

Infidelity in Medieval Christian Bulgaria

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Abstract

In medieval Bulgaria, the infringement of marital fidelity was a matter of great concern both for the Church and the secular lawmakers. Based on the information from law codes, canon law collections, apocrypha etc., the paper aims at revealing and analysing the attitude of state, Church and society toward marital infidelity.

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1. Introduction

In medieval Bulgaria, the problem of marital fidelity was of great concern both for the Church that proceeded from the Christian moral and ethical views on marriage, and for the secular lawmakers who defended the solidity of conjugal union and the legitimacy of offspring.

Valuable information about the attitudes of the state, the Church, and the society towards the problem of extramarital sexual relations could be found in medieval collections of secular and canon law like Zakona soudnay lyudyma [the Law for Suing People] [1], the Slavic Ecloga [2], the Slavic Sintagma [3], and also in sources like the Synodicus of Tsar Boril [4], answers and epistles of Demetrius Chomatianus – a Byzantine writer, canonist and Achris (Ohrid) archbishop (1215-1235), one of the greatest authorities on canon law at the beginning of 13th c., and in apocrypha.

Unfortunately, only a few sources have come to us that contain information about the public attitudes towards marital infidelity and court proceedings in matrimonial cases. This makes the task of researchers particularly difficult.

In medieval texts, **two terms are used most frequently for denoting extramarital sexual relations – “adultery” and “fornication”**. Both mean sinful, intolerable, illicit sexual relations [5].

It was the Church that initially defined the acts that constituted the connotation of the terms in question, that is why the theological works and canon law had priority in determining their character while secular law was only a reflection of the ecclesiastical stand on that matter. [6, p. 206]

Several cases of illicit sexual relations are an object of provisions in the Law for Slavic People (LSP) [7].

The sexual relations between a man and a married woman are not explicitly defined as adultery [7, chapter VII]. In this case, only the marital status of the woman is mentioned in the code and the fact that she is married is a sufficient condition for the act to be defined as felonious.

The secular and the canon regulations make provisions for severe punishments for both the adulterer and the adulteress: cutting of their noses and fast on bread and water for 15 years where during the first 5 years they were allowed to listen to the mass outside the church, during the following 4 years they could stay inside the church but only to the Holy Gospel, 3 more years they could be present at the mass till the Creed in the Undivided God, and during the last 3 they could listen to the whole mass inside the church but still without receiving the Holy Communion [7, chapter VII].

LSP provides for the same severe and disgracing corporal punishment – cutting of the nose – in case of carnal relations with a betrothed virgin even if it was done with her consent. The law has not defined the character of the act and has not specified the marital status of the perpetrator [7, chapter XI]. As far as the church punishment is concerned, it is not as severe as that for sexual relations with a married woman and for the perpetrator it is cutting of the nose and, according to the canon regulations – fasting on bread and water for 7 years: during the first 2 years he could listen to the mass outside the church; during the following 2 years he was allowed to stay inside till the reading of the Holy Gospel; 2 more years he could be present at the mass till the Creed in the Undivided God; and during the seventh year he could listen to the whole mass but without receiving the Holy Communion [7, chapters IV, X].

The betrothed girl is not mentioned as a perpetrator and LSP does not provide for any punishment for her though it is presumed in the code that she could be a willing party in the act. In such a case, she should share the guilt with the man. Maybe exactly because the lawmakers were influenced by the fact that the sexual act could have been committed by mutual consent, as V. Ganev notes, they did not make provisions for material compensation for the girl claimant and did not allow the possibility of favouring her with the property of the guilty man [7, p. 374].

LSP makes provision for punishments for forbidden sexual relations of a man with a girl or unfree woman. With the exception of one case of all the treated in the code, the marital status of the man perpetrator is not explicitly defined, i.e., for the lawmakers it was not important whether he was married or not. Since chapter VIII of the code treats a case of raping a virgin girl by a man, who obviously is not married [8], it could be assumed that in all the rest similar cases the perpetrator could cohabit in a lawful marriage.

As acts liable to punishment the code defines a coercive sexual intercourse with a virgin and with a growing up young girl, as well as the sexual relations between a married man and a slave woman with bad reputation, and the fornication of a man with somebody else's slave woman [7, chapter V].

