

16 Women-trafficking under the guise of adoption

In previous chapters we have pointed to legal provisions which were designed to show the place a woman should hold in society. Often these seemed restrictive but they could also protect a woman's position. We will now investigate how people could use the law to make money by adopting and marrying poor girls, for in a number of contracts a girl is adopted 'as a daughter and a bride'. Her parents would receive a sum of money, sometimes explicitly called a bride-price. Many of these contracts come from Nuzi. This sort of adoption with a view to marriage is called in French *adoption matrimoniale*. It is significant that it had not always been decided beforehand whom precisely the woman would marry later on.

16.1 The Old Babylonian period

As early as the Old Babylonian period girls were attracted by the payment of a bride-price.¹ We will compare two texts in which the same person acquires brides for his sons.² In the first he and his wife chose (*hiāru*) a girl 'as a wife'. The girl was handed over by her brother and sister and four shekels of silver were paid. There is no mention of her parents, so possibly they had died. She was supposed to marry the son of the house as 'his chosen wife' (*hirtu*). There followed the usual strict clauses on divorce. We also have another text dated a few years later but this was differently formulated. Here this same man agrees with a mother and her son to let another girl 'enter his house as a bride and a daughter', and no future husband is mentioned. This time he paid them five shekels of silver as a bride-price. This text seems then to be a receipt for this payment. One might imagine that this girl was destined to marry the second son, who was not yet of marriageable age. However, we shall see later that in a text from Nuzi, Wullu adopted a girl for marriage to his son 'or to anybody else in the area'. So the same might apply to our second text where the man, like Wullu, could give her to somebody else. We note that no father is mentioned in either of these texts, and there is another 'receipt' about a girl who was adopted ('taken') as 'a bride and daughter' which

1 R. Westbrook, OBML, 38f., reviewed by R. Yaron, ZSS 109 (1992) 66. Westbrook says that the status of 'daughter-in-law' gives the adopter the right, to marry her off within his family; the status 'daughter' allows him to give her in marriage to an outsider. Yaron says that *kallatu* means a 'bride', not a 'daughter-in-law'. In all events the man has the right to give the woman to an outsider.

2 CT 8 7b (VAB 5 3; Ammi-ditana 11) and CT 33 34 (HG 6 1419; Ammi-ditana 14); M. Stol, *Studies A. Skaist* (2012) 139–142 (nos. 6, 10).

refers only to her mother. There the mother received three shekels of silver as a bride-price.³ We also know of a nun (*nadītu*) who adopted a girl from both her parents for five shekels of silver with this condition attached,

She shall treat her well and give her to a husband.⁴

An Old Babylonian contract in which these terms do not occur directly nonetheless concerns an adoption with a view to marriage of a girl called Sabītum. She is described in the first line of the contract as ‘the daughter of Ibbatum’,⁵ at first sight an apparently neutral remark, but significant if we assume that this is the way Ibbatum states that he has adopted her as his daughter. Then the text goes on to say,

He has given her in marriage (*ana aššūti*) to the house of Ilšu-ibni, his *ēmu*, for Warad-kubi, his son.

The word *ēmu* generally means ‘father-in-law’ but here he is clearly someone from the wider family of the future in-laws, giving *ēmu* a broader meaning than ‘father-in-law’. After a list of rudimentary utensils that Ibbatum had given to his daughter to take with her to the house of his *ēmu* we read,

Ten shekels of silver, her bride-price, was given to Ibbatum. He kissed [sic] and bound (it) into the hem of Sabītum, his daughter; it was given back (*tur*) to Warad-kubi.

The familiar stern clauses regarding divorce include throwing the woman into the river, and making the man pay twenty shekels of silver. And then we find an unusual clause,

Emuq-Adad, her father, guarantees her affairs (*awātu*).

I have assumed that this second father was her biological father. He was also the third witness.⁶ We see then that her original family was also still involved with her

³ L. Waterman, BDHP 72 (HG 6 1418); *Studies Skaist*, 139. The bride-price is 3, not 6 shekels.

⁴ CT 47 40; *Studies Skaist* (2012) 142f.

