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FROM RAPE TO MARRIAGE: QUESTIONS OF CONSENT IN THE EIGHTEENTH-CENTURY UNITED KINGDOM

KATIE BARCLAY

If Maidens are ravished, it is their own choice,
Why are they so wilful to struggle with Men?
If they would but lie still, and stifle their voice,
No Devil or D—could ravish 'em then.¹

Taken from a 'humorous' ditty sold alongside the trial of a man for abducting an heiress, the above quotation highlights one of the seeming paradoxes of rape: that the same act of sexual intercourse can have very different implications depending on whether the woman involved consented. From the rather sexist perspective of the ballad singer, this paradox could be resolved if women stopped being so 'wilful' and subordinated themselves to male desire. The 'humour' of the song lay in the fact that, in the context of eighteenth-century Britain, women were expected to refuse sexual advances (at least from men who were not their husbands) and that, increasingly, their resistance to such advances was the central marker of their virtue and character, particularly for non-labouring women.² As Simon Dickie notes in the context of portrayals of rape in eighteenth-century literature: 'at every level of society men seem to have expected a show of resistance from any woman who was not completely abandoned'.³

The importance placed on female resistance to sexual activity before marriage shaped both men and women's sexual behaviour and, in particular, put women in a position where their will was something to be overcome, rather than sexual intercourse being a mutually-negotiated experience. Men became the aggressors in courtship, seeking to woo and win their sweethearts. As a result, the line between consensual sexual intercourse and rape became blurred, as the level and nature of the force men should use to overcome the female will became an area of debate. This chapter explores how expectations of female resistance shaped women's and men's experiences within courtship and, in particular, how it created a context where violence, and so rape, became just another form of 'force' used by men to overcome the female will. To do this, this chapter contrasts the eighteenth-century concept of the 'rape of seduction' with violent sexual assaults and forced marriages and demonstrates how they existed on the same explanatory continuum.

Rape of Seduction

The imagining of seduction as a form of rape was a popular trope of the era. *A New and Complete Dictionary of the Arts and Sciences* (1764) provides the legal definition of rape as 'the carnal knowledge of a woman by force and against her will', but also notes that: 'The civilians make another kind of rape, called rape of subordination or seduction; which is seducing a maid either to uncleanness or marriage, and that by gentle means'.⁴ The English divine, Henry Gally, noted in his treatise on clandestine marriage, that 'There are two kinds of Rapes, the one by Force, and the other by Seduction or Subornation', in his case noting that the latter was an offence 'not in respect to the Persons ravish'd, who in this case are Consenting, but in respect to their Parents'.⁵ It was an idea found both in popular culture, with a letter by 'Mary Mouthwater' in the *Newcastle Courant*, noting that seduction was 'a Rape of Our [women's] Minds, a forcing our Consents by a thousand Perjuries', and in trials such as that of Elizabeth Linning, who raised a suit for seduction in the Scottish courts in 1749, on the grounds that her lover 'robb[ed] a woman of her virtue, by debauching her mind'.⁶

The 'rape of the mind' that occurred during seduction literally referred to the process of falling in love. Mary Mouthwater described the process of seduction as a 'strong Artillery of Love, [that] forced the tender Virgin's Heart', while the Scottish author Jean Marishall described it as 'she gives up her heart, unsuspecting of your base design'.⁷ The best-selling advice author John Gregory noted the force inherent in even honorable courtship, arguing that when a woman realizes she is in love, 'she feels a violence done both to her pride and her modesty'.⁸ Eighteenth-century authors imagined falling in love as a form of violence, because they understood love to require the subordination of women to their male lovers, reflected in the promise 'to obey' in the wedding vows. The act of falling in love for women involved over-coming the female will, an inherently violent act, preparing her for the loss of identity expected within marriage.

