

Adoption in Ancient Assyria and Babylonia

Dr. Robert Paulissian

The adoption of children has been practiced throughout the history of mankind with its legal, social, and ethical implications. Presently the number of illegitimate births is skyrocketing in Western societies, and complications associated with adopting and raising these abandoned children has made adoption a social problem in modern society.

Our ancestors in ancient Mesopotamia had the same problem of maintaining these abandoned and orphaned children, though for different reasons than illegitimacy. Poverty, continuous warfare, famine, and disease were the main causes of abandonment and orphanage of infants and children.

The ancient Mesopotamians wrote laws and set social customs and traditions to protect the rights and interest of both the adopters and adoptees alike. The adoption agreement was documented and confirmed by witnesses and sealed on tablets.

To a great extent, Assyrians and Babylonians were motivated to adopt for reasons similar to those existing today. Most typically, adoption was intended to provide an heir to a childless couple who had lost the hope of producing their own children. Even though a marriage that failed to produce a male heir could be legally dissolved or a second wife could be taken for the purpose of bearing a son as an heir, adoption of a stranger's child was a common practice.

Adoption was not inspired solely by the desire to obtain a male heir who would preserve the family name. Another common motivation was the desire of the adoptive parents to have a son who would support them in their old age and perform the religious rites required upon their death. In other instances, a craftsman might adopt a male heir for apprenticeship to assure the continuity of the family business.

Adoption of children was also common among the eunuchs of the royal palace and by the females dedicated to religious celibacy. They also looked for assurances of support in their old age. It was not an unusual practice to adopt a loyal slave to maintain the continuity of care and support of the adopter into old age. Children born to a free man and his slave wife were commonly adopted and legitimized by the father to be legally considered as heirs.

As we shall see below, adoption was not limited to males (as son, son-in-law and brother); females were also subject to adoption (as daughter, daughter-in-law and sister). Aside from the real adoption, there was also a fictitious form used principally for the sale and transfer of real estate outside of the family.

While the adopted child acquired inheritance rights, it was not assured that these rights would equal those guaranteed to a natural child. Moreover, the adoptive relationship was revocable by either side and subject to predetermined penalties. Because of possible abrogation, natural parents or guardians

maintained their interest in the child and retained limited rights of reclaiming him. Typically, the issue of inheritance from the adoptive parents and the nature of the rights retained by the natural parents were addressed in the adoption contract.

I- Adoption agreement or contract

Adoption was realized through a written contract between the adopter and the natural parents or guardian of the adopted child. This was called “tablet of sonship,” *tuppi mārūti*; or a “sealed tablet,” *tuppi kunukkim*. In cases where the adoptee was an adult, and competent to decide, he would enter the agreement with the adoptive parent(s). An adoption tablet was recorded by an official scribe, witnessed by other parties, and then sealed. While some provisions varied to suit individual situations, there were other clauses common to most agreements, including the following:¹

- The adoption statement, usually appeared as follows: the (name of) adopter is taking the (name of) adopted from his parents or guardian in adoption (*ana marūti leqū*);
- status of adopted child, if he would be considered as chief heir (eldest son) or not;
- if parents in the future beget their own natural children who will be defined as the chief heir;
- stipulation that the adopted child could not be reclaimed by his parents or guardian;
- a penalty clause concerning the renunciation of the adoption agreement by either adopter(s) or adoptee; and
- oath taken by involved parties.

In certain types of adoption such as adoption for support, there was a clause that the adoptee would respect, serve (Akkadian: *palāhu*; Syriac: *palikh* = ܦܠܝܚܝܢ), and maintain the adoptive parents into old age, and after death would mourn and bury them and perform the religious funerary rites.

Some documents included a clause that if in the future the adopter had natural sons, the adopted son still would be considered as the first born (chief heir).² This provision is well demonstrated in a document from the first half of the second millennium B.C. The tablet is concerned with the adoption of a two-year old boy, named *šilip rēmim*, which is translated as “pulled out of the

¹ See Maria DeJ. Ellis, “An Old Babylonian Adoption Contract from Tell Harmal,” *Journal of Cuneiform Studies* 27, no. 3 (July 1975): 130-151; Elizabeth C. Stone and David I. Owen, *Adoption in Old Babylonian Nippur and the Archive of Mannum-mešulissur* (Winona Lake, Indiana: Eisenbrauns, 1991), 3.

² See G. R. Driver and John. C. Miles, *The Babylonian Laws* vol. I, *Legal commentary* (London: Oxford University Press, 1952; reprint, Oxford: Clarendon Press, 1960), 384.

womb,” who was born by a cesarean section:

Ibiq-iltum, the son of Sin-magir, adopted the male child, born through caesarian section [lit.: pulled out of the womb], the son of the deceased [woman] Atkalšim, from his [the child's] oldest brother Šamaš-nāšir and his wife Tariš-mātum. Ibiq-iltum handed over one shekel of silver and the nursing expenses for two years [consisting of] barley, oil and wool, to Šamaš-nāšir and Tariš-mātum. They have received them and are satisfied. Šamaš-nāšir and Tariš-mātum will not make other claims against Ibiq-iltum. Even if he [Ibiq-iltum, later on] has ten [more] sons, Mār-Ištar is to be his eldest and his heir. They [all] have taken the oath by the gods Šamaš and Aja and by [the king] Hammurabi [five witnesses and date].³

The adopter renamed the child Mār-Ištar, after the adoption. In a similar document in the eponymy of Ša-Nabû-šû 658 B.C.,⁴ Sinqi-Ištar and his wife adopted a little boy from his father. In their document of adoption they emphasized that if in the future they had seven sons of their own, Aššur-tšabātsu-iqbi would still be considered as the eldest son.⁵ In contrast to the above mentioned documents some adopters who still had hopes of begetting a natural son, chose that the future son should be the chief heir. This is well demonstrated in a tablet from Nuzi:⁶

Tablet of adoption of Eḫel-tešup son of Puḫiya; Zigi son of Akuya he adopted: Accordingly, all my lands, my buildings, and my earnings, my livestock, my total property, to Zigi I have given. If Eḫel-tešup has a son of his own he shall receive a double portion, and Zigi shall be second in rank. If Eḫel-tešup has no sons, then Zigi shall be ewuru⁷ heir. And Eḫel-tešup shall not adopt another outsider in addition to Zigi. And as long as Eḫel-tešup lives Zigi shall serve him; with garments he shall provide him. Whoever among them violates the agreement shall furnish

³ A. Leo Oppenheim, “A Caesarian Section in the Second Millennium B.C.,” *Journal of the History of Medicine and Allied Sciences* 15 (1960): 292-294.