⁵ CT 48 50 with Westbrook, OBML, 122. The emendations by Finkelstein in his translation in ANET (1969) 544b are not necessary.

⁶ Others are of the opinion that this ‘father’ is a kind of guardian. S. Dalley, Iraq 42 (1980) 54, adduces two more examples of such a second father. Her explanation is that the girl had left the parental home at a very young age and needed a ‘mediator’ *loco parentis*, the second father. Westbrook, OBML, 33b, accepts this. However, one comes across the head of the temple of Šamaš

affairs. Another example of this is the father *Sîn-abušū* acting as a witness to the adoption of his daughter *Iltani* as a sister.⁷ Later texts, also from Nuzi, show that a family remained involved in the fate of a daughter who had been given over to someone else out of dire necessity.⁸ Elsewhere and still with the same structure, we find the record of the adoption of a girl who was evidently not so poor (she was a priestess) and there again there are the strict clauses on divorce and the ‘second father’. In more texts it is stated that the (biological) father or mother ‘will be responsible for her obligations and misdoings’.⁹

In the Old Assyrian trade colony of *Kaniš* we see something similar among the native Anatolians. A married couple adopted a girl and their son married her. They were all to live together in the house. But if this was not suitable, then the boy’s parents would have to find accommodation elsewhere for the newly married couple.¹⁰ Here there was no profit motive behind the adoption.

16.2 Nuzi

In the Nuzi texts this sort of adoption with a view to marriage occurs frequently, including the expression ‘adoption as a daughter’ (*mārtūtu*), which we will discuss first.¹¹

16.2.1 Adoption as a daughter

A girl could simply be adopted as a daughter for a payment lower than a bride-price. The payment was made only after her marriage, or even on the birth of her first child. Of course there was always the possibility of marrying her off and all the texts mention the advantages of this. Whenever an adopted girl was married

as the ‘father’ of an adopted court sweeper in the temple (BM 96982, in Seth Richardson, *The collapse of a complex state II* [2000] 233); cf. M. Tanret, *The seal of the sanga* (2010) 66. Was he really a ‘guardian’? More in Chapter 3, note 155.

⁷ In the marriage with two sisters, discussed in Chapter 5.

⁸ K. Grosz, *SCCNH 2* (1987) 148–150.

⁹ CT 48 55 and CT 48 56 rev. 1–2 (here the mother *ana piḫatiša u gulluliša izzaz*); *Studies Skaist*, 143, 159.

¹⁰ AAA 1:8 with K. Jensen, *NABU 1997/75*; V. Donbaz, *NABU 1997/106*.

¹¹ K. Grosz, ‘On some aspects of the adoption of women at Nuzi’, *SCCNH 2* (1987) 131–152; G. Cardascia, ‘L’adoption matrimoniale à Babylone et à Nuzi’, *Revue historique de droit français et étranger* (= *RHD*) 37 (1959) 1–16.

off, the adoptive parent received the standard bride-price of forty shekels of silver. He made a profit, but of course that is not declared in these contracts.

Every case was different and the first example is of a brother who had brought up his sister and was now giving her to P. 'as a daughter' for forty shekels of silver, the usual full bride-price. If he (P.) managed to secure a marriage, he could keep fifteen shekels of the amount and the rest (twenty-five shekels) would go to the brother of the girl. She was old enough to marry and the text says that she must be married off to a 'citizen from the land of Arrapha'. Did this mean that she kept the status of a free woman? Some think that it was an attempt to marry off the girl within a higher social class, and that the mediation of P. was desired for this purpose.¹² P. is called the *ḥatānu*, 'father-in-law'.

Often it is clear that the parents of the girl were poor; in a number of cases we see that they are in a dependent position in relation to the adoptive 'parent'. The following stipulations are a stark example of this. The woman T., the daughter of an important man in the palace of Nuzi, adopted S. as her daughter.