Whilst the significance of 'union' had always been central to marriage, the growing importance of romantic love and the cult of sensibility redefined 'union' to incorporate an 'emotional coverture', where women were expected to mould their minds, desires and wills to that of their spouses.⁹ As a result, marriage was not just imagined as absorbing female property into that of the male, but as incorporating their very identities as well. As Julia Rudolph and Leslie Richardson have astutely noted, even as women were increasingly given the agency to consent (or not) to sexual activity and so recognized as people (rather than property), that same agency was not extended to other aspects of their lives. As a result, their power to consent was offset by their loss of personal identity once they married (or through marriage negotiations between parents and spouse), reinforcing the social status quo of women as subordinate to men.¹⁰ In this, women's sexual autonomy reflected their economic positions, where unmarried adult women were able to contract out their own labour, sign contracts and dispose of their own property, but where married women's abilities to dispose of their own labour and property was subject to their husbands' consent, if not subsumed entirely into their estates.¹¹ Likewise, as women were granted property in their person, they were increasingly expected to cede, or merge, that property into the identity of their spouse.

This merging of the two selves was increasingly believed to be a part of courtship, and courting became a form of uniting that metaphorically mirrored the union of sexual intercourse and so conflated both sexual and emotional unions. As a result, women who had been 'courted' were understood to have been joined to their suitors in a similar way to women who had been coupled through the act of sexual congress; correspondingly, their virtue was similarly 'tainted', damaging their attractiveness on the marriage market, and giving rise to the growth in breach of promise of marriage suits across the United Kingdom, which operated on the premise that the wronged woman would find it difficult to find another suitor.¹²

Marriages that went ahead without an emotional connection were viewed as a form of rape for operating against the will of the woman, a topic of central concern during a period where the importance of parental consent to marriage was a question of lively debate.¹³ Samuel Butler's observation that: 'Wedlock without love, some say, / Is but a lock without a key, / It is a kind of rape to marry, / One that neglects or cares not for ye; / For what does make a ravishment, / But being 'gainst the minds consent', was quoted widely across the period.¹⁴ Daniel Defoe argued that to force a woman to marry without affection was 'a Rape upon her Mind; her Soul, her brightest Faculties, her Will, her Affections are ravished', while one writer to *The Spectator* observed of his origins in 1712, 'The Match was made by Consent of my Mother's Parents against her own; and I am the Child of the Rape on the Wedding-Night'.¹⁵

The importance placed on the female will as determining rape can undoubtedly be construed positively as key to recognizing a woman's right to consent to sex and marriage. However, it also downplayed the manner in which that consent was gained. The conflation of

courting rituals with seduction, which became ‘a rape of the mind’ only when the suitor abandoned his lover, and of sexual and emotional intimacy (where sex without love was rape, unless the woman was a prostitute), reduced female agency through making her vulnerable to male choices. In doing so, eighteenth-century culture tied female identity to sexuality.

Moreover, by focusing on the mind as the location of rape, eighteenth-century culture reduced female bodily autonomy. This was particularly evident in the growth of sentimental rape literature and the narrative of the ‘virtuous whore’, where women maintained their mental virtue, despite the loss of their physical chastity.¹⁶ *The Memoirs of Arabella Bolton*, nominally based on a ‘true story’ but owing a considerable debt to the seduction literature of the period, featured a virtuous woman, whose two rapes (several years apart by different men) followed her being drugged. In the first instance, Arabella is raped by a man who claims to be courting her for marriage and, at least initially, marriage is presented as the honorable solution to her problem. When her suitor refuses to marry her, she lives virtuously, refusing offers both of marriage and of being a kept mistress, eventually dying in poverty with a pure mind.¹⁷ In an almost identical narrative during the seduction trial, *Fenton v. Seigh*, Miss Fenton describes how her suitor had drugged her before he ‘effected his purpose’.¹⁸ She noted that she was not unconscious, but ‘deprived of her power of resistance, with a sort of stupor that had seized all her faculties, and which she could not express’.¹⁹ Thinking that he would marry her, she continued to sleep with him subsequently.

This trope of the drugged or, occasionally, swooning rape victim was a central feature of later eighteenth-century literature, especially following Samuel Richardson’s *Clarissa*, allowing women to be physically, but not mentally, violated. While such narratives nominally emphasized female consent, by pointing to the strength of the female will in resisting her seduction (mental or physical), increasingly such narratives not only effaced the female self through rape, but through removing her ability to resist. Women no longer refused or consented to sex, but were made utterly passive to male desire. In doing so, late eighteenth-century writers ‘solved’ the problem noted by feminist historians that through actively resisting their rapes (screaming or physically fighting), early modern women portrayed themselves as ‘active’ and so ‘unfeminine’, negatively influencing how their rapes were interpreted by all male juries and the judiciary.²⁰ But, in doing so, such writers prioritized female innocence at the cost of female sexual agency.