In the first two cases, the law provides for a much severe punishment. The man, who had raped a virgin in a deserted place where nobody could help her, had to be sold as slave and his property had to be given to the girl as compensation. The ecclesiastical punishment is the penance for a period of 7 years. If the victim was a growing up young girl then the culprit had to be sold together with his property and the equivalence had to be given to the girl. According to the ecclesiastical regulations, he had to serve the already mentioned penance for a period of 7 years [7, chapter X].

In the case of illicit sexual relations of a man with a slave woman with bad reputation, the perpetrator is referred to as fornicator. Probably because of the bad name of the slave woman, the man, whose marital status is explicitly mentioned this time, had to serve only the already mentioned 7 years' penance without receiving the Holy Communion. In this case, the sufficient condition for the criminal nature of the act is the married status of the perpetrator.

The woman herself had to be sold in distant lands and the money had to be given to the poor [7, chapter IV]. The fornicator from the last case had to serve the same ecclesiastical punishment of 7 years' penance but he had also to pay to the master of the slave woman compensation whose amount depended on his property status [7, chapter IX].

The analysis of the texts from the short version of LSP shows that although the lawmakers had not always explicitly defined the illicit sexual relations respectively as adultery or fornication, they distinguished them and made provisions in the code for punishments different in their degree of severity.

According to both secular and ecclesiastical regulations more heavily were punished a man and a married woman who had carnal relations as well as a man that had sexual intercourse with someone else's fiancée. Hence, according to the law, whether married or not, a woman that had entered into sexual relations with a man, no matter what was his marital status, was considered an adulteress while a man that had allowed himself such sexual relations was declared adulterer only if he had infringed the honour and the interests of another man – a husband or a fiancé. But if the sexual partner of a married man was unmarried woman, both the secular and the church authorities imposed on him a much lighter punishment.

In the Slavic Ecloga (SE), a man and a married woman that had sexual intercourse are explicitly named “adulterers” and the only punishment that they had to suffer was cutting of their noses [9, pericope 16, chapter 9]. In the same way had to be punished a man that had raped somebody else's fiancée [9, pericope 16, chapter 11].

In contrast to LSP there are provisions in the SE for consequences for the marriage of a woman exposed as an adulteress: after having her nose cut she had to leave her husband and was allowed to take with her only her dowry and things that she had brought to her husband's home [9, pericope 16, chapter 9]. It is explicitly pointed out in the SE that the adulterous behaviour of the wife, called “fornication” in the text, was proper ground for divorce in favour of the husband [9, pericope 2, chapter 9]. On the other hand, the wife of an adulterer did not have the right to plead for divorce on the ground of her husband's misbehaviour. She could not turn him out of their home because, as it is enacted by the law, he should not be separated from her though having his nose cut [9, pericope 16, chapter 9].

As far as court procedures were concerned, the compilers of the SE saw to it that women were fairly tried having been charged with adultery. They required the presence of reliable witnesses in the person of the husband, the mother, the brothers or the sisters if the accused. If the witnesses failed to prove the woman's guilt, they themselves had to suffer the punishment provided by the law for the adulterers [9, pericope 16, chapter 9].

In contrast to LSP, a provision is made in the SE that a man who had raped a virgin (no matter where the act had taken place or whether the girl had been betrothed or not) had to be punished by the cutting of his nose [9, pericope 16, chapter 10]. In this way, the compilers make equal in heaviness the punishments for two types of illicit sexual relations: the adulterous sexual intercourse of a man with a married woman and the raping of a virgin probably because of the serious infringement of the interests of the latter and her parents since what she had suffered considerably lessened her chances to contract a beneficial marriage. The sexual relations of a man with somebody else's woman slave are explicitly qualified as "fornication" in the SE. But in this case, the perpetrator, if he was a man of means, had only to pay compensation to the master of the woman to the amount of 36 gold pieces (zlatniks) [10]. And if he was poor, he had to be beaten and to pay compensation conforming to his property status.

Thus, both according to LSP and the SE the extramarital sexual relations of a married man with a married woman or with a betrothed virgin girl were punished as adultery while the illicit sexual intercourse of such a man with unfree women were treated only as fornication. In the first two cases, there are no provisions in the laws for any consequences for the marriage of the perpetrator. But in contrast to LSP there is a provision in the SE for the most severe punishment – cutting of the nose, for a man that had taken the virginity of a girl, and in addition it is provided in the law that an adulteress should be driven out of her husband's home so definitely there were consequences for her marriage.