⁴ A. Millard, *The Eponyms of the Assyrian Empire*, State Archives of Assyria Studies, vol. II. (Helsinki: The Neo Assyrian Text Corpus Project, 1994), 120.

⁵ L. Delaporte, *Mesopotamia: The Babylonian and Assyrian Civilization*, trans. V. Gordon Childe (Reprint, London : Routledge and Kegan Paul, 1970), 289.

⁶ Nuzi or Nuzu located in present day “Yorghān Tepe” near Kirkuk, Iraq.

⁷ See *CAD* vol. 4, “E” (1958), 415, *ewuru*: heir, a Hurrian loan word.

*one mina of silver and one mina of gold.*⁸

In some texts a clause was included that the inherited property was to be divided equally between the natural and the adopted sons. Some documents even reflect that although there were sons born in the family, the parents still appointed the adoptee as the chief heir,⁹ the reason for this unusual decision was not specified in these documents.

The approval of the father of the adopter (if he were alive) was required for the adoption to take place, as his (adopter's father) properties would eventually be inherited by the adoptee. This is apparent from a document from the reign of Nabonidus, the last king of Babylon.¹⁰ In this case, a widow named Zunnā with a child, who for economic and social support, had turned to the *bīt mār banī*,¹¹ was subsequently taken in marriage by Bēl-kāšir, who also wanted to adopt her son as his heir. The record indicates that Nādinu the father of Bēl-kāšir (adopter) refused to permit the adoption to take place:

Bēl-kāšir, son of Nādinu, descendent of Saggilā, spoke as follow to Nādinu, his father, son of Zērija, descendant of Saggilā:

*You sent me to a bīt mār banī, and I (found there and) married Zunnā, my wife, but she has not borne male or female children to me. Let me adopt Bēl-usāt, the son of my wife Zunnā, whom she bore to Niqūdu, son of Nūr-Sîn, her former husband, and let him be my son. You shall be present at (the executing of) the tablet of his adoption. Assign to him under seal our shares and whatever property we have, and let him be the son who supports us.*¹²

Nādinu did not agree with the decision of Bēl-kāšir, his son. He wrote his own tablet concerning the inheritance of his estate and prohibited adoption of any stranger into the family. His tablet contained the following statements:

When Nādinu dies, only male issue born to Bēl-kāšir, his son, may

⁸ See Jonathan Solomon Paradise, "Nuzi Inheritance Practices" (Ph. D. diss., University of Pennsylvania, 1972), 39-41.

⁹ See Driver and Miles, *The Babylonian Laws*, 1: 384.

¹⁰ Martha T. Roth, "The Neo-Babylonian Widow," *Journal of Cuneiform Studies*, 43/45 (1991-1993): 1-26; also see Martha T. Roth, "Women in Transition and the *BĪT MĀR BANĪ*," *Revue d'assyriologie et d'archéologie orientale*, 82 (1988): 131-138.

¹¹ An institution that provided the economic, legal and social protection to destitute or rich widows alike, with or without children.

¹² Roth, "The Neo-Babylonian Widow," 23.

inherit the shares and properties belonging to Nādinu, his father. Should there be no male issue born to Bēl-kāšir, then Bēl-kāšir must adopt his brother and co-heir, and his father Nādinu's shares and properties will belong to him. Bēl-kāšir may not adopt anyone else; only his brother and co-heir [may inherit the shares] and properties belonging to Nādinu, [his father]. Bēl-kāšir, whatever [. . .].

Before (names of three witnesses). Babylon, month XI, day 15, year 9 of Nabonidus,¹³ King of Babylon.¹⁴

The tablet of adoption was an important legal document and in the case of litigations or disputes, it was presented in the court of law along with witnesses to substantiate any claims and to prove the legitimacy of the adoption. If the deed of adoption was destroyed or canceled, the adoptee would lose all his rights as an heir. In a tablet from the time of Hammurabi king of Babylon, a man named Anum-bānī reclaimed a house and an orchard that was sold by his adoptive father. The dispute was presented to judges. He took the oath and claimed that:

I am the son of Sin-māgir, he took me in adoption and my adoption tablet has not been destroyed.

The judges established the ownership of the house and garden to him.¹⁵ In another document a woman falsely claimed that a couple had adopted her as a daughter. She did not have the deed of adoption, her witnesses did not convince the judges, and her claim was denied.¹⁶

II- Laws of adoption

Specific adoption rules have been recorded in some of the documented laws while additional information is deduced from the extant documents and contracts. The law codes that mention the adoption regulations are: the "Laws of Eshnunna,"¹⁷ the "Law Code of Hammurabi,"¹⁸ and the "Middle Assyrian

¹³ 547 B. C.

¹⁴ Roth, "The Neo-Babylonian Widow," 23-24.

¹⁵ See Driver and Miles, *The Babylonian Laws*. 1: 388; H.W.F. Saggs, *The Greatness that was Babylon*, 2d ed. (London: Sidgwick & Jackson, 1988), 194-195.

¹⁶ Delaporte, 98.

¹⁷ These laws found in 1947 at Tell Harmal a suburb of Baghdad are written on two clay tablets. Tell Harmal is the site of ancient town of Shaduppum, which was under control of the city of Eshnunna, the modern Tell Asmar on the Diyala River. These laws are known as the Laws of Eshnunna and were written about one or two centuries before the Laws of Hammurabi. See Reuven Yaron, *The Laws of Eshnunna*, 2d ed. rev. (Jerusalem: The Hebrew University, The Magnes Press, 1988).

Laws.”¹⁹ However, the laws do not mention adoption of slaves, girls, and the fictitious type of adoptions.