This absence of active female consent can also be seen in other contexts. Numerous accounts of female seduction that appear in trials use silence to symbolize female consent. In 1747, Alexander Hamilton understood his sweetheart’s silence to mean consent, describing their first sexual encounter where, ‘he said to her will you make me happy, to [whi]ch she returned no answer, & thereupon the deponent enjoyed her for the first time’.²¹ Moreover, legal treatises also advised that female silence could stand for consent in certain contexts, such as ‘when the Father or Mother do contract Sponsals, or promise Marriage for their Child; for the Childs silence in this case (being present and hearing the same) is taken for a consent and approbation therof’.²²

As a result, the opportunities for active female consent to sex were rare, with marriage vows perhaps being the most explicit articulation of the female will. Ironically, this was reinforced through rape trials of the period where women were expected to demonstrate their active physical, and particularly vocal, resistance. Women who did not ‘cry out’ during their rapes were assumed to have consented. This conceptually redirected the focus from active female consent towards female resistance, or non-consent. It was not whether a woman said ‘yes’ to sex that was important, but whether she said ‘no’. Moreover, as some form of resistance was expected of women within courtship, in practice ‘no’ was always ambiguous. Female consent was eroded to the extent that it became a ‘crying out’, an act of resistance, to be ultimately and ideally overcome.

Courtship Practices and Rape

The construction of female consent as a form of resistance created a context where 'force' was a requisite part of courtship, informing how 'rape' was interpreted. As Anna Clark has noted in her study of rape at the end of the eighteenth century, physical violence was considered to be a normal part of courtship by many people.²³ This was illustrated across the period in a wide range of literary sources, where sexual access to women was presumed, sexual violence was deemed entertaining, often used as a popular plot device, and repeatedly depicted as harmless to all involved in the longer term.²⁴ Perhaps one of the most evident examples of violence within courtship is the practice of bride abduction.

Bride abduction, where women were taken from home and raped and/or forced through a marriage ceremony, was particularly common in Ireland. Between 1700 and 1836, over 400 abductions came to public attention; given that many, if not most abductions, were settled privately by marriage, this was probably only a fraction of the true number.²⁵ While such reports were less common in Scotland and England, cases consistently appeared across the century in both jurisdictions, and there was a small flurry of trials for abduction in England at the beginning of the nineteenth century.²⁶ It is also worth noting that abductions, seductions, breached promises of marriage and rapes often contained very similar accounts of sexual violence, but were tried under different 'headings' both in the same and in different national jurisdictions, making it difficult to make quantitative comparisons.²⁷

The motivations behind bride abductions were complex and varied. Some were consensual elopements to overcome parental refusal; many were effectively property theft where men abducted women to access their dowries or personal estates; occasionally women were abducted and raped during familial or community disputes in order to 'punish' their families for some real or perceived wrongdoing.²⁸ As all of these examples make clear, bride abductions ultimately located female consent as secondary to the consent of other family members and to the men who wished to marry or rape them. Even in cases where women consented to their abductions, such acts were necessitated by the limited cultural authority of women and their inability to choose their marriage partners. Moreover, while the law formally abjured the validity of forced marriage across the United Kingdom, in practice such marriages were often upheld. Despite William Gordon of Holm, in Dumfriesshire, Scotland, being prosecuted and imprisoned for forcibly abducting and marrying Margaret Tait in 1750, their marriage remained valid and they went on to cohabit and raise a family.²⁹ In many cases across the Kingdom, this is because the women involved appear to have consented to the marriage, either at the time of the abduction or subsequently.

Female consent appears to be particularly important in the English context, where abduction suits increasingly became a forum for negotiating the balance of parental and child rights when choosing a spouse.³⁰ This may be partly informed by the legal context, where most evidence for abductions in England appears in the criminal courts, rather than in the civil courts as in Scotland. In such cases, as in Ireland and Scotland, female consent or refusal became central to determining whether abductors were found guilty. In Scotland, however, where abductions also appear in the Commissary Court in suits to free victims from their purported marriages, the court proceedings suggest a greater ambiguity towards female consent. Despite Jacobina Moir's successful criminal prosecution of her abductor and his sentence of transportation, Thomas Grey still tried to declare their marriage valid and the court allowed him to bring proof. Whilst Jacobina concentrated on the force inherent in the abduction, the court spent considerable time on his claims of her consent during the ceremony and, particularly, her signature on a marriage certificate. Even though, after a year of hearing evidence, the court found for Jacobina, the issue of force had become secondary to the legal proof of the ceremony of marriage.³¹ This negation of violence can be seen in other

cases where marriages were upheld after abduction, and in the examples of both Mary Gainer and Elizabeth Duncan who desired their marriages to be declared valid after their abductors subsequently abandoned them.³²

