

Rather than attempting to uncover the 'reality' of individual cases and trying to label each abduction as coerced or consensual, this chapter will first study how arguments on consent and coercion were constructed in legal records by parties involved and what their impact was. Afterwards, it examines how consent surrounding abduction was understood and what this teaches us about abductees' ability to play an active role in their abduction and marriage. This chapter ends with a brief reflection on a few cases that shed light on life after abduction. It argues that, while the presence or absence of consent was crucial in legal practice and abducted women clearly could act as legal agents, evidence suggests that abductees nevertheless operated in very difficult circumstances.

### Communicating consent and coercion

Late medieval legal texts on abduction tend to put forward three legal parameters: the woman's age, her consent, and her relatives' consent. As Chapter 1 shows, although twelfth-century laws still treated nonconsensual and consensual abductions as two separate offences, lawmakers increasingly conflated them in the more severe fourteenth- and fifteenth-century texts. These late medieval laws distinguished between the abduction of minors and the abduction of adults. Taking away minors against their parents' or guardians' wishes for marriage was always illegal, regardless of the minor's consent. The abduction of adult consenting women, on the other hand, was not punishable since these women no longer fell under their family's authority. As indicated already, most customary legal texts set the age of majority at twenty-five. For adult women, the matter of consent was thus key. Lawmakers specified two elements of proof to determine whether the abduction was coerced or consensual. Most texts consider the victim's cry for help as proof of the abduction's coerced character, an element also put forward in law texts against rape. One legal text, the 1396 Leuven charter, also mentions a second element, the consent declaration by the abducted woman before local officials.<sup>9</sup> This element is more in line with canon law perceptions of marital consent being expressed by saying the correct words. These laws shaped the frame within which litigants constructed their arguments, while the judges referred to those elements when explaining their sentences.

<sup>9</sup> See Chapter 1, page 63.

### She said

The abductee's involvement is especially visible in one particular type of source, records of her declaration of consent. A large number of these deeds are preserved in the aldermen's registers of voluntary jurisdiction in Leuven. These acts are registrations of the declarations made by abducted women who stated before the aldermen of Leuven that they had gone with the abductor by choice, like the one made by Aleyde Vyssenaeks in 1458. The 1455 register contains another example: on 2 January of that year, Beatrijs Peters appeared before the aldermen. She told them 'that she went away with Wouter Waultiers with her will and consent and that she was not forced by any words or deeds'.<sup>10</sup> She continued that she went with Wouter 'to marry him as her husband and that all things he had done to her had happened with her free and personal will and consent and if she had to do it again, she would'.<sup>11</sup>

Such acts provide us with a remarkable perspective on abduction. A search through the Leuven registers yields a total of eighty-six similarly constructed consent declarations by female abductees between 1381 and 1461.<sup>12</sup> These abductees went to the aldermen to make this statement and, in return for a small fee, they received a legally valid charter confirming their declaration. The original charters are lost, so we only have access to the standardized copies made by the aldermen. These records raise central questions on the importance of consent and the perspective of the abductee. Because the aforementioned 1396 Leuven law text refers to these consent declarations, the registration of these statements was probably an engrained practice in this city's jurisdiction. According to this text, abductors were to be punished by a pilgrimage to Cyprus. After explaining the penalty, an additional clause states that nobody shall escape punishment, 'even if the woman or lady after she was abducted, declared before the aldermen that the abduction had happened with her consent'.<sup>13</sup> Despite this clause, however,

<sup>10</sup> CAL, OA, no. 7748, fol. 16or (2 January 1455).

<sup>11</sup> Ibid.

<sup>12</sup> There were indubitably more than eighty-six such declarations as the fifteenth-century aldermen registers are extremely bulky and impossible to scan through completely. I found these eighty-six records via the Leuven City Archives ongoing digitization and transcription project, called *Itinera Nova*, <https://www.itineranova.be/>, (last consultation on 28 August 2022). One register of which all the records have been transcribed contains five declarations by different women. This register runs from 24 June 1458 to 23 June 1489, see CAL, OA, Aldermen registers, no. 7752, 6v (3 June 1458), 79r (16 October 1458), 183v (22 January 1459), 332v (2 June 1459), 347v (19 June 1459).

