

8 Marriage to a slave

In our discussion on the second wife (Chapter 5) we saw that a slave-girl could be introduced into a childless marriage as a second wife. According to the terminology of Old Babylonian laws for marriage contracts, in contracts formulated to favour the first wife, she became, the ‘wife’ of the man and the ‘slave-girl’ of his wife. Legally it is absurd to use ‘the wife’ to express the relationship between this second wife and the man, for he was as much her master as her husband. This had led R. Westbrook, usurping a term from psychiatry, to suggest that

this woman is a ‘split personality’, leading to a conflict between ‘property law’ and ‘family law’. Surely the children would not later inherit their own mother as a slave!¹

According to the laws of Hammurabi, if during his lifetime the man recognised her children as his own they would have a right of inheritance. If he did not do this, they would not have such a right, but after his death the slave-girl and her children would be set free (§§ 170–171). The laws of Lipit-Ištar state that if the children of a slave are freed they do not inherit (§ 25).

We learn most about this question from the collections of laws on marriages with a slave or a slave-girl. Ur-Nammu (§ 5) deals with the marriage of a slave to a free (dumu-gi,) woman who had the duty to provide one son in the service of his master. The right of inheritance for the son was established, and then we read,

No son of a free woman will become a slave without the acquiescence of the king.²

The woman’s children would not become slaves without the permission of the king. This is in line with an Ur III text where a slave of a brewer begets a boy with a free woman and the brewer frees both father and son.³ Hammurabi (§ 175) also considers a slave who marries a free woman and the marriage results in children. The owner of that slave may not claim the children as his slaves.

¹ R. Westbrook, ‘The female slave’, in: V. H. Matthews, *Gender and law in the Hebrew Bible and the Ancient Near East* (1998), esp. 233 f., 237 f.: ‘Where the property and family interests in her person were located in different persons, the law employed a subtle jurisprudential device: her legal personality was split between them, the two parts being governed by property and family law respectively’.

² C. Wilcke, *Festschrift J. Krecher* (2014) 495, 535 f.; Westbrook, 225 n. 25; M. Civil, CUSAS 17 (2011) 237, 246. C. Wilcke, 496–498, sees in the last line a general rule and prefers ‘king’ to ‘(his) master’ (thus M. Civil).

³ NSGU II no. 177:17–20 with Wilcke, 524 f.

What kind of woman would marry beneath her station in life? One such was U., whose father had died and whose widowed mother, L., was having to manage the family affairs. U. became the wife of a slave called N. who belonged to his master A. Then A. promised that neither he nor his children would claim the children of U. as their own. The widow L. placed her seal on the contract showing her approval of the marriage of her daughter to the slave. Although this marriage occurred in a city beyond the borders of the kingdom of Hammurabi the procedure accords with that in CH § 175.⁴ It could be a procedure based on common law, to which CH § 176 was supplemented as a revised clause by Hammurabi himself. It happens repeatedly that the terms of an additional and new law are outlined after first describing the situation accepted as normal.

When a slave-girl was married to a free man, she was said to be clothed and provided with a covering on the head.⁵ This may be seen in a marriage contract. The girl S. was given in marriage by a nun, her two brothers and their mother.⁶ Evidently the father was dead. The bridegroom not only took her formally in marriage, but also promised ‘to provide her with clothing and a head covering’ (*ana labšūssa u aprūssa*). This would seem to be compensating for the lack of any dowry. The girl is probably a slave-girl. However, the full bride-price is paid and divorce arrangements are stipulated, all typical of a marriage between free people. Had her adoption as a free woman by the husband already happened?

Another contract concerns an important man from Sippar, I. He ‘took with him’ from her mother a girl with a baby to marry his slave Š., and the mother received the bride-price. But what is different in this contract is the fact that

the children whom she (the girl) and Š. have and will have, and their household goods which they will acquire, are the property of I.

This seems harsher than § 175 or § 176 where the owner would receive only half of the inheritance after the slave died.⁷ In our text the owner of the slave could make his own conditions to suit himself, certainly when dealing with a poor mother.