That some anxiety around the validity of marriages following abduction also existed south of the border can be seen in the response to Edward Wakefield's abduction of Ellen Turner. Despite Edward being found guilty of abduction and imprisoned, Ellen's family pursued and received an Act of Parliament to declare their 'marriage' void, suggesting some unease over whether force itself was enough to annul it.³³ Edward himself argued in court that, despite the abduction, the marriage was valid, and so Ellen could not testify against him, her husband.³⁴ Similarly, the numerous other men who abducted women for marriage across the period did so on the belief that the force used to overcome 'female', or indeed 'familial', will was not a problem if consent for marriage was ultimately gained.

Rape could be understood as a legitimate part of courtship. Across the century, ballads, folk songs and chapbooks provided detailed accounts of courtships and marriages that originated in, or were consolidated by, rape. Such violence was not viewed as ultimately problematic, drawing heavily on the belief that women desired sex but required men to overcome their natural modesty.³⁵ As one woman was imagined as saying following her rape by her suitor: 'Read in my eyes my grief, my Jewel, / But in my Heart my coming Joy'.³⁶ Descriptions of courtship accounts that appear in seduction, breach-of-promise-of-marriage and declarator-of-marriage (to prove a marriage) cases and other similar trials often feature women whose initial sexual encounters with their suitors had been violent. Clark's study found that seventeen per cent of English seduction suits involved women who claimed their suitors had used violence against them.³⁷ In 1782, Mary McLauchlan, a servant, asked the Scottish Commissary Court to declare the validity of her marriage to her employer, Alexander McDonald, describing her 'marriage' thus:

[Alexander] called the said Complainer into his room and having locked the Door upon her, he Seized the said Complainer by the hair of the head, threw her to the ground and by violence had Carnal knowledge of her, after this he requested the s[ai]d Complainer to Conceal what had passed, and that he w[oul]d make a publick declaration of her being his Wife.³⁸

After this, Mary allowed him 'every priviledge of a husband'.³⁹ Despite being to modern eyes a violent rape, Mary understood this sexual encounter as a form of marriage and sought to maintain her relationship. If Mary's account is accurate, Alexander also accepted this construction of events, at least at that time. The court disagreed and found no marriage proven, but this is as likely to do with class disparity (few servants successfully proved marriages with employers) as the nature of her testimony.⁴⁰ In 1822, Marion Meikle described walking in the garden with her suitor, Robert McGhie, when 'he seemed to be seized as with a sudden frenzy and laid hold of the Pursuer in a very improper and unbecoming way'.⁴¹ She protested, but after he promised her marriage she 'yielded to the treacherous solicitations'.⁴² Far from disbaring marriage, sexual violence in these cases was used as central evidence in proving these relationships.

The normality of violence within courtship informed how eighteenth-century observers responded to the sexual violence they encountered. The *Caledonian Mercury* described a London case, where a girl of thirteen was taken by a family friend to a brothel and, despite her protests, treated 'with great brutality', under the headline of 'Seduction' and, moreover, noted that her mother was 'enraged' on being told and 'threatened to send her to gaol'.⁴³ Eleanor Master's suitor was found not guilty of rape after she admitted that she had sex with him on a subsequent occasion, despite the fact that only days after meeting him, he came to her home when she was alone, tied her hands behind her back, stuffed her mouth with a handkerchief and raped her on a chair. After he had completed his attack, he informed

her that, if she told no-one, he would marry her. On his acquittal, the court sternly warned him that:

The seduction of these young women, under pretence of marrying, is not a crime of much less criminality than that which you have been tried for; and you will some time or another get your neck into the halter, if you do not leave off these practices.⁴⁴