The types of adoption regulated in the Laws are those in which the adopter was an *awilum* (a citizen with rights) whose objective was to get a son to continue the family name, or a craftsman who wanted to obtain and train an apprentice to carry on his trade. It was a common practice among certain officials of the palace, either eunuchs incapable of begetting offspring, or epicenes who were not allowed to bear children, to resort to adoption in order to ensure their support in old age.

Three sections in the “Laws of Eshnunna” are related to regulating the adoptions. These sections concern a slave woman who secretly and without permission of the owner, attempts to give her child in adoption in the hope of saving him from slavery.

Section 33:

If a slave woman acts to defraud and gives her child to a woman of the awī lu-class, when he grows up should his master locate him, he shall seize him and take him away.

Section 34:

If a slave woman of the palace should give her son or her daughter to a commoner for rearing, the palace shall remove the son or daughter whom she gave.

Section 35:

However, an adopter who takes in adoption the child of a slave

¹⁸ The diorite stela of Hammurabi was found in 1901 at the excavations of the ancient city of Susa capital of Elam contains 282 laws, which cover all areas of social life including a few sections related to adoption regulations. It is assumed that these laws are written during the reign of the Babylonian king Hammurabi (1792-1750 B.C.).

See G. R. Driver and John. C. Miles, *The Babylonian Laws* vol. I, *Legal commentary* (London: Oxford University Press, 1952; reprint, Oxford: Clarendon Press 1960);

Driver, G. R. and Miles, J. *The Babylonian Laws*. vol.II. *Text Translation* (London: Oxford University Press, 1955; reprint, Oxford: Clarendon Press, 1968).

Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor*, 2d ed. Society of Biblical Literature Writings from the Ancient World Series, edit. Piotr Michalowski, vol. 6 (Atlanta, Georgia: Scholars Press, 1997).

¹⁹ These laws were discovered at Assur, the ancient capital of Assyria and probably the date of their composition is between 1450 and 1250 BC. These laws are inscribed on nine tablets classified with the letters A-J. The compiler of these laws is not known, and indications are that they applied to the city of Assur and surrounding districts and neighboring cities. See Godfrey Rolles Driver and John C. Miles, *The Assyrian Laws*, rev. ed. (Darmstadt: Scientia Verlag Aalen, 1975).

from a legal document from the reign of Nebuchadnezzar II king of Babylon.

*These are the witnesses, in front of whom [the lady...] ra has cast her son, [...]tum, 'to the dog's mouth', (and) Nūr-Šamaš has picked (him) up 'from the dog's mouth' and [raised him?] (the names of the witnesses follow).*²⁵

In this tablet, a woman has abandoned her newborn son, and this is expressed as “throwing him into the dog’s mouth” and therefore, forgoes all her rights to that child. This type of adoption is metaphorically described as picked from the dog’s mouth. Section 185 of the Code of Hammurabi (CH) may apply to this type of adoption and reads as follows:

*If a man takes in adoption a young child at birth and then rears him, that rearing will not be reclaimed.*²⁶

Yaron has translated this section as:

*If a man an infant out of his amniotic fluid for sonship has taken and has brought him up, that adopted child shall not be (re) claimed.*²⁷

This suggests that the parent(s) abandoned the infant, and he was taken in adoption while amniotic fluid was still on him. This paragraph indicates that if the adopter has raised the infant, the adopted child could not be reclaimed by anyone, including adoptee’s natural parents, guardian, or his relatives.

Section 186 of CH is as follows:

*If a man takes in adoption a young child, and when he takes him, he (the child?) is seeking his father and mother, that rearing shall return to his father's house.*²⁸

There exists disagreement among Assyriologists about who is looking for the parents of the child, the adopter, or the child himself. More recent translations favor the latter, that the child is longing for his parents, therefore, he is allowed to

Babylonian Laws, 1:390 ; Meir Malul, *Studies in Mesopotamian Legal Symbolism*, Alter Orient und Altes Testament 221 (Neukirchen-Vluyn 1988), 107.

²⁵ See Meir Malul, “Adoption of Foundlings in the Bible and Mesopotamian Documents. A Study of Some Legal Metaphors in Ezekiel 16:1-7,” *Journal for the Study of the Old Testament* 46 (1990): 104.

²⁶ Roth, *Law Collections*, 119.

²⁷ Reuven Yaron, “Varia on Adoption,” *Journal of Juristic Papyrology* 15 (1995): 173.

²⁸ Roth, *Law Collections*, 119.

go back to his father's home or family. It is likely that the adopter was compensated for the period that he was taking care of the child.

Hammurabi's Code of Law gave a favored position to the palace attendants namely, courtiers and *sekretu*-women.²⁹ Section 187 of CH is related to this type of adoption:

*A child of (i.e., reared by) a courtier who is a palace attendant or a child of (i.e., reared by) a sekretu will not be reclaimed.*³⁰

Here an exception was made in the case of adoption of children by palace attendants, who were usually eunuchs and the *sekretu* women. As these two categories of palace attendants could not have natural children (eunuch) or were not allowed to have children (*sekretu*), they were given power to retain their adopted children.

b-Adoption as a son and apprentice

The following two sections of Hammurabi's laws are in regard to the adoption of a son and heir to become an apprentice as well. Section 188 is as follows:

If a craftsman takes a young child to rear and then teaches him his craft, he will not be reclaimed.

And section 189:

*If he should not teach him his craft, that rearing shall return to his father's house.*³¹

In these two sections an artisan (Akkadian: *mār ummānim*; Syriac: *umana* = ܡܪܝܢܐ) adopts a child with the main purpose of teaching him his craft. If he fulfilled his duty and trained the child in his trade, this adoption would become permanent. In this case the child would likely inherit and continue the family business. If the adopter failed to do so, the law allowed the child to return to his paternal family. If the craftsman was unable to teach the boy or in case the adoptee could not learn the craft, he would be returned to his home. There is only one extant document related to this type of adoption. In a tablet from Nuzi, Tirwiya a weaver adopted Naniya son of Huitilla as an apprentice. Besides

²⁹ *Chicago Assyrian Dictionary* (CAD) vol. 15 "S" (1984), 215. *Sekretu*, a woman of high rank, possibly cloistered. Court lady or a woman of palace household.