⁴ M. Jursa, ‘Zu Edubba 1, 10’, NABU 1994/65, with D. Charpin, AfO 44–45 (1997–98) 346.

⁵ In the letter AbB 1 30:23–25 with B. Landsberger, *Symbolae M. David* II (1968) 98 n. 1 (*lu-di-in* in line 25: *nadānum* here means ‘in die Ehe geben’). See also Chapter 2, ‘The bride’, the end, with note 132.

⁶ CT 48 51 with Westbrook, OBML, 122f., Stol, *Studies A. Skaist*, 149. She was just a poor girl, according to L. Barberon, RHD 81 (2003) 11f.

⁷ CT 48 53 with R. Westbrook, OBML, 67f., 123; M. Stol, *Studies A. Skaist* (2012) 140. See Westbrook in: V. H. Matthews, *Gender and law* (1998) 226 n. 28.

In Nuzi a dispute arose with two brothers after their father had given a slave-girl to their younger brother, T. The matter was brought to court, with T. claiming that,

My father H. was ill and lay in bed and my father took my hand and spoke to me as follows: 'My older sons have married wives, but you are unmarried. Therefore I herewith give you Z. as your wife.'

The judges asked for witnesses, who were presented and verified his story. Then the brothers had to swear an oath, but they shrank away from doing that, with the result that 'the judges gave Z., the slave-girl, to T'.⁸

Slave-girls could have the reputation of being so insolent. A Sumerian proverb has two juxtaposed sentences. The first suggests that the husband of a slave-girl is forced to keep silent,

He, whose words are few, his wife is a slave-girl,

Then we find what are apparently the domineering words of a slave-girl.

My words make me equal to the man.⁹

In an Akkadian book of wisdom we find,

Honour no slave-girl in your house. She must not dominate your bedroom like a wife.¹⁰

A difficult sentence in a short Sumerian letter is,

The slave-girl whom L. has married may not be secured by a lead through her nose. She is the slave of D.¹¹

There are fewer references to marriages between slaves. Ur-Nammu (§ 4) is concerned with a slave who marries a slave-girl on his own initiative and even if his master releases him, 'he may not leave the house'.¹² In the Neo-Assyrian period

⁸ AASOR 16 no. 56.

⁹ B. Alster, *Proverbs of ancient Sumer I* (1997) 159, SP 7.44–45, with Akkadian translations.

¹⁰ *Babylonian Wisdom Literature* (1960) 102:66 f.; TUAT III/1 (1990) 166. In the context of warnings against slave-girls; B. R. Foster, *Before the Muses I* (1993) 329:66–71.

¹¹ E. Sollberger, TCS 1 no. 158, with B. Kienast, ZA 72 (1982) 32 f.

¹² C. Wilcke, *Festschrift J. Krecher* (2014) 491–495 (commentary), 535 (edition).

marriages between slaves were well-known.¹³ A group of three contracts concern an owner who buys a slave-girl to marry (*ana issūti*) one of his slaves.¹⁴ The Hittite laws record some conditions for marriages between slaves and free people, and also for a slave who married a slave-girl (§ 31–34).

A slave-girl could easily become pregnant. This could have consequences, as seen in a letter (perhaps from a nun) advising a woman about the possibility of adopting the future child of a slave-girl, B.

With regard to the matter of B., about whom I spoke to you in these terms, ‘Whether her child is a boy or a girl, is it I that will have to adopt it?’, why do you not write to tell me anything of your views?¹⁵

To avoid such a situation arising, the advice of a Sumerian proverb should have been heeded,

Do not have any sexual intercourse with your slave-girl; she will neglect you (?).¹⁶

13 K. Radner, *Die neuassyrischen Privatrechtsurkunden* (1997) 169.

14 J. N. Postgate, *Iraq* 41 (1979) 95–97.

15 AbB 7 141.

16 B. Alster, *Wisdom of ancient Sumer* (2005) 66 Instr. Šur. 49. It should be noted that Akkadian *šelû* ‘to neglect’ is attested only in Neo-Babylonian.