Moreover, the construction of sex in seduction suits required resistance from the seduced women to prove that the woman was virtuous, thus implicating sexual violence in 'normal' courtships. Andrew McDowall argued in 1796 that he was not guilty of the seduction of Margaret Kennedy because he 'laid her down on the bed, where he found no resistance'.⁴⁵ Robert McGhie replied negatively when asked by the court whether Marion Meikle 'made any resistance to the accomplishment of his wishes'.⁴⁶ Alexander Walker disowned marrying Janet Colquhoun by arguing that she never:

endeavoured to resist the liberties he took with her; and so far from supposing there was any intention of marrying her, or even indulging such an idea, She herself has repeatedly declared that the freedoms she permitted were too great ever to lead to that expectation.⁴⁷

Perhaps because of the cultural ubiquity of sexual violence within courtship rituals, rapes were rarely prosecuted. In England, they made up about one per cent of indictable felonies across the early modern period, so that, between 1660 and 1800, Surrey Assizes prosecuted one rape per year and Sussex only one every four years. For those that were prosecuted, the conviction rate was around sixteen per cent.⁴⁸ In Ireland, rape prosecutions were similarly rare; one study showed forty-one prosecuted across Ireland between 1797 and 1799 during a period of particular social and political upheaval (when reported rapes tend to increase).⁴⁹ The majority of cases that came to court in both jurisdictions featured young girls under the age of consent for both sex and marriage.⁵⁰

In Scotland, only a handful of cases of rape and sexual assault came to the High Court of Justiciary, which was meant to have exclusive jurisdiction for rape, across the century.⁵¹ In practice, rape was prosecuted in the lower criminal courts, and it continued to be regularly dealt with in the Kirk sessions as a 'sin' alongside fornication, rather than as a crime – reflecting the difficulty of distinguishing rape from consensual sexual behaviour within the imaginary of the Scottish church.⁵² This conflation of sin and crime, consensual and non-consensual sex, can also be found in the case of Matthew Foulden of Jedburgh, whose charge of rape on a sixteen-year-old girl was legally 'aggravated' by the fact that 'he was married at the time'.⁵³ Unlike in England and Ireland, adultery remained a crime in Scotland throughout the eighteenth century, potentially punishable by death in serious cases. As a result, immoral but consensual sexual acts and non-consensual sexual acts were all viewed as equally problematic, reducing the focus on 'force'.

The ultimate consequence of such a conflation of consensual sex and rape was the cultural acceptance of women marrying their rapists. Like bride abductions, this practice was associated with Ireland, with one British politician wryly describing an 'Irish marriage' as one 'where the rape was committed first, and the marriage concluded afterwards'.⁵⁴ Examples of marriage following rape appeared in the press across the period, but they received particular publicity towards the end of the century.⁵⁵ Some historians have questioned the legitimacy of the claims of women in such cases, seeing rape accusations as a method of pressuring men to fulfil marriage promises.⁵⁶ Yet, evidence from the trials themselves suggests a much more complex picture.

As seen in the examples above, some women simply thought that marriage was an acceptable resolution to rape; other women were reluctant to marry their rapists, but found their wishes over-ridden. In one case, a young Irish woman was asked by the judge overseeing the trial of her rapist, 'would you rather marry the prisoner or hang him?' She

replied: 'I would like to give him the benefit of the law, Your Lordship'.⁵⁷ The judge retorted 'A pretty benefit indeed!', before asking her father the same question to which he replied 'married'.⁵⁸ The judge then explicitly asked whether he consented to the match, and the father agreed. The judge told him to speak to his daughter and after a whispered conversation between them, the father informed the judge: 'She consents my Lord'.⁵⁹ The prisoner's consent was then sought and they were immediately married by the chaplain of the gaol.⁶⁰ Despite the woman clearly saying that she wanted 'the benefit of the law', she found herself married to her rapist.

In the English and Scottish contexts, where at least superficially the idea of marriage following rape was presumed to be, at best, distasteful, it was rare to find a rape trial ended through the marriage of the main parties. Rather, women pursuing that outcome used alternative legal suits to force marriage or compensation for its absence. The main difference between Ireland and the rest of the United Kingdom, however, was not that women married their rapists, but, that in Ireland, women were willing to use the criminal courts to pursue this conclusion. While this may suggest that eighteenth-century commentators saw marriage as the solution to rape, there was some debate around this issue.

