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ADOPTION IN ROMAN EMPIRE

The plight of abandoned children in ancient culture is a plight that reaches to the depths of practical Christian living. Adoptions in Roman Empire were conducted in much different ways than we do now and not always in the interests of children. We have to take into account that adopting complete strangers was rare in Roman society, and adoptees were usually chosen from among close relatives and friends' children. Secondly, adopting slaves should be distinguished from adopting freeborn children in Roman social practice and law. Thirdly, adoption in the presence of a legitimate heir was also regarded as unusual in Roman society.

The reasons for adoption during the Roman Empire were different than today. While contemporary adoption is aimed at placing a child in a loving family, Roman adoption aimed at providing a suitable male heir to become the new *pater familias* when the family patriarch died. If a man had no sons, adoption was a common solution among the noble orders of senators and equestrians. How common it was among the lower classes is harder to determine [1].

One of the strengths of Roman adoption was its complete acceptance of the adoptee. Once a child had been adopted, everything from their past was erased. While they still had a blood connection with their former parents, the legal and familial ties to them were entirely severed. An adoptee in Roman society was endowed with all of the rights, privileges, and responsibilities of his new family just as though he was a natural born son. The adoptee was expected to respect and honor his new parents just as though they were his real parents.

The actual procedure of adoption required that the subjects involved submit to an investigation by a college of pontiffs. Questions about a variety of subjects were typically asked during these inquiries. Questions about health, age and motive were to be expected. Once this had been done and the necessary approval had been granted for the adoption to continue, it was then subjected to the approval of a curate assembly. If approval was granted, then the adoption was the considered as legally binding and all the rights adoption then took effect.

The main idea of Adoption was to enable the testator to select the heir from outside the family and created a new legal heir. In the Roman era, it was also possible to designate the heir, but adoption was one of the main vehicles to determine

inheritance for the infertile family. Adoptions can be done in two ways, by writ from the emperor or application to a magistrate [1].

There were two kinds of adoption in Roman society: *adrogatio* and *adoptio*. *Adrogatio* was practiced by a legally independent person (*sui iuris*), and *adoptio* was practiced by the legally dependent person (*alienis iuris*), namely, by a son still under his father's power. In the first case, the son who is not his own master (*alieni iuris*) switched from the control of his own *pater familias* to the control of his adoptive *pater familias*.

This process was called adoption. Since the one being adopted owned no property (it all belonged to the *pater familias*), he brought no property with him. If he was older and had children, he left those behind in his original family. In the second case, the man who was *sui iuris* could be a *pater familias* himself, even if he was still a child. When he was adopted, he brought all his property with him into the new family. This process was called *adrogation*. Because his former family essentially ceased to exist when he became a member of the new family, public permission was required for *adrogation*. However, *adoptio* sometimes covers both terminologies [2].

It should be noted that ancient adoption was radically different from the modern institution. It was different in purpose. In most cases, adoption was practiced to designate an heir, especially with regard to the inheritance of an infertile family in Roman society. For slaves, adoption was one of few ways to come into the *patria potestas*. In Roman law, the power to give children in adoption was one of the recognized powers of the *pater familias*. The adopted boy would usually be the oldest, the one with proven health and abilities. Adoption was an expensive agreement for the childless family and quality had to be ensured. Adoption was agreed between families by the mother giving the boy they wanted to adopt (for the most part) equal status, often political allies and/or with blood connections.

One of the important phenomena in adoption was the change of the name of the adopted. The name of a male Roman citizen had three parts: *praenomen* (given name), *nomen* (clan or gens), and *cognomen* (family name). It was customary for an adopted male to replace his original clan and family names with those of his adoptive father. His original clan name was added after the cognomen with the -us ending changed to -anus. For example, if Gaius Cornelius Lentulus was adopted by Titus Livius Drusus, he would become Gaius Livius Drusus Cornelianus.

In the history of the Roman Empire there were a very large number of worthy rulers, whose contribution to the development of the empire was quite significant, but among them were once adopted people, whose adoption was initially political in nature. The tradition of transferring the right to the throne began after the death of Caesar, who had no children. But during his lifetime he adopted Octavian. In 43,

when most of the Romans, who did not forget Caesar's merit in restoring peace to the state, were concerned about the outbreak of civil war. An authoritative speaker and lawyer Cicero helped the young Octavian legitimize the right to be called Caesar's adopted son.