³⁰ *Ibid.*

³¹ Roth, *Law Collections*, 119.

teaching the craft of weaving to Naniya, the weaver also promised to find him a wife on condition that he and his future spouse would both work for him. If Tirwiya did not teach the adopted son his profession, the natural father of the boy could reclaim his son.³²

c- Adoption to legitimize the children of a concubine

The children of an *asirtu*³³ (Syriac: *assirra* = ܐܫܝܪܐ) married to a free man (citizen with rights) did not have the same status as that of the children of the chief wife³⁴ (Akkadian: *hūrtu(m)*; Syriac: *khirta* = ܚܝܪܬܐ). It was not unusual for the father alone or along with his chief wife, to legitimize the slave-wife's children. If the father was deceased, sometimes the chief wife herself legitimized and adopted these children and attained full authority over them. These children legally were not considered heirs unless they were officially legitimized, adopted and addressed by father when he was alive, as “*mārū'a*” (my sons) in the presence of witnesses. These children were equal in status and inheritance rights with children born to the chief wife (*hūrtum*), though it was a common practice that an *aplum* (a son of *hūrtum*)³⁵ had the privilege of choosing and taking his share of inheritance first.³⁶

The Laws of Hammurabi in section 170, refers to this type of adoption:

*If a man's first-ranking wife bears him children and his slave woman bears him children, and the father during his lifetime then declares to (or: concerning) the children whom the slave woman bore to him, “My children,” and he reckons them with the children of the first-ranking wife--after the father goes to his fate, the children of the first-ranking wife and the children of the slave woman shall equally divide the property of the paternal estate; the preferred heir, is a son of the first-ranking wife, he shall select and take a share first.*³⁷

If the children of a slave-girl were not legitimized and adopted by their father or after his death by his chief wife (*hūrtum*), they were not considered heirs and would not have inheritance rights. After the death of the father, *asirtu* and her children were freed and were protected by the law, the sons of the *hūrtum*

³² See Driver and Miles, *The Babylonian Laws*, 1: 394, footnote 1.

³³ *CAD*, vol. 1, “A Part II”, (1968), 331 “woman of low class, captive”.

³⁴ *hūrtu(m)*; Wife of equal status with husband. See *CAD* vol. 6 “H” (1956), 200.

³⁵ *CAD*, vol. 1, “A Part II”, 174, *aplum*:heir, oldest son, son.

³⁶ See Driver and Miles, *The Babylonian Laws*, 1: 350-351.

³⁷ Roth, *Law Collections*, 113-114.

could not retain them as slaves. Section 171 of CH is in reference to that practice:

But if the father during his lifetime should not declare to (or: concerning) the children whom the slave woman bore to him, "My children," after the father goes to his fate, the children of the slave woman will not divide the property of the paternal estate with the children of the first-ranking wife. The release of the slave woman and of her children shall be secured; the children of the first-ranking wife will not make claims of slavery against the children of the slave woman...³⁸

The legitimization of the sons of a concubine (*asirtu*) and their rights to inherit property from their father's estate were also recognized in the Middle Assyrian Laws.

Section 41 states:

If a man intends to veil his concubine, he shall assemble five or six of his comrades, and shall veil her in their presence, he shall declare, "She is my aššutu-wife"; she is his aššutu-wife. A concubine who is not veiled in the presence of people, whose husband did not declare, "She is my aššutu-wife," she is not an aššutu-wife, she is indeed a concubine. If a man is dead and there are no sons of his veiled wife,³⁹ the sons of the concubines are indeed sons; they shall (each) take an inheritance share.⁴⁰

This law indicates that the children of a concubine would become the legal heirs after the death of their father and would participate in dividing the inherited properties.

d- Adoption of a man as "son" and "son-in-law"

There are a few extant texts where a man was adopted as a son and then required to marry the adopter's daughter. In most of these documents, a clause was included that states the adopted son-in-law may not take another wife if his first wife bears him no children. With the inclusion of this clause, the adopter intends for his property to pass to his own daughter's children, not to a strange

³⁸ Ibid., 114.

³⁹ According to Assyrian laws and customs the lawful wife should be veiled in public. The concubine wife (*asirtu*) would not be veiled. She has to wear a veil only if she is accompanying the wife in the street. See Driver and Miles. *The Assyrian Laws*, 186-189.

⁴⁰ Roth, *Law Collections*, 169.

woman's children. Most of these types of adoptions are from the tablets from the Nuzi and Arrapha⁴¹ areas, some examples are given below.

Adoption tablet of Paitilla son of Naitešub; He gave his son Arimmatka for adoption to Gillipukur son of Ḫanatu. Moreover Gillipukur gave his daughter Taduni in marriage to Arimmatka. Thus (declares) Gillipukur: I have adopted Arimmatka. My lands, my buildings, my earnings—he shall have joint ownership of them. With my daughter Arimmatka shall bear the feudal duties of the field. If to Gillipukur should be born a son of his own from his wife he shall be chief heir and shall receive his inheritance share of land. If Gillipukur should not have a son of his own, my daughter shall divide with Arimmatka. If Arimmatka is the chief heir he shall receive a double share. Arimmatka shall receive a share of the buildings and land. If Taduni bears a son and Arimmatka nevertheless takes another wife then he shall take those belongings which are his and go out of the house.⁴²

In this tablet the adopter after declaring the adoption of a son-in-law and the marriage to his daughter, was aiming to assure the non-alienability of his property after his death. So that all of it would be inherited eventually by his own grandchildren.⁴³

Another example,

Adoption tablet of Našwi son of Aršenni; he adopted Wullu son of Puḫišenni. As long as Našwi lives Wullu shall give him food and clothing. When Našwi dies, Wullu shall be the ewuru heir. If Našwi should have a son of his own, then said son shall divide equally with Wullu. However the son of Našwi shall receive the gods of Našwi. But if Našwi should not have a son of his own then Wullu himself shall receive the gods of Našwi. Furthermore, he has given his daughter Nuḫuya as a wife to Wullu. If Wullu takes another wife he shall forfeit the fields and houses of Našwi. Whoever violates the agreement shall pay 1 mina of silver and 1 mina of gold.⁴⁴

The following text is an interesting document in which the adoption served a real economic purpose other than the familial one. A man who had three sons and a daughter adopted another man, named Akiptašenni, to become his son and

⁴¹ Located in vicinity of Kirkuk, Iraq.