Clearly, as demonstrated by the number of women who continued to sleep with their rapists after being attacked as well as those who pursued marriage with them in the courts, the cultural acceptance of sexual violence within courtship was such that many women did not believe that it should operate against future marriage. But, that many commentators placed emphasis on the importance of an emotional union in marriage meant that, for some, a prosecution of rape and a life of virtuous singleness was preferable to the ongoing violence of an unloving marriage. The Scottish feminist and advice writer, Jean Marishall, took this further arguing that the seduced woman who convinced her lover to marry her,

looks on her husband as her lord and master, who reminds her that he has conferred upon her an honour which she had no right to expect. Fearful of offending, she becomes a timid, spiritless soul all the days of her life.⁶¹

Yet, whilst condemning marriage as the solution, she provided no alternative for such women, offering them only 'sympathy'.⁶² In practice, even where women resisted men's sexual advances, mental virtue did not remove the social stigma of their rapes; if they could not marry their seducers (either due to his refusal or because they wished to remain true to their feelings), they found they must remain single and become social outcasts, prostitutes or, in fiction, die tragically. In all of these outcomes, the act of becoming sexual beings removed or restricted female autonomy, opportunity and, in the case of marriage or death, even the female self.

Conclusion

While eighteenth-century British society increasingly respected a women's right to consent to sex and marriage, it also limited the nature of that consent to a form of resistance to male desire, where the female will was something to be overcome to allow the female self to be fully submerged into that of her husband. In conceiving of the female will as a form of resistance, courtship became a place of struggle, where men were expected to use force, and female consent became not an active expression of female desire but a lack of 'no', and so found even in silence. As a result, force was considered a normal part of courting behaviour and so sexual violence was located alongside wooing as methods to overcome the female will. This resulted in rape being normalized within courtship and many women and men understanding marriage as an acceptable resolution to rape and abduction.