<sup>13</sup> CAL, OA, no. 1258, fol. 28r: [...] al wert oec dat dat wijf ocht die vrouwe ocht joffrouwe nae dat sij otscaect waere, kende end belide dvoer scepenen dat hairs danx ende hairs willen waere'.

consent declarations continue to appear after its promulgation, indicating, as will be argued further on, that these declarations were successfully used to avoid the punishment of abductors in Leuven.

The practice of declaring one's consent was not restricted to Leuven. Although large quantities of these declarations have only survived in Leuven, records suggest that this practice was common in many cities and villages in the Low Countries. There are regular references to this practice in bailiff's accounts, court records and even consistory court records and pardon letters. In the Ghent bailiff's accounts, for example, a record states that a young woman appeared before the aldermen to say *que ce qui en estoit fait avoit été fait du bon gré d'elle et de sa volonté*.<sup>14</sup> Records referring to marriages by abduction in the register of the diocese of Liège show that consent declarations were also made outside of the three cities of this study. In his plea, abductor Rutger Bacheleur from Maastricht told the court that he had taken Yda Slickbaert with her consent two years ago. In his account of events, he brought Yda to the village of Heerle, in the north of Brabant, where she was questioned in the presence of a priest, the bailiff, and two aldermen of Heerle. She declared to them that she had not been forced but had followed Rutger by choice to marry him.<sup>15</sup>

These consent declarations show that the actors involved were aware of the law and its requirements. At this early stage, right after the removal of the woman from one place to another or her separation from her family, it is not likely that attorneys or legal counsellors were involved. At least, no traces of such legal assistance can be found in the records, yet these statements were formulaic, which strongly suggests local notaries knew what the wording needed to be. According to the pleas by abductors to the consistory court of Liège, such as the abovementioned plea of Rutger Bacheleur, the abductee had given the consent declaration immediately after the abduction but before the exchange of marriage vows. In the Leuven registers too, most abductees state that they went with their abductor because they intended to marry him. Some declarations state that the marriage ceremony had already taken place. For example, Kateline Vander Straten said that she followed Janne Herdans by choice, 'to marry him and take him as her husband before the holy Church *which she, as she had said, has done*'.<sup>16</sup> Most acts, however, don't

<sup>14</sup> SAB, CC, no. 14116, January–March 1449, fol. 129r.

<sup>15</sup> SAL, AD, no. 1, fol. 37rv (7 October 1434): dicte ville de Heerle, interrogata an ibi sua spontanea voluntate venisset animo et intentione sponsalia et matrimonium cum dicto Rutghero proponente contrahendi.

<sup>16</sup> CAL, OA, no. 7752, fol. 183v (22 January 1458).

include this last phrase, which suggests that the actors preferred to make these declarations before the official exchange of vows.

The fact that marriage enforcement pleas before the consistory court of Liège regularly offer consent declarations before secular officials as evidence shows that the plaintiffs/abductors considered them proof of the sincerity of the abductees' consent to the marriage. More generally, these declarations show that the couple knew that abduction could have consequences and expected backlash or resistance. By declaring that their actions were consensual, the couple were asserting that they did not want the authorities to intervene. To avoid an accusation of rape or violent abduction, or at least to defend themselves against it, as well as to legitimise their marriage, the parties knew that consent had to be acknowledged publicly. Then the couple had legally valid proof that they could refer to in case the abduction came to court or the marriage's validity was questioned. The legal value of these charters is made explicit in the declarations of Margriete Pasteels in 1452 in Leuven and Liesbette Ruesen in 1481 in Ghent. Margriete's statement ends with an atypical and nonformulaic inclusion, showing some agency on the part of the individuals: '[she was] praying that the aldermen were willing to testify, carry, and seal this information about her [i.e. her consent declaration].'<sup>17</sup> Liesbette reportedly said the following when declaring her consent to the Ghent aldermen of the *Keure*: 'and those who have accused him of violent abduction or rape or intend to do it may absolve him completely now and for eternity'.<sup>18</sup> Through the public acts of these declarations, these women's consent was ratified and authorised by the aldermen who were responsible for voluntary jurisdiction in their district.<sup>19</sup>

Apart from these statements of consent, many women, on the contrary, state that coercion had been involved. Several women filed a complaint against their abductors, which might seem like a more trustworthy indication of these women's agency than the challenging declarations of consent. In her investigation of pleas made by abducted women, Deborah Youngs concluded that these women's agency shows especially in their decision to prosecute and in the way in which they constructed their narratives in court.<sup>20</sup> Nonconsensual abduction was a serious offence, and late medieval people knew it could have unpleasant legal consequences. At the same time,

<sup>17</sup> CAL, OA, no. 7746, fol. 241r (7 April 1452).