⁴² Paradise, 51.

⁴³ Ibid., 49-52; also see Malul, *Mesopotamian Legal Symbolism*, 147.

⁴⁴ Paradise, 54.

to marry his daughter Azuya. In his will the adopter bequeathed a certain amount of property to his adopted son-in-law, but had a condition that all the fields and buildings that his son-in-law had inherited from his natural father should be given only to the sons of Azuya. Furthermore Akiptašenni, was not to marry another woman. These clauses were included in adoption contract with the main purpose of protecting adopter's estate, in addition to bringing more property into the family. Since the son-in-law had already inherited from his own father, he brought that property into his wife's family. In this agreement, although the son-in-law inherits property from his father-in-law, it would remain in the extended family of his father-in-law. If this marriage had taken place based on customary tradition, the father had to give a *mulūgu*⁴⁵ gift to his daughter upon her marriage, and if he had not adopted his son-in-law, the property would have gone out of the family to that of his son-in-law's.⁴⁶

e- Adoption as a Brother

There were some types of arrangements known as a "brotherhood" (Assyrian: *ahhūtu*; Syriac: *ahuta*=ܐܗܘܬܐܘܬܐ or *ahunuta*=ܐܗܘܢܘܬܐ) or "brotherly adoption" in the district of Arrapha. This agreement was recorded on a tablet called the brotherhood tablet (*tuppi ahhūti*). This type of adoption was considered one of several artificial devices enabling the sale of an inalienable fief by means of adopting the purchaser as his son or brother by the owner of the real estate property.⁴⁷ Paradise offers a different interpretation; he believes that these documents serve two purposes: a) the tablets confirm that the adoptee was legitimately adopted as an heir and son by the adopter, and; b) the tablets forced the natural children of the adopter, to recognize the adoptee's legitimate inheritance rights as a co-heir and a brother. Therefore, the brotherhood tablet was not an instrument to create the relationship; rather, it served to confirm it. The brotherhood tablet did not determine whether an adopted brother became a member of the family or not; that relationship was dependent on the type of adoption which was previously established by the father before his death.⁴⁸ Some examples of the brotherhood tablets are given below. In one, a man named Nana states that:

*I was adopted by Ehliya with regard to his lands and his buildings.
Enna-pali, Zilip-šar Nai-teya (sons of adopter) took me in brotherhood*

⁴⁵ See *CAD* vol.10 "M" Part II, (1977), 193. *mulūgu*: A transfer of paternal assets to a daughter on the occasion of her marriage.

⁴⁶ Paradise, 132-140 and 273-274.

⁴⁷ See fictitious adoptions, below.

⁴⁸ Paradise, 348-355.

*and made me joint heir to their lands and their buildings.*⁴⁹

In another document two natural brothers “Mušuya and Šukriya sons of Pui-tae” divided their property and fields with “Mušeya son of Ḥašiga” their brother.⁵⁰ In another case two brothers in two separate tablets recognized a man named Kiteni as the brother and divided their properties with him. In both tablets there was a clause that there would be no chief and secondary heir among them.⁵¹

In some of these adoption agreements there was a clause included for punishment if the adopted brothers renounced the relationship. For example in a document from Ras Shamra recorded this clause as:

If Ar-Tešup (the adoptee) rejects Ili-Nergal his brother, he shall seize his ears and depart.⁵² If Ili-Nergal (the adopter) rejects Ar-tešup his brother, he shall pay 1000 shekel silver into the hands of Ar-tešup and the hands of his children and Ar-tešup shall depart.⁵³

IV- Adoption of Females

The extant documents indicate that the adoption of females was not unusual, though there were no provisions in the discovered laws regulating this type of adoption. The girls were given in adoption by parent(s), siblings or guardians and if they were old enough, they could consent to be adopted on their own will. They were adopted by relatives or strangers, men or women alike, and in rare occasions even by a slave, as “daughter,” as a “daughter and daughter-in-law,” a “daughter-in-law,” and as a “sister.” The major difference between adoption of females from the males was that in adoption of the girls, usually there was a transaction of money or property from adopter to cedant. In the adoption of boys there was no such stipulation in extant documents.

a- Adoption of a girl as a “daughter”

The girls were taken in adoption as a daughter “*ana mārūtī*” for a variety of

⁴⁹ Ibid., 348.

⁵⁰ Ibid., 349.

⁵¹ Ibid., 351.

⁵² Scholars disagree about who will hold the ears. Some believe that the adoptee will hold his ears and shall depart. Another interpretation is that the adopter will hold the ears of adoptee and will get him out of the house. It is more likely that the latter explanation is more accurate. Modern Assyrians presently still use this expression **دڤيب گنه تڤيه** "دڤيب گنه تڤيه" = He will grab his ear and drag him out of the house. This is a symbolic expression of punishing the guilty person by the offended party.

⁵³ See Malul, *Mesopotamian Legal Symbolism*, 100-101.

reasons, one being to support the parent(s) in old age, or to support and train a motherless girl. In majority of these adoption agreements there was a clause in regard to the possibility of the marriage of the adoptee. It was a common practice that adopter would give his adopted daughter in marriage to whomever he wished just as he would his own daughter. While in some of the tablets there is no restriction on the girl's marriage, in others there is a clause prohibiting their marriage to a slave.

In certain situations when the mother of a girl was deceased she would be adopted by a close relative usually a paternal aunt, who would teach her the skills and crafts required of a future homemaker. Usually a child taken care by a widowed mother or older sister, would be adopted if his mother or sister married or went into sisterhood agreement.⁵⁴

A special group of women who adopted other women for support, were *nadītu*-priestesses.⁵⁵ This group of women, who were dedicated to the gods, in Sippar, were cloistered and isolated from the general public. They observed strict celibacy laws, and usually enjoyed a longer life span than the average woman. The next of kin, usually *nadītu*'s brother(s), were responsible for her support in the old age or when she was not able to maintain herself. If a *nadītu*'s brothers or sisters were not alive or were unable to support her, she would adopt a male as a son, adopt a slave, adopt a young girl who could follow her calling, or a younger *nadītu* commonly a niece as a daughter.⁵⁶ In Nippur, as opposed to Sippar, *nadītus* adopted married women who could not be *nadītu* or adopted males as son.⁵⁷ In rare situations when an old *nadītu* had failed to arrange for her maintenance, the cloister administration would adopt a younger *nadītu* as a daughter for her.⁵⁸ A *nadītu*'s of Marduk was allowed to marry but was not permitted to conceive. She was, however, permitted to adopt children with her husband.⁵⁹

Adoption of a girl as a daughter by a woman was not limited to the *nadītus*. In a document from Nuzi, a woman adopted a girl named Azai from her father.

