

Marriage as a Path to Freedom for Enslaved Women in the Middle Byzantine Period, 726-1024

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Premise: Late Roman legal tradition positioned marriage as a path to freedom for enslaved women in intimate relationships with free men.

Argument: Enslaved women in the Middle Byzantine period (726-1024) understood how marriage with a free man might alter their fortunes and protect their interests. They strove to improve their circumstances by acting on knowledge of their sexual value and legal standing, despite numerous obstacles and the risks of failure.

'In the absence of written records, enslaved women's experiences get reduced to the sensate, all rape and blood and birth trauma and breasts. What becomes unthinkable is the possibility of critical, intelligent, strategic assessments of, and responses to, the violent structures of value and commerce in which they were embedded.'

Jennifer L. Morgan, "Partus Sequitur Ventrem: Law, Race, and Reproduction in Colonial Slavery," *Small Axe* 22, no. 55 (2018): 17.

Enslaved women in early medieval Byzantium commonly engaged in '**critical, intelligent, and strategic assessment**' of their sexual and economic value and their relationship to the law.

Marriage...

...was considered, by society and the law, the **first pivotal moment in a woman's life**, with childbearing a close second.

...is often the **turning point in narrative sources** when women, both free and enslaved, make their first or most consequential appearance.

...offered a **change in social position** to free women, while for enslaved women it could also offer a specific **transformation of legal status** from unfree to free.

...between a free man and an enslaved woman was legal **only if she was first freed**.

...came increasingly under the **purview of the Church** from the 4th to the 12th century, by which point ecclesiastical law mandated that marriage, including between slaves, was only legal if presided over by a cleric.

...was indissoluble according to ecclesiastical law, meaning married Christian slaves could **no longer be separated by sale**.

Anonyma 12128

Married to the *protospatharios* (high ranking imperial official) Kamelaukas, after he freed her; he granted their daughter a dowry, which was challenged by his son.

‘Simultaneously with the establishment of the dowry contract [for the mother], both **the right of liberty and that of legitimacy apply [to the children]**, whereby we do not demand that the children be released individually... but we grant them freedom at the same time as the marriage contracts are drawn up.’

Peira 49.25

A collection of decisions by the jurist Eustathios Rhomaios from court cases in eleventh-century Constantinople.

Anonyma 32

‘Together [the instigators of the plot] wrote a report in which they included their slanders against Saint Stephen as follows: ... “And,” they said, “that he has committed perversions with a woman of high birth. He tonsured her and put her in the convent below, and she goes up the mountain at night to engage in a passionate and sinful commerce with him.” ... Having lured away her slave and **committed to liberating her and marrying her to someone from the palace**, they coached her to speak out against her mistress and the saint as they desired.’

VSJ §32.

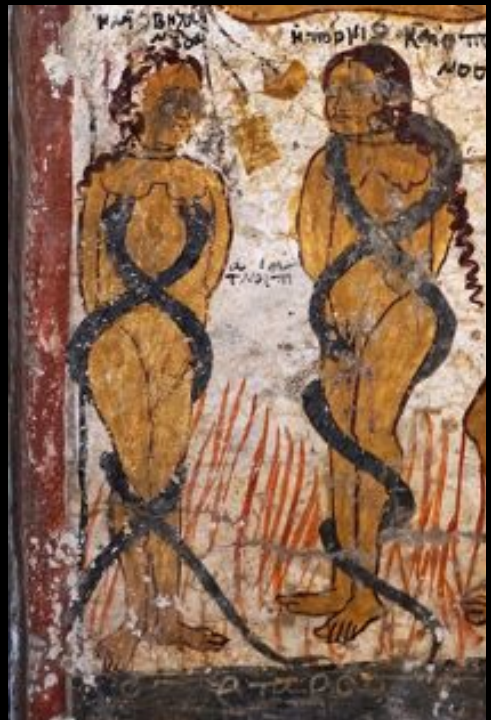
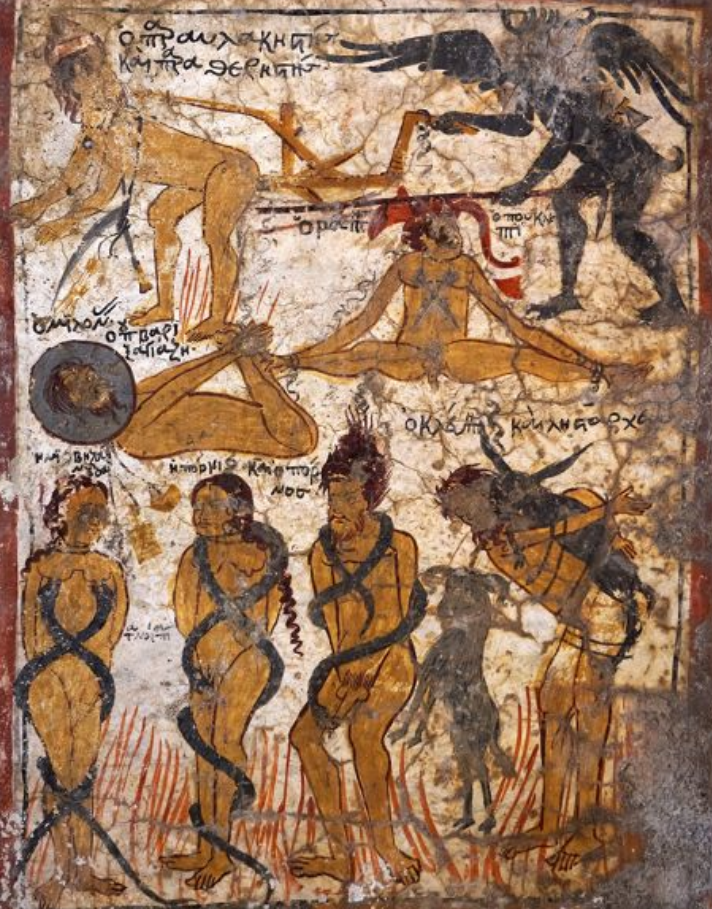
‘The tyrant placed in front of Anna her deceitful slave so that she might confess before everyone, as he himself had coached her: and she convicted Anna under oath, **raising her hand against her mistress** and drenching her face with spittle.’