The problem of illicit extramarital sexual relations is discussed in a most profound, many-sided and well-grounded manner from a canonical point of view in the Slavic Sintagma (SS).

In it, adultery is qualified as "damage" caused to another's union, as an offence against somebody else [11, Letter M, chapter 14]. A man is qualified adulterer if he: had sexual intercourse with a married woman [11, Letter G, chapter 15; Letter M, chapter 14]; married a woman whose previous marriage had not been properly dissolved [11, Letter G, chapter 13]; groundlessly abandoned his wedded wife for taking another wife or for sexual relations with another woman as if in marriage [11, Letter G, chapter 15]; brought home a second wife without divorcing the first one [Letter M, chapter 14]; married a woman while still engaged to another (but only if the betrothal was formal, not only a stipulation) [11, Letter G, chapter 15]; married somebody else's fiancée while her fiancé was still alive [11, Letter G, chapter 15]; had sexual relations with somebody else's fiancée [11, Letter G, chapter 15]; raped a girl promised to somebody else [11, Letter G, chapter 15]. According to the compiler of the code, who has cited a law by the Emperor Alexios Komnenos, "the betrothal is almost equivalent to a marriage because it is completed by a sacred prayer".

It is clearly said in the SS, that a man could not be charged with adultery if he had sinned with an unmarried woman. Neither was an adulterer a man that had sexual intercourse with the wife of his slave [11, Letter G, chapter 15; Letter M, chapter 14].

A woman is qualified adulteress if she: being somebody's wife or fiancée entered into sexual relations with another man [11, Letter G, chapter 15; Letter M, chapter 14]; groundlessly abandoned her husband [11, Letter G, chapter 15]; cohabited with a man who had abandoned his lawfully wedded wife [11, Letter G, chapter 15].

Only in two cases – if a husband had groundlessly abandoned his wedded wife for taking another wife or for sexual relations with another woman, and if a man married somebody else’s fiancée while her fiancé was still alive, the compiler of the SS specifies the punishment as one for adulterers: fasting on bread and water for 7 years and for 15 years [11, Letter G, chapter 15] though all the above mentioned inadmissible acts are defined as adultery and the punishment for them should be one and the same and the most severe ones at that.

On specifying the punishment for adultery, the compiler of the SS has based himself on church authorities who did not share a common opinion on the matter. According to the secular regulations the already mentioned disgracing corporal punishment – cutting of the nose had to be imposed, to which cutting of the hair was added [11, Letter M, chapter 14].

The ecclesiastical regulations are quite contradictory: according to St. Gregory of Nyssa (ca.331/339-ca.394) the wrong committed by the adulterers had to be punished with 18 years of penance [11, Letter M, chapter 14]. St. Basil the Great (ca. 329-379) recommended 15 years of penance [11, Letter M, chapter 14]. The 20th rule of the Council of Ancyra (AD 314) reads that the period of penance had to last only 7 years [11, Letter G, chapter 15].

So, in the Slavic Sintagma, on the one side, a tendency could be traced showing that all sexual relations forbidden for those living in marriage or betrothed are defined as “adultery” both for men and women. But, on the other hand, the compiler had come across the difference of the opinions of the church authorities on the heaviness of the punishment for such behaviour. He also could not ignore the tradition commanding that married women should be punished more severely for their adulterous contacts than the married men. That’s why the question was left open and the judgement in each particular case was left to the conscience of the judges.

Like in the SE, provisions are made in the SS to assure that an adulteress would be fairly tried, in the presence of five reliable witnesses in the person of her husband, her father, her brother, and her paternal and maternal uncles [11, Letter M, chapter 14]. But in contrast to LSP and the SE, the SS rules that the husband of an adulteress had the right to kill the adulterer, without being liable to punishment, if he had caught him in the act in his home and if the latter was dishonest, i.e. if he was a person of low social standing. The code forbids the husband to kill his unfaithful wife [11, Letter M, chapter 14].