⁵⁴ Katarzyna Grosz, "On Some aspects of the Adoption of Women at Nuzi," in *Studies on the Civilization and Culture of Nuzi and the Hurrians*, ed. D. I. Owen and M. A. Morrison, vol. 2 (Winona Lake, Indiana: Eisenbrauns, 1987), 138.

⁵⁵ *Nadītu*; a woman dedicated to a god, usually unmarried and not allowed to have children. See *CAD* vol.11 "N Part I" (1980), 63.

⁵⁶ See Rivkah Harris, *Ancient Sippar: A demographic Study of an Old Babylonian City (1894-1595 B.C.)* Publications de l'Institut historique et archéologique néerlandais de Stamboul, vol. 36 (Leiden: 1975), 309.

⁵⁷ See Stone and Owen, 6.

⁵⁸ See Harris, 309.

⁵⁹ *Ibid.*, 355.

The adopter may give Azai in marriage ‘where she pleases’ and shall enjoy the money received for the girl.⁶⁰ In another tablet a poor and orphaned girl named Šitnaka, gave herself and her brother in adoption to a woman and agreed to marry her slave or to work for her and to be supported by her mistress as long as she lived.

There are a number of texts that address the adoption of a girl as a daughter (*ana mārūtūti*), by men. In one of these tablets from the city of Aššur, Kidin-Adad adopts a girl named Ēirtum, who “of her own free will went to him” for adoption as a “daughter”. He made a statement that “he will not ill-treat her nor dishonor her”, that he will treat her “as his daughter, an Assyrian” (Akkadian: *aššuraītu*; Syriac: *ashuretta*=ܐܫܘܪܐܝܬܐ, ܐܫܘܪܐܝܬܐ) and that he will give her in marriage to a husband and accept a *terhatu*⁶¹ for her.⁶²

In a document from Nuzi, a man named Akiya, who had given a sister named Bēlt-akkadi-ummi in marriage to Hurassi (Hurazzi), gave another sister named Qabulanza to him in adoption as a daughter⁶³, that he may give her in marriage ‘where he pleases’ and receive ‘money’ (Akkadian: *kasbē*; Syriac: *kispa*=ܟܝܫܦܐ) for her.⁶⁴

In an interesting legal document, a man named Akkulienni son of Muštea brought a lawsuit against Wullu to reclaim his sister Ašte. In the dispute the witnesses for Wullu confirmed that Muštea had given his daughter to Wullu in adoption (*ana mārūtūti*), so that he may give her in marriage either to his son or in the gate (*ina bābi*)⁶⁵. The court gave verdict in favor of Wullu who took possession of Ašte.⁶⁶ This document indicates that the adopted girl’s family would not lose their contact and interest in the welfare of their kin.⁶⁷

In another tablet a man named Aribbarni gave Šabḥurati his daughter in

⁶⁰ Driver and Miles. *The Assyrian Laws*, 162.

⁶¹ *terhatu*: bride-price paid by the suiter or his family in order to secure the wedding agreement from the bride’s family.

⁶² Driver and Miles, *The Assyrian Laws*, 166.

⁶³ A brother had limited authority in giving a sister in marriage or for adoption in matrimony; the sister should consent to the adoption, while the father had full authority to give his daughter in adoption or to marry her to whomever he wanted to. See Aaron Skaist, “The Authority of the Brother at Arrapha and Nuzi,” *Journal of the American Oriental Society* 89, no. 1 (January-March, 1969): 11.

⁶⁴ Driver and Miles. *The Assyrian Laws*, 162.

⁶⁵ To give her in marriage “in the gate” means to marry her to a person outside of family or a stranger.

⁶⁶ Driver and Miles. *The Assyrian Laws*, 162. Also, Grosz, 136.

⁶⁷ Grosz, On Some aspects of the Adoption of Women at Nuzi, 139.

marriage to Nuišeri who in return gave his sister Mennunni, in adoption as a daughter to Aribbarni, who would give her in marriage to anybody he wished.⁶⁸ In all these documents, the adopter was allowed to marry his adopted daughter to anybody he wished, similar to giving his own daughter in marriage.

In another tablet from Nuzi, a slave named Pai-tae adopted a girl. In the agreement pai-tae could give her in marriage to a member of his family or keep her and maintain and support her in his home.⁶⁹

Furthermore, the adoption of girls as daughter was not limited to poor or common people. The kings also gave the daughter to adoption. In a letter from a princess named Šibatum to her father Zimri-Lim king of Mari⁷⁰ she wrote “You yourself gave me into daughtership.”⁷¹ She was given in adoption to Ḫāya-sūmū the ruler of Ilanšura.

b- Adoption of girls as “daughter-in-law”

A number of texts have recorded a man adopting another man’s daughter for the purpose of obtaining a daughter-in-law (Akkadian: *ana kallūti* or *kallatūti*; Syriac: *kaloota*=ܟܠܘܬܐ). In one document from about 1900 B.C., a girl named Elmēšum was given by her siblings in adoption to Šamaš-liwwir and his wife Tarām-Eulmaš as a daughter-in-law. They paid a *terhātum* (wedding gift) of four shekels of silver and gave her in marriage to their son.⁷² Several tablets from Arrapha recorded a similar type of adoption of a girl as a daughter-in-law. In one Šar-Tešub gave his sister Šuwarninu *ana kallūti* to Ilānu who paid forty shekels of silver among other things for her, and married her to his son. In another text, a man gave his daughter Mušatil, *ana kallūti* to Teḫibtilla, for 20 shekels of silver; she was then married to one of Teḫibtilla’s slaves. In the agreement there was a clause that she should not go away (Akkadian: *lā ūzzi*; Syriac: *la azah*=ܠܐ ܐܙܗܐ) from Teḫibtilla’s house as long as she was alive.⁷³

In all these cases the girl was adopted as a daughter-in-law and was given in marriage to a son or sometimes to a slave. She was adopted as a daughter-in-

⁶⁸ Driver and Miles. *The Assyrian Laws*, 162.