<sup>18</sup> CAG, S 301, no. 56, fol. 13v (10 September 1481).

<sup>19</sup> In Ghent, men who served as aldermen during the registration of certain acts, statements, and contracts could be called in if a conflict arose later, see Danneel, *Weduwen en wezen*, 173, n. 215.

<sup>20</sup> Youngs, "She Hym Fresshely Folowed and Pursued".

by framing the episode as a violent and coerced event, the abductee made it clear that there was no marriage between her and the abductor since the premise of consent was not fulfilled. The Leuven bailiff's records and sentence books sometimes state who had initiated legal action after the abduction. The scribes noted in only 12 of the 308 recorded abductions for marriage that the abducted woman herself was the one to press charges. This low rate of abducted plaintiffs conforms to the conclusion of other historians that few abductees went to court.<sup>21</sup> Unfortunately, as far as I am aware, no actual pleas by abductees have been preserved in the Low Countries, making it impossible to ascertain how they communicated the wrong done to them in court.

Nevertheless, many of these pleas were successful and ended in severe punishment for the perpetrator. For example, in 1418, an anonymous woman from Zoutleeuw was abducted by Wouter Vliege, who was assisted by his father Jan in his endeavour to force a marriage that would be to his advantage. After her escape, the abductee went to the lord of Duras, who held jurisdiction in Zoutleeuw, and showed the scratches on her legs from being dragged through hedges and bushes. Wouter was sentenced by the lord of Duras, but there is no record of his punishment. However, Jan, Wouter's father, was punished by the aldermen of Leuven because he was a citizen of Leuven. He was sent on a triple pilgrimage to Cyprus, Santiago de Compostela, and Rocamadour, a frequent penalty discussed in the following chapter.<sup>22</sup> When addressing the authorities, the woman showed her physical injuries to prove her lack of consent and resistance, a strategy also followed by rape victims. In addition to showing injuries, the records regularly include references to the abductee's cries for help while she was being taken.

While some women communicated their consent by making statements before officials, preferably shortly after the abduction, others expressed their lack of consent by screaming during the attack and later by initiating a legal procedure. Although these statements may seem trustworthy, women might have filed complaints not on their initiative but under pressure or influence from their relatives, who rejected the marriage, for example. Many abductors defended themselves against such claims of violent abduction

<sup>21</sup> Ibid; Ormrod, *Women and Parliament*; Butler, "I Will Never Consent to Be Wedded". Carol Lansing, on the contrary, found a high rate of female plaintiffs in rape cases in thirteenth-century Bologna, arguing that poorer women did press charges as they were less restricted by prescriptive views on honour and reputation than their more propertied counterparts, in Lansing, 'Opportunities to Charge Rape'.

<sup>22</sup> SAB, CC, no. 12654, December 1418–June 1419, fol. 190v.

by arguing that the women had been pressured by their families to leave the abductor and initiate a legal procedure.

### He said/she said or they said/they said?

While some abductors and abducted women appear side-by-side to convince others that it was a consensual abduction and marriage, others appear perpendicular to each other as legal adversaries in the courtroom. Several women distanced themselves from their abductors and filed a complaint with the authorities. In such cases, the abductor defended himself by charging that the woman had wanted the abduction and only changed her mind afterwards. This is the strategy Laureys Jacops followed when his abduction marriage to Amelkin Jacops was called into question. This fascinating but complex case was fought at several secular and ecclesiastical courts. Monique Vleeschouwers-Van Melkebeek's decade-long research into the Ghent aldermen registers unearthed a complete body of records about the abduction of the half-orphan girl Amelkin Jacops, who was approximately twelve years old at the time of her abduction marriage.<sup>23</sup>

This case offers remarkable insight into the abductor's strategy of portraying the abduction as consensual. In short, after her abduction by Laureys, the aldermen of Ghent disinherited Amelkin and banished Laureys from Flanders at the request of some of Amelkin's paternal relatives. Because Amelkin's mother was an accomplice in the abduction, an indication of intrafamilial conflict, a pattern discussed in the previous chapter, the aldermen banished her from Flanders for fifty years.<sup>24</sup> However, Amelkin declared her consent to the aldermen and was placed first with an alderman of the *Gedele* and later with her paternal aunt and uncle, pending the decision of the episcopal judge of Tournai regarding Laureys and Amelkin's alleged marriage. After Laureys returned from exile early after being pardoned by the duke, Amelkin and he were questioned about their marriage. By now, Amelkin had withdrawn her earlier consent declaration before the aldermen, which, as she argued, was made under pressure: 'because the aforementioned Amelkin was at a very young age and still under guardianship, she was placed in the house of Willem vander Camere, the main alderman of the aldermen of the *Gedele*, the upper guardians of underage orphans, and after an investigation of about eight or ten days [...], the aforementioned Amelkin said that the matter had happened against her consent and will and that