There are no provisions in the SS for consequences for the marriage of the adulterer. His wife had to continue to live with him in spite of his adulterous behaviour [11, Letter G, chapter 15], but he is liable to property sanctions: his lawfully wedded wife could keep her dowry and marriage gifts while the rest of his property had to be divided between his relatives in the ascending and the descending line to the third degree [11, Letter M, chapter 14]. The adulterer was forbidden to marry the woman with whom he had committed adultery [11, Letter M, chapter 14].

Just like in the SE, there are provisions in the SS for consequences for the marriage of an adulteress. After having suffered her corporal punishment she had to be shut in a convent and if in the course of two years her husband had not come to take her back home, she had to be ordained as nun (but not forcibly) [11, Letter M, chapter 14]. The code explicitly rules that the husband should not be forced to take his adulterous wife back [11, Letter G, chapter 13 and 15] and that he had the right to divorce her [11, Letter G, chapter 13].

There is even a text in the SS, which rules that if a husband does not divorce his adulterous wife, he is a procurer [11, Letter M, chapter 14]. After the divorce the husband of the adulteress could keep her dowry and marriage gifts, and part of her other property equal to 1/3 of her dowry if the couple did not have children; if there were children born in the marriage, all that property had to go to them. The rest of the possessions of the woman had to be divided between the monastery in which she had retired and her children or, if she did not have children – between the

monastery and her parents and close relatives [11, Letter M, chapter 14]. The adulteress also could not marry her partner in the adultery and if she chose to stay with him her sin could not be pardoned [11, Letter M, chapter 14].

Fornication is qualified in the SS as illicit voluptuousness, as indulging in lust with someone but without insulting a third party [11, Letter M, chapter 14]. According to texts in the SS a fornicator was a man that had sexual relations with somebody else's fiancée but without suspecting her being betrothed [11, Letter G, chapter 15] as well as the one that had sinned with an unmarried woman [11, Letter G, chapter 15; Letter M, chapter 14]. It is enacted in the SS that a raped or an abducted and raped woman, and a married slave woman raped by her master should not be accused of fornication [11, Letter M, chapter 14; Letter P, chapter 15].

The church authorities cited in the SS did not share a common opinion on the greatness and the heaviness of the punishment for fornication. St. Gregory of Nyssa ordered 9 years of penance for the fornicators [11, Letter M, chapter 14; Letter P, chapter 15]; for St Basil the Great 7 years of penance were quite enough [11, Letter P, chapter 15].

Just like with adultery, there are no provisions in the SS for consequences for the marriage of a fornicator: the wife of a fornicator had to live with her unfaithful husband [11, Letter G, chapter 15].

The compilers of the SS, like those of LSP and the SE made difference between adultery and fornication and imposed for them punishments different in heaviness. In spite of the endeavour to define as adultery all the illicit sexual relations of the married and betrothed men and women, still in the SS different attitude is demonstrated towards the representatives of the two sexes: while a woman that had indulged in illicit sexual relations was considered adulteress no matter the marital status of the man with whom she had sinned, it is explicitly enacted that a man was an adulterer only if he had sexual intercourse with someone else's wife or fiancée [11, Letter G, chapter 15]. As it has already been pointed out, there are no provisions in the SS for consequences for the marriage of an adulterer or a fornicator, while a woman that had committed the same sin could be banished from her home, sent to a monastery, and could lose her property in addition to the punishment that adulterers had to suffer.

The lack of sources from the epoch makes almost impossible the careful study of the problem of the enforcement of the analysed legal regulations and canonical rules in practice.

In the medieval Bulgarian apocrypha, an extremely negative attitude is demonstrated towards adultery. In “A Vision of the Holy Apostle Paul Who Was Ascended to the Third Heaven” [13] women “that have given themselves not to their husbands but for fornication and the same have done the men ”will be severely punished after their death – they will be suspended by their eyebrows and hairs and will be pulled with iron hooks [12, p. 234, 39].

In “Epistle for Sunday” [14] among those deserving to be pitied are “those who indulge in sin with other men's wives or the women with other women's husbands..., and desecrate their bodies, and fall off the holy baptism!” [12, p. 270, 8].

These two texts show equally negative attitude towards adulterers and adulteresses at least as far as the burden of their sin and their destiny beyond death are concerned.

