, her lack of consent exonerated her from blame if she was at risk of prosecution or punishment for fornication or adultery, or for violating vows to keep chaste.

Both secular and religious medieval laws condemned "forcing women," abducting or sexually assaulting women without their consent, against their will. Roman law as issued by the emperor Justinian in the sixth century had already denounced "raptus," a term that referred to the abducting or assaulting of virgins, widows, women in religious life, and married women. The categories of who else should not be abducted or assaulted grew with time to include, essentially, all women. By Jehanne's day, the laws issued in the lands she lived in prohibited the taking or forcing, *rapt* or *ravissement* or *force*, of any woman, regardless of status, "de quelque estat quelle soit." No woman should be taken by force.

The severity of the offense, though, did depend mightily upon the woman's status, not to mention that of the perpetrator or perpetrators. Some women "counted" more or less than others. Value was measured by family wealth and lineage; sexual reputation and marital status would also be worked into the calculation of judicial harms. But by "women," both the law and legal authorities did actually mean *all* women, including "defamed" women and sex workers, though in the latter case the death penalty was usually not considered a possibility as punishment.

Whether conflated or not with abduction or assault, forcible sex was regularly condemned. Abduction, meanwhile, could be a capital crime even without penetration. If typically only vaguely defined, forcible sex ranked among the worst things men might do to women. It was, essentially, understood in those gendered terms, man against woman, though there are cases of boys complaining of nonconsensual sexual abuse by men. Such "sodomy," as it was termed, could be punished with extreme ferocity, even when the sex was consensual.

The possibility of a woman rapist we can find in a story recounted in medieval culture with some regularity, a tradition that drew on the Potiphar's wife motif, from the Biblical account of the enslaved Joseph. While captive in Egypt, the young Joseph was preyed upon by his master's spouse, who accused him of trying to have sex with her when he spurned her advances. Medieval iterations of that story reprised the theme in variously recasting a powerful woman who made a false accusation of rape against a man of lower status. Such dark tales of evil empresses and vengeful countesses did not, however, manifest in any legal reality.

Nor are there signs of concern with false rape accusations in Dijon. I know of only one woman whipped as punishment by the municipal authorities in Dijon when she withdrew her complaint in the 1390s, confessing that she had lied about a gang rape. This exception proves the rule. It also offers an important example of a useful rule of thumb for interpreting judicial activity. The punishment was one of many such levied by the municipality, and for all sorts of accusations of serious crime deemed false in the final decades of the fourteenth century. Context, as ever, offers a vital interpretive lens. That whipping had far less to do with rape, and far more to do with a municipality that had decided to try to do something about what it saw as a problem of false accusations, an effort they quickly abandoned.

The real challenges Jaques and the municipal authorities faced regarding rape lay not with false accusations but rather with what, if anything, to do about the pervasive sexual exploitation and abuse of women and girls in their world. The prosecutors in Dijon did attempt to prosecute and punish the rape allegations that came to their attention, but proving nonconsensual sex was extremely difficult without witness testimony or a confession. Abduction with weapons drawn, witnesses who heard screams, a wounded body—all could be used to prove lack of consent, but situations of alleged abduction or forcible sex without these proofs raised myriad problems. With or without evidence, though, most investigations did not result in prosecution, let alone punishment.

The municipal authorities had a weak hand, or weak will, or both. But we should recognize some evidence of trying in the records they

left behind: the piles of surviving paper documenting these investigations, of accused spending weeks or months in prison, of compensation paid, of whipping and banishment of those found guilty, and of occasional executions. Jaques and his superiors in Dijon exhibited energy and effort in their handling of allegations of sexual assault, as well as the policing of sex work and trafficking outside the municipal brothel, most clearly in the second half of the fifteenth century but also before then.

Even in the fourteenth century, in an effort to implement criminal punishment for this offense, French jurists decreed that no such “extraordinary” or “public” crimes ought to be resolved through arbitration or settlement. In Dijon, this principle was at least once or twice applied to cases involving sexual assault and abduction. The investigations Jaques himself wrote up, though, were mostly resolved through an extrajudicial settlement despite instructions to the contrary. In some cases, the accused was banished. In others, the offender was sentenced to death but pardoned; and for an unlucky few, a sentence of execution was actually carried out.

No matter what the judicial authorities in Dijon and elsewhere did, rape remained pervasive. The victims most often likely suffered in silence, as is so often the case. Women who made rape accusations in this world did not have to worry so much about not being believed. It was all too likely they had been raped. The real problem for these women was if and how anything could be done about it.