VSJ §36.

Vita Stephani Iunioris, Stephanus Diaconus, 806 - 809.

What became of the deceitful slave, about whom I have already written, who was instructed by those impious men, who slandered and accused her mistress and the saint, because she had **received from them promises to be freed and even to be married to someone from the palace**? How she finished her life in a terrible and very odious death must not be abandoned to silence. How, in fact, after the victorious death of her mistress, after this unbearable flagellation, and after the achievement of martyrdom by the saint, **she didn't receive any of the things that had been promised to her**, she returned to the [plotters], saying: 'If you do not keep your promises that you made to me, I will announce, in the middle of the city, your villainies and the insults done to the saint!' Embarrassed, after having deliberated, **they married her to a notary**, and, the moment of birth having come around, this new snake brought into the world two children.

After a certain while, abandoned by her husband, while she was alone sleeping between her children, around midnight, the babies, taken by a fit of madness, woke up and grabbed both her breasts. These snake's-children devoured them, and so it was, once daylight came, that **they found the mother and her babies dead**, still holding between their teeth the bloody flesh of her breasts. It is while suffering this miserable punishment that the deceitful slave and accuser of the saint ceased to live in this terrible manner, abandoned to eternal punishment



Church of Saint Paraskevi, Kitiros (Selino), Chania, 1372/3, wall painting (west wall): top to bottom and left to right: Ploughs over the boundary line; Tailor; Miller; **Woman who does not breastfeed her children**; Fornicator (female); Fornicator (male); Goat thief.

Zoe

An enslaved woman named in the will of the *protospatharios* Eustathios Boilas.

The will was copied on 4 April 1095, on the last folios of the manuscript BN Coislín 263, by a priest of the Church of the Theotokos, founded by Boilas in the rural province east of Constantinople where he possessed an estate.

‘I do not see how my slave Zoe, whom I bought for **four hundred nomismata**, has gone by unmentioned. Even if in the **codicil of her freedom** she is subject again to the yoke of slavery [εἰ τάχα καὶ ἐν τῷ κωδικέλῳ τῆς ἐλευθερίας αὐτῆς περιέχει ὑποπίπτειν αὐτὴν πάλιν τὸν τῆς δουλείας ζυγόν] if she should break a covenant before God, and **she even gave herself away to a man against my will** [παρὰ γνώμην ἐμὴν ἀνδρὶ ἑαυτὴν ἐξέδοτο], I want her to **remain free** and be completely free with her children.’

Lemerle, *Cinq études sur le XIe siècle byzantin*, 28, lines 248-253.

Conclusion: The Marriage Window

What sets enslaved women apart when they appear at the moment of marriage?

For enslaved women, marriage had the added value of offering a path to legal freedom, so that the 'window' of marriage also enables us to see enslaved women engaging in 'critical, intelligent, strategic responses' to the constraints and rare opportunities afforded by the law.