Notes

- ¹ 'An Excellent New Ballad from Ireland: Or, the True En—sh D—n to be Hang'd for a Rape', in *The Case of Mr Daniel Kimberly, Attorney at Law, Executed at Dublin, May, 27, 1730. For Assisting Bradock Mead to Marry an Heiress ...* (Dublin, c.1730), p. 23.
- ² M. Legates, 'The Cult of Womanhood in Eighteenth-Century Thought', *Eighteenth-Century Studies*, 1 (1976), pp. 21–39.
- ³ S. Dickie, *Cruelty and Laughter: Forgotten Comic Literature and the Unsentimental Eighteenth Century* (Chicago: University of Chicago Press, 2011), p. 200.
- ⁴ 'Rape', in Society of Gentlemen, *A New and Complete Dictionary of the Arts and Sciences ...*, 4 vols (London: W. Owen, 1764), vol. 4, p. 2708.
- ⁵ H. Gally, *Some Considerations upon Clandestine Marriages* (London, J. Hughes, 1750), p. 100.
- ⁶ 'Conclusion of the Humble Remonstrance and Petition of Mary Mouthwater', *Newcastle Courant* (5 January 1754); W. M. Morrison, *The Decisions of the Court of Session*, 42 vols (Edinburgh: Bell & Bradfute, 1804), vol. 16, pp. 13912–13.
- ⁷ 'Conclusion of the Humble Remonstrance and Petition of Mary Mouthwater'; J. Marishall, *A Series of Letters*, 2 vols (Edinburgh: the Author, 1789), vol. 1, p. 133.
- ⁸ J. Gregory, *A Father's Legacy to His Daughters* (Dublin, 1774), p. 67.
- ⁹ For extended discussion see K. Barclay, *Love, Intimacy and Power: Marriage and Patriarchy in Scotland, 1650–1850* (Manchester: Manchester University Press, 2011).
- ¹⁰ L. Richardson, "'Who Shall Restore my Lost Credit?': Rape, Reputation and the Marriage Market", *Studies in Eighteenth-Century Culture*, 32 (2003), pp. 19–44; J. Rudolph, 'Rape and Resistance: Women and Consent in Seventeenth-Century English Legal and Political Thought', *Journal of British Studies*, 39 (2000), pp. 157–84.
- ¹¹ The legal position of married women varies across the United Kingdom, see: Barclay, *Love, Intimacy*, pp. 48–52; A. Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993).
- ¹² G. Frost, *Promises Broken: Courtship, Class and Gender in Victorian England* (Charlottesville: University Press of Virginia, 1995); M. Luddy, *Matters of Deceit: Breach of Promise to Marry Cases in Nineteenth- and Twentieth-Century Limerick* (Dublin: Four Courts Press, 2011).
- ¹³ R. Perry, *Novel Relations: The Transformation of Kinship in English Literature and Culture* (Cambridge: Cambridge University Press, 2004), pp. 190–287.
- ¹⁴ Hudibras, quoted in G. Wright, *The Unfortunate Lovers: a Story Founded on Facts ...* (London: C. Stalker, 1792), p. 56.
- ¹⁵ D. Defoe, *A Treatise Concerning the Use and Abuse of the Marriage Bed* (London: T. Warner, 1727), p. 198; 'Mr Spectator', *The Spectator* (22 February 1712).
- ¹⁶ F. Dabhoiwala, *The Origins of Sex: A History of the First Sexual Revolution* (Oxford: Oxford University Press, 2012), pp. 158–60.
- ¹⁷ *The Memoirs of Miss Arabella Bolton ...*, 2 vols (London: J. Fell, 1770).
- ¹⁸ 'Trial for Seduction', *Hampshire Chronicle* (13 December 1790).
- ¹⁹ *Ibid.*
- ²⁰ M. Chaytor, 'Husband(ry): Narratives of Rape in the Seventeenth Century', *Gender & History*, 7:3 (1995), pp. 378–407; G. Walker, 'Rereading Rape and Sexual Violence in Early Modern England', *Gender & History*, 10 (1998), pp. 1–25.
- ²¹ National Records of Scotland [hereafter, NRS], CC8/6/15/47 Elizabeth Lining a. Alexander Hamilton, 1747.
- ²² H. Swinburne, *A Treatise of Spousals or Matrimonial Contracts ...* (London: Daniel Brown, 1711), p. 19.
- ²³ A. Clark, 'Rape or Seduction? A Controversy Over Sexual Violence in the Nineteenth Century', in London Feminist History Group (ed.), *The Sexual Dynamics of History: Men's Power, Women's Resistance* (London: Pluto Press, 1983), pp. 13–27.
- ²⁴ Dickie, *Cruelty and Laughter*, pp. 190–235.
- ²⁵ These numbers were compiled by Katie Barclay and Maria Luddy as part of the AHRC-funded project, 'Marriage in Ireland, 1660–1925'. They are based on crime records, newspaper reports in the Irish press and occasional references in other sources. The figure provided reflects the number of individual women abducted. See also: J. Kelly, 'The Abduction of Women of Fortune in Eighteenth-Century Ireland', *Eighteenth-Century Ireland*, 9 (1994), pp. 7–43.
- ²⁶ See the cases of Clementina Clerke (1791); Maria Withers (1800); Mrs Lee (1804); Maria Glenn (1818); Ellen Turner (1826); Miss Row (1827); Miss Bramwell (1828); Eliza Hickson (1829).