⁶⁹ Grosz, On Some aspects of the Adoption of Women at Nuzi, 137.

⁷⁰ Zimri-Lim (1782-1759), king of Mari was a contemporary of Hammurabi.

⁷¹ Bernard Frank Batto, *Studies on Women at Mari*, The Jons Hopkins Near Eastern Studies. Hans Goedicke, General Editor (Baltimore: The Johns Hopkins University Press, 1974), 45.

⁷² Driver and Miles. *The Assyrian Laws*, 163.

⁷³ Ibid. and see Grosz, 143.

law and the adopter could not give her in marriage outside of his family.⁷⁴

c- Adoption of a girl as “daughter and daughter-in-law”

Some documents are available, which indicate that a girl was adopted as a daughter and daughter in law (*ana mārti u kallāti*). Two documents from the old Babylonian period are available. The first tablet is from the reign of Samsu-iluna (1749-1712 B.C.), which states that a woman, acquired a girl Bēlassunu, “for a daughter-in-law and a daughter” and gave 6 shekels of silver as *terhātum* for the girl.⁷⁵ In the second, from the time of Ammi-ditana (1683-1647 BC) a girl named Narubtum is sent by her mother and her brother “for a daughter-in-law and a daughter” to the house of Šamaš-liwwir, who gave them 5 shekels of silver as a wedding gift.⁷⁶ A number of similar documents have been found in Nuzi and Arrapha area. The marriage to a slave was stipulated in some of these documents, while, in others it is emphatically prohibited. In the documents where there was a possibility of marriage to a slave usually there was a clause that if the slave died she would be given in marriage to another one and usually the adopted girl was prohibited from leaving the household of the adoptant. In one, a man gave his daughter Ḥatameirša as “daughter and daughter-in-law” to Teḥibtilla, who would marry her to a slave, Irišapa and, if Irišapa died, then to another slave. In another tablet the same Teḥibtilla adopted another girl named Šiluya as “daughter and daughter-in-law” to be married to one of his slaves named Akip-šarri and if that slave died, again to another slave. She was prohibited from leaving the house of the master.⁷⁷ In another adoption agreement a woman gave her daughter for 40 shekels of silver “*ana martūti u kallātūti*” to another woman. She would then give her in marriage ‘wherever she pleases’, whether it be her son or *ina bābi* (in the gate, which means to a stranger), but not to a slave⁷⁸. In another text a woman gives her daughter in adoption as daughter and daughter-in-law to Ḥinzuraia a female slave of Prince Šilwa-tešup, to be given in marriage to adopter’s son or to a stranger (*ina bābi*), but not to a slave.⁷⁹

The father in law who had adopted a girl as a “daughter-in-law” was responsible to support and maintain her in his house, if his son was dead or was missing. A widow (Assyrian: *almattu*; Syriac: *arrmalta*=ܐܪܡܠܬܐ) whose father-

⁷⁴ Driver and Miles. *The Assyrian Laws*, 163.

⁷⁵ Ibid., 164.

⁷⁶ Ibid.

⁷⁷ Ibid. and Grosz, On Some aspects of the Adoption of Women at Nuzi,, 144.

⁷⁸ Driver and Miles. *The Assyrian Laws* 165. And Grosz, 144.

⁷⁹ Grosz, 145. See also Driver and Miles, *The Assyrian Laws*, 165.

in-law was not alive, was free to go wherever she pleased.⁸⁰

d-Sisterly adoption

There are several documents which have recorded women or men taking other women in sisterly adoption (Akkadian: *ana ahātūti*; Syriac: *khatoota* = ܚܘܬܘܬܐ). These tablets are called the “tablet of sisterly adoption” (Akkadian: *tuppi ahātūti*).

In the majority of these documents the brother was the one who gave his sister in adoption, so he had to clear his sister from a claimant or prior claims. The consent of the sister was necessary to be adopted and it was recorded in these adoption contracts.

In one document Zikpa gave his sister Ḫinzuri, as a sister (*ana ahātūti*) to another man named Ḫut-arraphi who would give her in marriage as he pleased and was to receive her marriage price. Her brother bound 20 shekels of silver in the girdle of Ḫinzuri,⁸¹ who declared before witnesses that she has given herself of her own free will *ana ahātūti* to Ḫut-arraphi.⁸² In a similar transaction Akkulienni gave his sister Bēlt-akkadi-ummī, for a sister (*ana ahātūti*) to a man named Ḫurazzi for 40 shekels of silver. In another tablet Ḫurazzi changes his mind and decides to marry his adopted sister and pays additional money to her natural brother, who in the third tablet confirms the receipt of forty shekels of silver and his sister’s (Bēlt-akkadi-ummī) consent to marry her adopter.⁸³ In two separate contracts Tehip-šarri, adopted two girls in sistership from their respective brothers. In both documents each brother took the responsibility of clearing his sister from any claims, and each girl expressed that she had given her consent for the adoption.⁸⁴

In some deeds women declared their willingness to be adopted in sistership by another man, and there was nothing mentioned about their brother. It is assumed that in these cases the adoptees had obtained the prior approval of their

⁸⁰ Middle Assyrian Laws, paragraph 33. See M. Roth, *Law collections*, 165.

⁸¹ This brides money tied in her girdle or hem of the bride, was to become her private money which no one specially her husband could claim. It was to help the woman in the emergency situations such as divorce or widowhood.

⁸² B.Eichler, Another Look at the Nuzi Sistership contracts. In *Essays on the Ancient Near East in Memory of J. J. Finklestein* (Hamden: Connecticut, 1977), 55-56. also Driver and Miles, *The Assyrian Laws*, 165.

⁸³ B.Eichler, Another Look at the Nuzi Sistership contracts, 56., see also Driver and Miles, *The Assyrian Laws*, 165., and Grosz, On Some aspects of the Adoption of Women at Nuzi, 151.