If T. wishes, she can give her to a slave and if she wishes, give her to a ... (*taluḥlu*) and if T. also wishes, S. must work as a prostitute. And as long as T. lives, she must maintain her. Even if ten husbands of hers die, T. may marry her off to an eleventh man. If S. breaks this contract and leaves the house of T., she must pay two minas of gold.¹³

A well-known example is the case of the three contracts of Akkul-enni on behalf of his sisters.¹⁴ The first contract says that sister B. was given by her brother Akkul-enni 'as a sister' to H. The second text consists of two parts. The first is a marriage contract between B. and the man H. under normal conditions, organised by Akkul-enni. In this one H. paid the first part of the bride-price, an ox and ten shekels of silver, and the girl received a dowry (*mulūgu*) from her brother. In the second part Akkul-enni gave the other sister K. as a 'daughter' to H. who had to find a husband for her later (she could not become a slave). After intercourse with B., H. had to pay twenty shekels of silver, either in silver or in goods to this value. We assume that this family had run into difficulties after the death of the father, which led to these forced marriages. The third text is a surprise. It is a declaration before the 'elders' about what had happened. Akkul-enni had given the same sister B. in marriage to the same man, H. and received the full bride-price, forty shekels of silver. B. declared that she had been agreeable to this. H. declared

¹² B. Lion, SCCNH 11 (2001) 40, 154–156 no. 39.

¹³ AASOR 16 23 with TUAT NF 1 (2004) 60 f.

¹⁴ HSS 5 69, 80, 25 with E. A. Speiser, *New Kirkuk documents relating to family laws* (= AASOR 10) (1930) 59–62; B. Lion, SCCNH 10 (1999) 321, 324.

that he had no claims on sister K. And we read that this happened ‘after being released from debt’. How this all developed is difficult to evaluate, but it seems that in any case everything had turned out well for the family. This was thanks to the intervention of the king with the general pardon from debt.

Once a woman married a man and brought her daughter with her, and the man adopted her as his ‘daughter’.¹⁵ The woman was bringing with her to the marriage a daughter she herself had adopted and reared. Her husband was completely not involved in this and the wife had the right ‘to give the girl to a husband, wherever she thought fit’. If her husband wanted a divorce, the woman would ‘take the hand of her daughter and leave’. However if she wanted a divorce, then ‘he would not give her daughter to her’. He appears to have had authority over her adopted daughter. We could suppose that rearing the girl was a planned investment by the mother, or she may have been a kindly woman who adopted an orphan out of compassion.

All this material leads us to suppose that adopting ‘as a daughter’ concerned under-age girls. This was certain in the case of a baby ‘from the mother’s breast’ who was adopted ‘as a daughter’. The requirement was that the man would rear her and marry her off and ‘he would receive her silver’. That referred to the bride-price. In a second document about the same baby the biological father declared that his wife had breast-fed the child and that he had received payment from the new ‘father’ for her services as a wet-nurse.¹⁶

16.2.2 Adoption as a daughter and bride

The genuine *adoption matrimoniale* occurs when a girl is adopted ‘as a daughter and a bride’ (*mārtūtu u kallūtu*).¹⁷ For this we find a few examples in the Old Babylonian period.¹⁸ Perhaps it applied only to girls who were already of marriageable age. In these transactions, according to the Nuzi texts, the full bride-price was paid, and paid directly. Only in a few cases was this paid in instalments

¹⁵ AASOR 16 55 with Grosz, 138. For a similar arrangement in an Old Babylonian text see VAS 18 114.

¹⁶ D. Justel, NABU 2010/83 (on HSS 19 134 and 86).

¹⁷ Cardascia, ‘L’adoption matrimoniale à Babylone et à Nuzi’ (see note 11); Westbrook, OBML, 38 f. C. Zaccagnini in: R. Westbrook, *A history of Ancient Near Eastern law I* (2003) 588 n. 73, sees no difference between this and the adoption as a sister.

¹⁸ Westbrook, 38 f. More OB texts are S.D. Simmons, JCS 15 (1961) 56 no. 131 (= YOS 14 121); YBC 10873 in Riens de Boer, *Amorites in the early Old Babylonian period* (2014) 458 f., Appendix, no. 7.

or at a later date.¹⁹ It is striking that here the woman was generally destined to marry a slave and the contracts sometimes stipulated that the woman should remain free. As soon as the slave died, she had to marry another one. The intention was in this way to have the woman as a constant worker. These adoptions were not entered into enthusiastically by parents or guardians. A woman at court adopted a girl as a daughter and bride.