<sup>23</sup> Vleeschouwers-Van Melkebeek, 'Mortificata est'.

<sup>24</sup> See the discussion of the abduction as an intrafamilial conflict in Chapter 2.

she was seduced to go by her mother'.<sup>25</sup> She then refused to acknowledge Laureys as her husband.

Seeing that his plan to marry Amelkin without consulting her paternal relatives was about to fail, Laureys had two legal goals, to be achieved in different courts: avoid a conviction for violent abduction and validate his clandestine marriage to Amelkin. Both Amelkin and Laureys were questioned in the ecclesiastical investigation of their marriage. We do not know what they said, but we do know that at this time Laureys asked the Ghent aldermen for a written attestation of Amelkin's initial consent declaration, probably to present it as evidence in the ecclesiastical investigation. The consistory court judged that Laureys and Amelkin were married and had to celebrate the union within forty days. This was a victory for Laureys, but the case was not over yet. After this defeat, Amelkin changed strategy; together with her paternal uncle and aunt, she went to the Council of Flanders and later to the Great Council of Mechelen, the highest court in the Burgundian Low Countries, to accuse Laureys of rape and violent abduction.<sup>26</sup> Laureys' defence was built up entirely around Amelkin's consent, which he said was visible in several ways; Amelkin was happy and sang various songs while he was taking her from Ghent to Oosterzele. During the whole journey, she was joyful and cried only when Laureys left her side. She moreover declared this consent before the aldermen, and he argued that she withdrew her declaration only because she was pressured by her uncle and aunt. The court found for Laureys, and he was freed of all charges.<sup>27</sup>

When trying to convince a judge to label the case as a consensual abduction, other abductors constructed their arguments in the same way that Laureys Claes had, by pointing to the demonstrable expressions of the woman's consent during the abduction and the influence of her relatives. The 1434–35 register of Liège contains three pleas by abductors who asked for the judge to acknowledge the abductees as their wives because these women, just like

<sup>25</sup> CAG, S 301; no. 49, fol. 77v (6 April 1468). See edition in Vleeschouwers-Van Melkebeek, 'Mortificata est', 396–97: 'Dat deselve Amelbergh zeere jone was van jaren ende noch in voochdien, zo was ghestelt in 't huus van Willemme vander Cameren doe voorscepene van Ghedeele zijnde als uppervoochden van ombeiaerden weesen al waer zoe binnen acht of tien daghen daer naer bij eeneghen gheputeerden van denzelven voorsaten gheexamineert was al in 't langhe van haren wechgane ende ter selver tijt, zo zeyde deselve Amelbergh dat al 't guent dat ghesciet was in haer wechgaen metten voors. Lauwereins was ghesciet ende ghedaen jeghen haren danc ende wille was daertoe verleedt bij harer moeder'.

<sup>26</sup> For comparison, see *raptus* pleas by women in English parliament after failures in lower courts: Ormrod, *Women and Parliament*, 95–114, spec. 98.

<sup>27</sup> See edition of this record (CAG, S 301, no. 51, fol. 100rv (4 May 1471)) in Vleeschouwers-Van Melkebeek, 'Mortificata es', 408–9.

Amelkin, refused to honour their alleged marriages. Two of these three pleas are accompanied by the abductee's defence. A comparison of the pleas and the matching defences reveals the highly strategic nature of these records. The abductor and abductee offer completely different stories, as becomes apparent from the following example of Joost Claeszoon and Katrien Huysman, both from Bergen op Zoom (Duchy of Brabant).<sup>28</sup> Joost initiated a case before the consistory court of Liège, asking the judge to acknowledge and validate his alleged marriage to Katrien, who had by then clandestinely married another man, Jan Hambroek. In his plea, Joost emphasised canon legal requirements for making marriage: the exchange of words of consent and sexual intercourse. In her reply, Katrien asked the judge to annul her marriage to her abductor Joost on the grounds of force and fear and acknowledge her clandestine marriage to Jan Hambroek. Historians have encountered many of these *he said/she said* disputes in which both parties offered contradicting stories.<sup>29</sup> A closer look at Joost and Katrien's reported statements illustrates this.

