

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. Favours 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.⁵¹ 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.⁵² 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

51 CAL, OA, no. 7306, fol. 241r (22 February 1408).

52 SAB, CC, no. 12653, June–December 1410, fol. 317rv.

aforementioned woman'.⁵³ In Antwerp consent could lead to acquittal as well. A record in the bailiff's account on the abduction of a widow named Lijsbet by Dijrijc Jan Dierijcszone and his accomplice Merten Heynen states that the abduction had been adjudicated by an unspecified authority in a village outside of Antwerp, where the abductors had taken Lijsbet. Since she had declared her consent and had not been raped, the judges set the abductors free. Disagreeing with this sentence, the Antwerp bailiff argued that, since the abduction had happened in his district, he should have been involved in the legal settlement. Rather than charging the abductors again, the bailiff allowed both men to pay a composition after listening to the pleas of their friends.⁵⁴ Even though I found only a couple of references to cases in which legal consent led to an acquittal, they probably represent the tip of the iceberg. The vast majority of the over eighty declarations of consent in the aldermen's registers of Leuven cannot be matched with corresponding records in the Leuven bailiff's accounts or in the sentence book that recorded actual punishments for offences. The absence of settlement records on these abductions may indicate that cases legally considered consensual simply were not punished. Since the vast majority of consent declarations have no further legal documentation, registering declarations of consent seems to even have been a way to avoid a legal case at all. Even in the case of Elisabeth Leydens, which does have a matching record in the bailiff accounts, the bailiff recommends dropping the case.

In bailiff's accounts and pardon letters, officials had to justify their decisions to allow an out-of-court financial settlement or issue a pardon. To do this, the bailiff's accounts often state that the abductee did not want to file a complaint, that she had married the abductor in the meantime, or that she had been friends with him for a long time. By adding this information, the bailiff labelled what had happened as a consensual, nonviolent event and therefore the abductor did not deserve a court trial. By describing the abductee's actions as consensual during the abduction, pardon letters often include these implicit references as well. These records are particularly suspect since they are based on letters from convicted abductors seeking pardon from their lords, and so reflect the perspective of the abductors attempting to justify their behaviour. For example, Gheerkin van Nieuwenhove, a 23-year-old beer brewer, was granted a pardon for abduction in 1498. The letter narrates the story of how he, together with several accomplices, abducted Josine Merschaes, alias sWevers, a sixteen-year-old girl, whose

53 CAG, S 301, no. 60, fol. 142r (25 and 29 June 1489).

54 SAB, CC, no. 12903, December 1453–June 1454, fol. 64v, 74v–75r.

guardian was a draper. Gheerkin had discussed several times his future marriage to the girl with some of Josine's maternal relatives. Afraid that her paternal relatives, who lived in Ghent, would not agree, he decided to abduct her. En route, Gheerkin, his accomplices, and Josine spend the night in an inn, all together in one room. Gheerkin and Josine lay in the same bed, with her complete consent. According to the letter, 'she did everything with a happy face, and she was still happy the day after that night'.⁵⁵ In the end, the relatives gave their consent to the marriage, which provided the reason to justify the duke's pardon. These attestations of consent are neither casual nor ingenuous; they are strategic moves deployed to achieve the goal of a pardon. As this case indicates, expressions of the abductee's consent were designed to arouse sympathy for the perpetrator and convince the lord to pardon him.

Although the abducted woman's age and consent and the consent of her relatives impacted the legal outcome, records reveal that authorities sometimes struggled with respecting these legal parameters. In one example, the bailiff of Leuven, for reasons that are not clear, circumvented the consent declaration of Machtelde Ellemoens by putting great effort into finding people who were willing to testify that she had screamed during the abduction. Abducted by Gielken Gersse, Machtelde declared her consent and then the couple married. Nevertheless, the bailiff of Leuven arrested the couple and began an investigation designed to prove that the abduction had been coerced. Unable to find a witness, he asked the sub-bailiff of a nearby village, where the offence had taken place, for help. The sub-bailiff investigated and succeeded in finding two men who could testify to Machtelde's cries for help. As a result, the aldermen of Leuven were able to sentence the abductors to a triple pilgrimage to Cyprus, Santiago de Compostela, and Rocamadour.⁵⁶ On the one hand, the need for additional evidence of violence attests to the legal value of Machtelde's declarations. Without these witnesses, there could be no trial; the perpetrator would have been acquitted, just as the abovementioned Jan Uter Helcht and his accomplices were. On the other hand, this case shows the authorities' flexible approach to consent. In several cases, the legal criterion of consent does not seem to have affected the final sentence at all. Authorities judging most cases thus had a flexible approach to these legal abduction categories. This flexibility accounts especially for the bailiff, whose ambiguous role is discussed in Chapter 4.

55 ADN, B1709, fol. 76v–78v (June 1498).

56 SAB, CC, no. 12653, December 1405–June 1406, fol. 87v–88v.