People had rather diverging views about rape. Denunciations of rape, and rapists, coexisted alongside stories and social practices that not only overlooked rape but celebrated it. Rape was a fact of medieval life, albeit widely deplored in law and beyond. Intermittent “solutions” such as revenge killings, or the rare public execution, might have deterred at least some would-be offenders, but sexual assault continued nonetheless. That all of this was possible at once should not surprise us. Medieval European society was hardly the only one unable to come to a shared sense of values and act decisively to make change for the better. Humans are, after all, eminently capable of recognizing shortcomings and yet either excusing them or failing to arrive at solutions. This particular society justified its shortcomings by taking refuge in its ideas of

human weakness. Humans were too vulnerable to resist giving in to demonic temptation.

Indeed, all manner of crime persisted unabated in Dijon. Most often punishment was ultimately left to God. Medieval Europe's reputation for having a bloodthirsty judicial system is inaccurate, at least in terms of scale. The laws on the books were harsh but only rarely applied with full force. Justice operated with considerable limits and limitations, in principle and in practice, in a complex balance between correction and mercy, and with all sorts of political as well as logistical constraints.

Christian teachings offered judges mixed messages. Punishment was considered cleansing and so had a potentially positive corrective role in judgment. But a false conviction, or excessively harsh punishment of the guilty, meant risk of divine punishment for those in power. Christian judges had additional reasons to hesitate. Pontius Pilate's ordering Jesus's death set a dangerous precedent for a ruler aspiring to present as a good Christian monarch. Punishment of women in particular was reminiscent of pagan emperors sending early virgin martyrs to their deaths. Religious iconography abounded that set the good counterexample of mercy in justice, as with an image of the Virgin Mary holding the feet of a condemned thief to prevent his death on the gallows.

Even those judges committed to inflicting the harshest of penalties despite these Christian teachings of mercy, though, could be hindered at every step. In Dijon, execution required approval by the duke's provost. The condemned had to be handed over to him. And in Dijon, as elsewhere, it was simply too difficult to keep suspected offenders in prison, let alone prosecute and punish them. This universal reality had many different causes. For example, every prince of royal blood, upon entering a city for the first time, might demand the release of prisoners in commemoration of their arrival. And this largesse, counterintuitively, concerned only those charged with crimes, leaving the debtors detained in prison at the mercy of their creditors. This meant that with the entry of a "prince of the blood" might come the release of thieves, murderers, and rapists back into the community. But many, perhaps even most, offenders never even saw the inside of a prison. Suspects often managed to flee before they could be detained. Those who were imprisoned and



FIGURE 7. The Virgin Mary saves a condemned thief from execution. Jean Miélot (d. 1472), *Vie et miracles de Notre Dame, en prose française*. Jean le Tavernier artist. BNF ms Fr 9198 f. 44r.

investigated, even if prosecuted and found guilty, quite often returned home, perhaps with a fine to pay, or a bill due the prison, at most.

Municipal authorities faced additional obstacles in prosecuting alleged offenders. A mass of jurisdictional and political regulations meant that they had a limited ability to act against an awful lot of people. Nobles were essentially untouchable. So were the many who could claim the right to be judged only in church courts. This category included not just priests, monks, and nuns but anyone who had the clerical status that came with university study or other modes of clerical life. In the latter part of the fifteenth century, claims of clerical exemption from secular prosecution, referred to as “benefit of clergy,” were made in France with stunning breadth.

The mayor’s judicial officers in Dijon nonetheless managed an impressive exhibition of authority. The amount of investigating, prosecution, and punishment in this city of about twelve thousand souls is all the more impressive in that the mayor and his aldermen only had about

fifteen armed sergeants to handle arrests. The prison's jailors, often a married couple, had a terrible time of trying to prevent the prison breaks that recurred throughout the century. But some justice was done. In the fifteenth century, the city did a lot of whipping and banishing, and executed perhaps as many as sixty people, almost all men, for various crimes. A city scribe kept an incomplete record of this harsh justice in a red-bound register known as the *Papier rouge*, with some sixteenth-century sketches of gallows with a hanging corpse. Even in this record of the worst punishments for the worst offenders, in largest part thieves and murderers, these gallows are sometimes left empty or crossed out when the hanging did not in fact take place.

Most often, in Dijon and elsewhere, if an investigation actually resulted in a sentencing, banishment and fines were the usual solutions. Justice in the Middle Ages was far too weak, far too contested and conflicted, to be successfully deployed toward systematic regulation of crime. Both Jaques and Jehanne would have known this.

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