Using a stereotypical scenario, the abductor's plea asserts that on Sunday, December 19, Joost and Katrien planned their elopement after telling each other how much they loved one another in the presence of many honourable witnesses. The couple agreed that Joost would come for Katrien later to marry her. Two days later, Joost's plea says, he went to Katrien's mother's house and the two secretly left. But Katrien's defence maintains that a mob of armed men came to her mother's house on Sunday; 'the aforementioned Joost, plaintiff, together with Wouter, brother of the plaintiff, Geert Willemszoen, and Hendrik Moerincx came with big and long knives to the house that belonged to her mother'.<sup>30</sup> At the house, where 'she had the task to milk the cows', these men threatened her and forced her to obey them.<sup>31</sup> She cried out loud and resisted as hard as she could. The abductors—Joost was accompanied by helpers according to the defence—even had to lift Katrien from the ground by her arms and cover her mouth to prevent her from screaming. Both stories state that Joost took Katrien to the house of her relative, Nicolaas Wijssen, in a nearby village. In Joost's plea, this relative asked Katrien whether she had come there by choice, to which she responded affirmatively. Katrien's story does not include this consent declaration.

After these contradictory accounts of the abduction, both parties continued to highlight consent or force in their descriptions of events. First, the

<sup>28</sup> SAL, AD, no. 1, fol. 4v–6v (17 July 1434).

<sup>29</sup> See for example Bennett, 'Writing Fornication', 147.

<sup>30</sup> SAL, AD, no. 1, fol. 5r–v (17 July 1434).

<sup>31</sup> Ibid.

plea explains that the marriage vows were exchanged in the presence of several witnesses. Interestingly, these vows were recorded in the vernacular, while the rest of the text is in Latin. In Katrien's relative's house, Joost and Katrien brought their right hands together, a symbol of their consent.<sup>32</sup> Several honest and honourable people could testify to the veracity of what had happened there, the plea states. Joost said: '*Lijne*, I hereby give you my Christian faith, which I received upon the baptismal font, and I promise you upon that faith that I will take you and no one else as my lawful wife'.<sup>33</sup> Katrien answered: '*Joes*, I in return give you my Christian faith, received upon the baptismal font, and I also promise you that I will take you and no one else, and I take you as my lawful husband'.<sup>34</sup> There were several witnesses. In Katrien's version of events, the exchanged words of consent were less intimate and emotional, however. After Nicolaas Wijssen had put her and Joost's hands together, she merely repeated what her abductors had told her to say. If she disobeyed, she feared that the men would 'bring her abroad to throw her in the water' or even murder her. After Joost had said 'yes, I do', and Nicolaas had asked Katrien: 'And, Katelijne, do you also give your faith to Joost?', she replied: 'Yes, I give it too'.<sup>35</sup>

Both plea and defence narrate that a meal and a party followed the ceremony. Katrien made sure that the judge would know that she did not enjoy herself at all, since she did not eat or drink but only thought about escaping. Afterwards, the couple spent the night together. Joost states that he and Katrien spent about six hours together, during which they consummated the marriage twice. Before this, Willem vanden Driessche, the brother of Katrien's stepfather, came together with two companions into the bedroom and asked for information on the abduction and marriage. After Katrien had confirmed that she had married Joost willingly, the men joined the feast. Katrien's defence, however, does not mention this intervention and adds that she initially shared the room with her niece, Nicolaas Wijssens' daughter. Joost only joined her after her niece was called away unexpectedly. Although

<sup>32</sup> About this gesture, see Reynolds, *How Marriage Became One of the Sacraments*, 89–93.

<sup>33</sup> SAL, AD, no. 1, fol. 4v–6v (17 July 1434): 'Lijne, hier gheve ick u mijn kerstelijck trouwe die ick in der heyligher voenten ontfanghen hebbe ende ghelove u bij der selver dat ick u ende nyemant anders nemen en sal ende ick neeme u tot eenen witteghen wijve'.

<sup>34</sup> Ibid: 'Joess, ick gheve u wederomme mijn kerstelijke trouwe die ick in der heyligher voenten ontfanghen hebbe ende bij der selve ghelove ic u dat ick u ende nyemant anders nemen en sal ende ick neeme u tot eenen witteghen manne'.