There is interesting information about a divorce case in an epistle of the archbishop of Ohrid Demetrius Chomatianus [15]. A certain Dimitar brought an action against his wife Krasna accusing her of adultery. He produced proofs – after great efforts, he caught her in the act. Witnesses were summoned and they confirmed that they knew about Krasna's adultery but only "from hearsay". The adulteress herself admitted her guilt before the court. The judges allowed the divorce and adjudged that Krasna should enter a convent and take the veil unless within the time ordered by the court her husband would take her back home.

This case is an example of exact enforcement of the law. But the legal practice was probably highly varied and perhaps the judges often had to consult both secular law and church canon.

An interesting case of "enforcement" of the law was the second marriage of Tsar Ivan Alexandar. He was deeply in love with a young Jewish woman. After long and tormenting hesitation, the Tsar divorced his first wife Theodora, who was forced to take the veil, and married his love who was converted to Christianity and took the name Theodora.

Notwithstanding the church canon according to which the groundless abandoning of a wedded wife for the purpose of taking another was adultery, the Church without any objections annulled the first marriage of the tsar [16].

The name of the second Tsaritsa – Theodora, has been preserved for the generations in the Synodicus of Tsar Boril in which it has been written: "To Theodora, the pious tsaritsa of the great Tsar Ioan Alexandar who, though of a Jewish kin, received the holy baptism and preserved incorrupt the pious faith and restored many churches, and erected many monasteries, and was the mother of the great Tsar Ioan Shishman – may her memory live for ever" [17, pp. 84, 123].

2. Conclusions

The analysis of the sources calls for the conclusion that:

The infringement of marital fidelity was severely punished in medieval Bulgaria both by the ecclesiastical and the secular authorities.

In spite of the tendency established in the 14th c. in some ecclesiastical circles that all extramarital sexual relations should be qualified equally condemnable both for men and women, still the traditional distinction between two types of infidelity – adultery and fornication, was preserved.

Punishments varying in heaviness were inflicted for these felonies – the most severe secular and ecclesiastical punishments were provided for a man and a married woman that have entered into sexual relations and for a man that had sexual intercourse with somebody else's fiancée.

The practice was also kept according to which each infringement of marital fidelity on the side of the wife was qualified as adultery while a married man who had indulged in illicit sexual relations was considered an adulterer only if his partner was married or engaged or in other words if he had deprived of honour and infringed on the interests of another man – a husband or a fiancé; otherwise he was just a fornicator deserving much lighter punishment.

The laws did not provide for any consequences for the marriage of an adulterer or a fornicator but the adulteress could be turned out of her home and her husband had the right to divorce her.

The likely considerations of lawmakers and canonists to place men and women in such unequal situation from modern point of view probably ensued from the understanding that the infidelity of the wife directly threatened the legitimacy of offspring. But the daily round of the medieval Bulgarian family was probably full of examples of breaking the laws and the Christian moral standards. This in the utmost degree applied to the married life of the rulers and the aristocracy.

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7. The texts from the short version of *Zakona soudnay lyudyma* are cited after Ganev, V. (1959). *Zakona soudnay lyudyma. Pravno-istoricheski i pravno-analitichni prouchvaniya*. Sofiya: BAN (in Bulgarian).

8. In case of reconciliation between the perpetrator and the victim, and with the consent of her parents, it is provided in LSP that the two could contract a marriage [7, chapter VIII].

9. The texts from the Slavic *Ecloga* are cited after Ganev, V. (1959). *Zakona soudnay lyudyma. Pravno-istoricheski i pravno-analitichni prouchvaniya*. Sofiya: BAN (in Bulgarian). See the text of the Slavic *Ecloga* also in Bobchev, S. S. (1903). *Starobalgarski pravni pametnitsi*. T. 1: *Istoriko-yuridicheski belezhki*. Sofiya: Pechatnitsa P. M. Bezaytov, p. 118 et seqq. (in Bulgarian). SE does not provide for ecclesiastical punishments for the various sinful acts.

10. *Zlatnik* was a gold coin weighing 4,2 g, which was minted in Kievan Rus at the end of the 10th – the beginning of the 11th century.

11. The texts from the Slavic *Sintagma* are cited after *Alfavitnaya sintagma Matfeya Vlastarya*. Moskva, 1892. *Perevod s grecheskogo svyasht. Nikolaya Ilyinskogo Reprint (s perenaborom)*. Moskva, 1996.

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TAG: *adultery, infidelity, proceedings*

Avvertenza

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