- ²⁷ See, for example, the abduction, called rape, in *The Trial of Frederick Calvert, Esq; ... for a Rape on the Body of Sarah Woodcock ...* (Edinburgh: John Balfour, c. 1768); another example: ‘Seduction’, *Caledonian Mercury*, 21 April 1798.
- ²⁸ Kelly, ‘Abduction of Women’.
- ²⁹ *Glasgow Journal* (14 May 1750); J. Wilson et al, *Decisions of the First and Second Division of the Court of Session from November 1819 to November 1822* (Edinburgh: Manners and Miller, 1825), pp. 478–84.
- ³⁰ See for example, the abduction of Clementina Clerke: *The Trial of Richard Vining Perry, Esq. For Forcible Abduction, or Stealing an Heiress, from the Boarding-School of Miss Mills ...* (Bristol: c. 1794).
- ³¹ NRS CC8/6/19/58 Thomas Gray a. Mrs Jacobina Moir, 1751.
- ³² M. Lee, *The Heiresses of Buccleuch: Marriage, Money and Politics in Seventeenth-Century Britain* (East Linton: Tuckwell Press, 1996); NRS CC8/6/13/27 Captain James Dalrymple a. Mary Gainer, 1739; NRS CC8/6/19/65 Elizabeth Duncan a. Malby Brabson, 1753.
- ³³ *An Act to Declare Void the Alleged Marriage Between Ellen Turner, an Infant, and Edward Gibbon Wakefield*, 7 & 8 Geo. 5, c. 66.
- ³⁴ *The Trial of Edward Gibbon Wakefield, William Wakefield, and Frances Wakefield ...* (London: John Murray, 1827).
- ³⁵ Dickie, *Cruelty and Laughter*, pp. 200–1.
- ³⁶ Mr Ramondon, *In Heriot’s Walks &c, A New Song* (Edinburgh: 1715). For an extended discussion see: K. Barclay, ‘Love and Courtship in Eighteenth-Century Scotland’, in K. Barclay and D. Simonton (eds), *Women in Eighteenth-Century Scotland: Intimate, Intellectual and Public Lives* (Aldershot: Ashgate, 2013).
- ³⁷ Clark, ‘Rape or Seduction?’, p. 18.
- ³⁸ NRS, CC8/6/40/171 Mary McLaughan a. Archibald McDonald, 1782.
- ³⁹ *Ibid.*
- ⁴⁰ L. Leneman, *Promises, Promises: Marriage Litigation in Scotland, 1698–1830* (Edinburgh: N.M.S. Enterprises, 2003).
- ⁴¹ NRS, CC8/5/40 Marion Meikle a. Robert McGhie, 1822.
- ⁴² *Ibid.*
- ⁴³ ‘Seduction’, *Caledonian Mercury* (21 April 1798).
- ⁴⁴ Trial of Barton Dorrington, 10 September 1788 (t17880910-46), *Old Bailey Proceedings, London Lives, 1690–1800*, at <http://www.londonlives.org> [accessed 5 February 2013].
- ⁴⁵ NRS, CC8/5/25 Margaret Kennedy a. Andrew McDowall, 1796.
- ⁴⁶ NRS, CC8/5/40.
- ⁴⁷ NRS, CC8/6/162 Janet Colquhoun a. Alexander Walker, 1828.
- ⁴⁸ G. Durston, ‘Rape in the Eighteenth-Century Metropolis, Part 1’, *British Journal of Eighteenth-Century Studies*, 28 (2005), pp. 167–79.
- ⁴⁹ M. Durey, ‘Abduction and Rape in Ireland in the Era of the 1798 Rebellion’, *Eighteenth-Century Ireland*, 21 (2006), pp. 27–47.
- ⁵⁰ J. Kelly, ‘“A Most Inhuman and Barbarous Piece of Villainy”: An Exploration of the Crime of Rape in Eighteenth-Century Ireland’, *Eighteenth-Century Ireland*, 10 (1995), pp. 78–107.
- ⁵¹ A.-M. Kilday, ‘The Barbarous North? Criminality in Early Modern Scotland’, in T. M. Devine and J. Wormald (eds), *The Oxford Handbook of Modern Scottish History* (Oxford: Oxford University Press, 2012), p. 396.
- ⁵² C. Brown, *Religion and Society in Scotland since 1707* (Edinburgh: Edinburgh University Press, 1997), pp. 70–2.
- ⁵³ ‘Edinburgh’, *Caledonian Mercury* (20 March 1732); for discussion in the medieval context see: C. Dunn, *Damsels in Distress or Partners in Crime? The Abduction of Women in Medieval England* (PhD dissertation, Fordham University, 2007), p. 133.
- ⁵⁴ ‘House of Commons’, *Hampshire Chronicle* (27 January 1794).
- ⁵⁵ See for example, *Dublin Gazette* (22 May 1729); *Finn’s Leinster Journal* (29 August 1770); ‘Singular Termination of a Trial for Rape’, *Coventry Herald* (13 August 1824). See discussion in Kelly, ‘Crime of Rape’, p. 98.
- ⁵⁶ Durey, ‘Abduction and Rape’, p. 37.
- ⁵⁷ *Ballina Impartial* (21 September 1829).
- ⁵⁸ *Ibid.*
- ⁵⁹ *Ibid.*
- ⁶⁰ *Ibid.*
- ⁶¹ J. Marishall, *A Series of Letters*, 2 vols, vol. 1, p. 134.
- ⁶² *Ibid.*