<sup>35</sup> Ibid: ' [...] Joest, ghij gheeft hier Lijnken u trouwe?', dicto Judoco super hoc dicente quod ita, theutonice: 'Ja ick. [...] Ende Lijnken, ghij gheeft hier oeck Joessen u trouwe?' Que Catharina [...] respondit in simili ydeomate in hunc modum: 'Ja ick. Ick gheeffe hem weder'.

they were together in the room, for about a quarter of an hour, Joost did not push her to have sexual intercourse but instead promised her that he would leave her in peace. He did not even try to kiss her, the record states.

According to the plea, Katrien's stepfather, Jan vanden Driessche, barged in after the sexual intercourse. He asked her whether she had willingly joined Joost in matrimony and whether she had had sex with him, which she confirmed. Afterwards, he pulled out his dagger and dragged her out of bed. Katrien describes the intervention of her stepfather too, but in a more positive light: it was something that made her very happy and restored her freedom. A couple of days later, she married another man clandestinely through words of future consent in the diocese of Utrecht and the pair had sexual intercourse.<sup>36</sup> Up until today, she argued, they had lived together as lawful spouses. Joost, however, said that Katrien was pressured to marry Jan van Hambroeck by her mother and her stepfather. Joost asked for the judge to acknowledge Katrien as his wife or at least as his fiancé despite her illegal marriage to Jan. Also, she should pay his legal costs. Katrien, on the other hand, asked the judge to validate her marriage to Jan despite the 'light-minded' demands of Joost, who should pay all the costs she incurred for this trial.<sup>37</sup> The verdict has not been preserved, but based on similar cases and the low success rates of similar marriage enforcement pleas by alleged abductors in the Low Countries, the court probably judged in favour of Katrien.

Both plea and defence are cleverly constructed, on two levels. First, they are both shaped by key legal points of marriage law. The plea argues that a marriage had been made by highlighting consent and sexual intercourse, while the defence asserts the opposite by emphasizing the impediment of force and fear and the lack of sexual intercourse. On the second level, both litigants sought to elicit sympathy and compassion by presenting themselves as honest and honourable, while discrediting the other. Joost did this by insistently emphasizing that Katrien and he had joined in the abduction marriage as a shared undertaking, and she had consented every step of the way. He portrayed himself as an honest, nonviolent person who was moved by love. In addition, he emphasised that all the instances in which the abducted woman had expressed her consent were witnessed by several bystanders, an essential feature for the marriage to be validated.<sup>38</sup> Katrien's defence reveals a twofold strategy that is representative of abduction victims'

<sup>36</sup> This tactic of entering into a second alliance will be discussed in Chapter 4.

<sup>37</sup> SAL, AD, no. 1, fol. 4v-6v (17 July 1434).

<sup>38</sup> McSheffrey, *Marriage, Sex, and Civic Culture*, 25–32; see also the importance of trustworthy men in local communities for consistory courts, in Forrest, *Trustworthy Men*.

legal narratives. She emphasised her passivity and presented herself as an honourable daughter.<sup>39</sup> Passivity appears in several elements in her defence; she was carried by the abductor and his accomplices, her mouth was covered, and she did not eat or drink during the party. Her righteousness is bolstered by her inclusion that milking the cows was her task in her mother's household and her portrayal of the wedding night—no sexual intercourse had occurred when she was accidentally alone with Joost.<sup>40</sup> The mention of her alone time with Joost is remarkable and can be explained by medieval views on privacy for young women; daughters had to be supervised to prevent them from getting caught up in marriage vows.<sup>41</sup> By emphasizing that she had been alone with her abductor accidentally and only for a moment, Katrien alluded to those views and again tried to make clear that she was an honourable woman. Moreover, according to Katrien's defence, the abductor left her in peace during the wedding night, a striking contrast to his violent behaviour during the abduction. Denying sexual intercourse not only served to protect Katrien's reputation. It also increased the possibility that the ecclesiastical judge would annul the alleged marriage since sexual intercourse was a crucial component of forming a marriage in the Low Countries.<sup>42</sup> A similar defence in the Liège register made this very explicit. The defence states that, although the abductee and her abductor spent two nights together, 'no sexual intercourse occurred between them, although the plaintiff had tried and insisted on having sex with her'.<sup>43</sup> It continues that 'the plaintiff never entered the defendant's vagina, nor did he manage to make his penis erect, at least as far as she had been aware'. In addition to denying that sexual consummation had occurred, this remarkable defence suggests the abductor's impotence, which would affect his reputation and could serve as another reason for annulment.<sup>44</sup>