Augustus, the first emperor of the Roman Empire, is possibly the most famous example of adoption in ancient Rome. Born into relative obscurity under the name «Gaius Octavius», he was adopted into the Julii Caesares by testament of his maternal great-uncle, the Roman dictator Julius Caesar. Although Octavius changed his name to «Gaius Julius Caesar,» in accordance with Roman naming practices concerning adoption, he did not use the name «Octavianus» but preferred to emphasize his new status as an official Julian instead of reminding the public of his relatively humble origin as an Octavian.

Nevertheless, after his adoption, historians refer to him as «Octavian» from 44 BC until 27 BC when he obtained the name «Augustus». During the first 200 years of the Empire, adoption became a common practice when the emperor had no suitable son to succeed him. An emperor approaching the end of his life adopted a man whom he expected would rule well. This pattern was initiated by Nerva and continued by Trajan, Hadrian, Antonius Pius, and Marcus Aurelius. It is not surprising that these men, who were selected based on merit instead of bloodline, are regarded as four of the best emperors.

Numerous deaths due to various diseases led to frequent changes of the rulers in the Roman Empire, which could not be a positive factor. In most cases, these were adopted children, it even went so far that they were the children of the ruler's wives, who were not relatives of the current ruler. The transition to the transfer of power by inheritance was the beginning of the decline of the Roman Empire.

The Roman Empire began to decline after the election of Commodus ruler, after the unexpected death of Marcus Aurelius, who was an outstanding statesman. Marcus Aurelius dedicated his life to the organization of various shows. He arranged grandiose gladiatorial battles, increased the salary of the praetorians, and also distributed the Roman crowd, which quickly emptied the treasury. He personally participated in gladiator fights, and considered himself to be similar to Hercules. To replenish the treasury, he began repressions against the nobility, carrying out the confiscation of the property of the repressed. Thereby, the law of Nerva was violated. The Roman Empire began to decline, the time came for the soldiers' emperors, who acted on the basis of the army, not the senate.

In order to understand the differences between the adoption of children during the Roman Empire and our time, we must understand the reasons for adoption at

different times. in the Roman Empire, adoption in most of its cases was political in nature, whereas in modern times people's adoption has a lot of different types.

In most cases in our time, adopted children are once abandoned or once lived in a dysfunctional family. In our time, adoption can be divided into several types, but the closest to Roman time is the option of benefit through adoption. In many cases, in our time, parents adopt children only because of the subsequent benefit (the benefit for adoption is probably the only factor that was present during Roman time, but it is also familiar to us) because after receiving the status of having a large family, they receive a certain amount of money from the state every month, and often this factor affects on the adoption of the child.

The types of adoption that are less close to the Roman times are: the desire to help the child, (as a rule, believing families use this option); the inability to have their own children; when a woman is lonely she makes up her loneliness by adopting a child. There are such situations when parents already have a child, but they want to make their family more full, and they decide to adopt another child; there are also cases of adoption of the child after the death of his own. The most popular in our time is the option of adopting a child for his benefit, to give him an education, to help him live a long and happy life.

ЛІТЕРАТУРА:

1. Hugh Lindsey. «Adoption and Succession in Roman Law»
<http://www.austlii.edu.au/au/journals/NewcLawRw/1998/4.pdf><https://yurincom.com/files/content/RimPravo.pdf>
2. Римское право: краткий курс лекций / О. М. Пашаева. – 2-е изд., перераб. и доп. – М.: Издательство Юрайт, 2013. – 157 с.
http://urss.ru/PDF/add_ru/107911-1.pdf.

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ACQUISITION OF PROPERTY IN ROMAN PRIVATE LAW AND UKRAINIAN CIVIL LEGISLATION

Roman law significantly influenced the subsequent development of the law in different countries and Ukraine is not an exception. Some rights prescribed in Roman law became the basis for the creation of Ukrainian law system.