She may give her wherever she wishes: be it in marriage to her son, be it to her second son, be it in a marriage in the gate [= city quarter?], (...) but not in marriage to a slave.²⁰

The archive of a rich man named Wullu shows that he was someone who procured young girls. The brother of one of these girls, who denied that there had been an adoption, brought a lawsuit against him but was proved wrong. Wullu kept this text in his archive as proof of his innocence. Witnesses confirmed that the arrangement had been made between the girl's father, M., and Wullu.

In our presence M. (the father) gave the daughter A. as an adoptive daughter to Wullu. And in our presence M. said to Wullu: 'You may give my daughter A. in marriage to your son or anyone else in the area, and you can keep the silver'.

Wullu knew how to bring this poor family more and more into his clutches, and later the same brother would insult the son of Wullu by shouting at him 'You are a leper!', an insult that was not accepted and which brought more blame on the brother.²¹

The practice is clearly evident in a Neo-Assyrian text where a girl just 100 cm. (four and a half cubits) tall, was more or less sold by her father 'as a bride'. The editor of the text thought that she was probably intended to be the bride for his son.²² This is only one of many more agreements of this type.²³

19 Grosz, 145 (three cases). Cardascia, 6f., stresses the importance of partial payments, an argument for his theory of an 'alternative levirate'.

20 HSS 9 145 with E. Cassin, *L'adoption à Nuzi* (1938) 312ff.

21 C. J. Gadd, RA 23 (1926) 151, 148 nos. 35, 28; B. Lion in: F. Joannès, *Rendre la justice en Mésopotamie* (2000) 148–150.

22 CTN 2 219 with J. N. Postgate, Iraq 41 (1979) 96.

23 K. Radner, 'Verkauf von Mädchen in die Ehe', 'Verkauf von Verwandten in die Ehe', *Die neuassyrischen Privatrechtsurkunden* (1997) 143f., 167f.

16.2.3 Adoption as a sister

The ‘sistership contracts’ from Nuzi are a special case.²⁴ In them men adopted women as ‘sisters’ and married them off. P. Koschaker and others used these texts as an argument for the existence of a fratriarchy and held that in this Hurrian society the brother appears to have been in charge. But now it has been shown that these contracts cannot be used as an argument for this. What was the reason for entering these contracts? It was about trading with the right to marry off a woman and so having the right to the bride-price. That privilege was transferred by her natural brother to someone else, who adopted her as a ‘sister’, and a woman might well pass in this way a few times from one ‘brother’ to another. A biological brother would receive in this arrangement a quantity of barley (two homers, two seahs) and his sister would declare that she was whole-heartedly in agreement.²⁵ Brother and sister would have had to be in great difficulties to take this step. As long as the ‘sister’ was not married, her contribution as regards work was valued. It could also be a freed slave-girl or a woman ‘on the street’ who was treated in this way. Clearly these women had a very low social status.²⁶

From the Old Babylonian period there is a similar case. A girl with the name ‘Where is my father?’ was transferred by her father (!) and mother for a payment of five shekels of silver as a bride-price to a woman ‘to be her sister’. She must have been an orphan who had first been adopted by this couple (the ‘father’ and ‘mother’) and was now being used as a bargaining tool. The woman adopting her gave her directly to her husband as his second wife.²⁷

²⁴ B. Eichler, ‘Another look at the Nuzi sistership contracts’, *Essays J.J. Finkelstein* (1977) 45–59.

²⁵ HSS 19 68 with TUAT NF 1 (2004) 61.

²⁶ S. Greengus, HUCA 46 (1975) 15–22; B. Eichler, *Studies Å. W. Sjöberg* (1989) 112f.

²⁷ BIN 7 173 with F. R. Kraus, JCS 3 (1951) 113–115; M. Stol, *Studies A. Skaist* (2012) 145. Very similar is UET 5 87 with Westbrook, OBML, 103b, 133. We mentioned his text in Chapter 5, notes 26, 30.