39 Goldberg, *Communal Discord*, 34; Youngs, "She Hym Fresshely Folowed and Pursued", 81.

40 Historians have remarked that abduction victims regularly stated that they were doing domestic activities or attending mass in order to show that they did not provoke the sexual violence in any way. Milking cows was a typically female activity in late medieval domestic industry, and by referring to it, the defence presents Katrien as a good, dutiful daughter. See Chaytor, 'Husband(ry)'; Beattie, 'Servantes femmes et veuves', 15, 17–19; Goldberg labels the abductee's argument that no sexual intercourse between her and the abductor had occurred as 'legal fiction' to maintain her honour in an English case Goldberg, *Communal Discord*, 170.

41 Gowing, *Domestic Dangers*, 147.

42 However, in England sexual intercourse also took up a central place in legal arguments regarding marriage since sex was viewed as a sign of commitment, see Gowing, *Domestic Dangers*, 143.

43 SAL, AD, no. 1, 83v (8 January 1435).

44 Karras, *Sexuality in Medieval Europe*, 71–72; Murray, 'Impotence'. On explicit descriptions of nudity and sexuality in consistory court records, see Goldberg, 'Voyeurism and "Pornography".

Several assertions in Joost's plea and Katrien's defence show how they tried to discredit one another. For example, the difference in the words of marital consent between the plea and defence is striking. Many acts in the Liège register contain the literal vows the people in question spoke to each other; each time the language then switches from Latin to the vernacular. The vows are written in medieval Dutch or French, according to the language spoken by the litigants. These vernacular phrases are always different, which indicates that the scribes did not use standard formulae. These records probably give partial voice to the words of the litigants themselves.<sup>45</sup> The Liège act shows that the words were also highly strategic, which suggests that these litigants had been coached on what to say.<sup>46</sup> According to Katrien, her 'words of consent' were passively affirmative; she merely said 'Yes, I give it too'. Joost, on the other hand, tried to discredit Katrien by framing her marriage vow as active and in contrast to her subsequent actions: she did marry someone else although she had promised that she would only have Joost as her husband. Moreover, the plea claims that the words Katrien spoke expressed both future and present consent (that I *will take* you and *take* you) to make the idea of the marriage bond between them even more compelling and Katrien's second marriage even more aggravating. The defence's descriptions of Joost's violent behaviour served to convince the judge that the impediment of force and fear applied. However, they were also meant to sharpen the contrast between her honour and passivity and his active aggression and criminal behaviour.

Although the cases above seem at first glance to be a struggle between two people, especially in the consistory court records, a close reading reveals that many more parties were involved. Amelkin Jacops' abduction was co-arranged by her own mother, while her paternal uncle and aunt later joined her in charging her abductor with rape. In the Liège register, Joost took Katrien from her mother's house to the house of a relative, Nicolaas Wijssen. Joost accused Katrien's mother and stepfather of pressuring Katrien into marrying Jan Hambroeck. Moreover, Katrien's defence often refers to Joost and *his accomplices*. Indeed, most men did not perpetrate an abduction on their own but were instead assisted by one or more helpers. Labelling these court cases 'they said/they said' rather than 'he said/she said' disputes

<sup>45</sup> Goldberg, 'Echoes, Whispers, Ventroliquisms', 34–35; Kane, 'Women, Memory and Agency', 50; Stretton, 'Women, Legal Records, and the Problem of the Lawyer's Hand', 694–96.

<sup>46</sup> Pedersen argued against the idea of witness coaching, but more recently other scholars argued oppositely: Pedersen, 'Did the Medieval Laity Know?'; Butler, *The Language of Abuse*, 136, 142; Goldberg, 'Echoes, Whispers, Ventroliquisms', 36–37.

might thus be more appropriate. Although the plaintiff/defendant format of the consistory court records presents these conflicts as occurring between two adversarial individuals, other actors undoubtedly influenced these two people.<sup>47</sup>

In some cases, it was not the abducted victim but her relatives who initiated legal action. After all, the Low Countries' legal texts reserved a place for relatives in determining the judicial outcome of their daughters' or nieces' abductions. When his daughter was taken away by Nijsken Van Herent, Roelof van Hodersuge filed a complaint which ended in the aldermen of Leuven sentencing the abductor to a pilgrimage to Rome.<sup>48</sup> Examples such as this may only concern underage women since secular law declared that their marriages required the consent of their parents or guardians, rather than their own consent. If the abducted woman was an adult, she had to take the case to court herself, as the record on the abduction of Kateline Van Zoert in Leuven suggests. Kateline was abducted by Marck Van Cockelberghe and his accomplices and while her father wanted her to bring the case to court, she did not do it; 'the father of the aforementioned Kateline heard about this and to get punishment for the men, he had wanted that Kateline, his daughter, would file a complaint against these aforementioned men, which she never did or wanted to'.<sup>49</sup> The bailiff, therefore, settled the case out of court, and Marck paid a composition. These cases indicate that the abductee's relatives could go to court to denounce her abduction since their parental rights had then been violated, at least if she were a minor still under their authority.

If the abductee was an adult, her relatives would have to claim that she was violently abducted to be able to take the case to court, a strategy followed by the relatives of the adult woman, Johanna Van Saemslacht, who filed a complaint on 31 January 1483.<sup>50</sup> After hearing both parties' arguments, the aldermen decided in favour of Johanna's relatives, the plaintiffs, and disinherited Johanna 'as if she were dead'. The plaintiffs presented what had happened as a violent assault and argued that Johanna stayed 'conversing with the perpetrators in public' after the abduction. Under the 1297 privilege of Guy, Count of Flanders and the 1438 legal text, she should be disinherited, they claimed. Johanna, on the contrary, claimed that the abduction had been consensual from the start, thereby hoping to maintain possession of

<sup>47</sup> Pedersen also made this remark in 'Did the Medieval Laity Know?', 151.

<sup>48</sup> SAB, CC, no. 12654, December 1424–June 1425, fol. 414v.

<sup>49</sup> SAB, CC, no. 12657, June–December 1471, fol. 362v–363r.

<sup>50</sup> CAG, S 301, no. 57, fol. 174v (28 April 1484).

her property. The final verdict connected to the specific requirements of the legal texts by repeating that Johanna had been abducted 'with force and while crying for help' but then stayed with the main perpetrator afterwards. Favouring the relatives, the aldermen adopted the plaintiffs' characterization of the offence as nonconsensual. These examples all show how decisive consent was in the legal handling of abduction, causing many involved parties to try to bend the consent narrative for it to fit their purposes.

### Judging consent and coercion

How did these legal arguments on consent impact the final verdict? The example of Elisabeth Leydens shows that consent could lead to the acquittal of the abductor. Elisabeth Leydens appeared before the Leuven aldermen on 22 January 1408 to declare that she went with her abductor, Jan Uter Helcht, by choice.<sup>51</sup> Besides this record in the aldermen's registers, there is a reference to this case in the Leuven bailiff's accounts. This second report informs us that, after the abduction, the bailiff of Herent, a subordinate of the bailiff of Leuven, seized Elisabeth's property, while Jan and his accomplices were arrested by the bailiff of Leuven. After the latter failed to find witnesses who had heard Elisabeth scream, important legal proof of a violent abduction, the bailiff was instructed by the aldermen of the city to release the abductor and his men.<sup>52</sup> There was no trial because no infraction of the law had been committed. Elisabeth's consent declaration thus directly led to the abductor's release.

Did consent declarations regularly lead to the acquittal of abductors in secular courts? Although very rare, examples of acquittals exist in all three cities. Similar to the Leuven example of Elisabeth Leydens, the Ghent aldermen's registers contain a case that ended in the abductor's acquittal. On 15 June 1489, Pieter de Grave, Jan Scapen, and other unspecified friends and relatives of *Jonkvrouw* de Grave, the widow of Joos Lauwaert, filed a complaint with the aldermen of Ghent. While innocently walking home after attending mass, they argued, the widow was violently abducted by Symoen de Caluwe and his four accomplices. The plaintiffs asked the aldermen to locate the widow and bring her back home. They also wanted the abductors to be punished. However, the aldermen acquitted the abductors since 'the aforementioned matter had happened with the will and consent of the

<sup>51</sup> CAL, OA, no. 7306, fol. 241r (22 February 1408).

<sup>52</sup> SAB, CC, no. 12653, June–December 1410, fol. 317rv.