⁸⁴ B.Eichler, Another Look at the Nuzi Sistership contracts, 50-51.

brother or they had no brother or a male guardian. In one document Pukuli announces her willingness to be adopted as a sister by a man named Haniu, she also gave her daughter to him in daughtership. In a similar manner another girl, Hinzuri declares that she wants to be adopted in sistership by Wanti-šenni son of Hašip-tilla.⁸⁵

In an unusual document a lady adopted another woman as a sister, to become a wife (of a lesser rank) to her husband. The status of the two women was well defined and their duties, with respect to each other as well as to their husband, were emphasized.⁸⁶

V- Adoption of slaves

Several documents indicate that slaves, male and female alike, were adopted by childless couples as well as by *nadītu*-women. The adoption was used as a method to emancipate the slaves.⁸⁷ The primary motivation for the adoption of slaves was to assure the support and maintenance of the adoptive parents in old age, and after death, their burial according to religious tradition.⁸⁸ The adopted slave had a limited and conditional freedom depending on the fulfillment of his/her obligations toward the adopter. After the death of the parent(s), the adopted son or daughter would have complete freedom and no relative of the parent could have any claim on the manumitted slave. However there was a major difference between the adopted slave and adopted freeborn. While an adopted freeborn son had the right of inheritance, an adopted and emancipated slave commonly would not inherit property from the estate of the parents. His freedom from slavery was the main reward that he would receive.⁸⁹ But this was not a general rule; there are a few documents that indicate adopted slaves were considered as heirs and did inherit property. This is confirmed by an Assyrian adoption document from the reign of Šamši-Adad I (1800 B.C.) reported by Veenhof.⁹⁰ His translation of this tablet is as follows:

⁸⁵ Ibid., 52-53.

⁸⁶ Samuel Greengus, "The Old Babylonian Marriage Contract," *Journal of the American Oriental Society*, 89 no. 3 (July-September 1969): 512.

⁸⁷ Muhammad A. Dandamaev, *Slavery in Babylonia: From Nabopolassar to Alexander the Great (626-332 B.C.)*, rev. edition, transl. Victoria A. Powell ed. Marvin A. Powell and David B. Weisberg, (DeKalb, Illinois: Northern Illinois University Press, 1984), 443.

⁸⁸ Malul, *Mesopotamian Legal Symbolism*, 40-76 (Manumission of slaves) especially p. 41, note 5 and p. 56, note 70.

⁸⁹ Ibid., 62.

⁹⁰ Klaas R. Veenhof, "A Deed of Manumission and Adoption from the Later Old Assyrian Period," in *Zikir Šumim, Assyriological Studies Presented to F. R. Kraus on the*

Etel-pī-Ammurum, son of Puḥānu, manumitted his servant Šamaš-rabi. As long as Etel-pī-Ammurum, his father, and Aḥatu'a, his mother, live he will support them and take good care to obey them. After (the death of) Etel-pī-Ammurum, his father, and Aḥatu'a, his mother, he will receive 18 iku⁹¹ of land in the agricultural district of Ababat (and) 1 ox. If Etel-pī-Ammurum reclaims him (as slave) he will pay 2 minas of silver. If Šamaš-rabi repudiates Etel-pī-Ammurum and Aḥatu'a and departs, he may be sold for silver in the commercial district of any town where he is spotted. The oath to Aššur, Adad, and to king Šamši-Adad (was sworn); none of them will raise claims.⁹²

Sometimes the relationship between the master and the slave, especially between *nadītu* and their slave-girls, was very close and combined affection, trust and full respect. Frequently this relationship resulted in the adoption of the slave as is indicated in the following document:

. . . because she (the slave-girl) treated her mother (the adopter) well, she (the mother) adopted her as a daughter.⁹³

The adopted slave of a *nadītu* had certain privileges. For example the adopted slave-girl could be married and *nadītu* would receive *terḥatu* for her, similar to the customary amount given for a freeborn bride.⁹⁴

The manumission and adoption of a slave at Sippar, was performed by the *šangû* (temple administrator). A later adoption contract from Sippar is described as:

In the ninth year of Cyrus, the lady Hibtâ, mistress of Bazuzu announced to the šangû of Sippar her intention of acknowledging this slave as her son on condition that he provided her within the terms of a tablet with accommodation, food, unguents, and clothing. The šangû himself determined the quantities of daily food, spices, fabrics, and other dues, the sum of which constituted the obligations imposed on the adopted child.⁹⁵

Occasion of His Seventieth Birthday (Leiden: 1982), 359-385.

⁹¹ A unit of measurement. See *CAD*, vol. 7 (I&J), (1960), 69.

⁹² Veenhof, 362.

⁹³ See Harris, 347.

⁹⁴ *Ibid.*, 348.

⁹⁵ Delaporte, 85.

There is another document from Sippar that a man, who had natural sons and daughters, also adopted a slave-girl. He appointed one of his daughters to see that the adopted slave-girl would be married.⁹⁶ In a similar document from Sippar a father, who already had a son, also adopted a male slave. The adopted slave together with his natural son were responsible for the taking care of the father's physical and financial well-being. After the father's death, the adopted slave was relieved from his obligations.⁹⁷ In a similar document from the fifth century B.C., a childless man, Bel-šum-iddin, who was granted real estate property as an archer's allotment, adopted Zabinu, a slave, and his son. Being old and unable to perform his state obligations "*ilku*" (see below), he adopted both these slaves (father and son) as his sons, to help him perform his mandatory duty to the royal palace, thus avoiding the return of his granted property back to the state.⁹⁸

VI- Fictitious or sale adoptions

This type of adoption was practiced mostly in Nuzi in the mid-second millennium B.C. with the intent to sell and transfer real estate property from one person to another.⁹⁹

The system of fief, under which land was granted by the king to his subjects, was practiced in ancient Mesopotamia, especially in Nuzi area. Under such a system most of the land belonged to the king and was given as a grant of fief to certain citizens. Legally, these subjects were not allowed to sell the property as they had the privilege of its use, not its ownership. This grant (real estate property) could be transferred by inheritance only from the father to his son or a male relative. The owner of the grant, in return for the use of the land, was obligated to perform some kind of service to the palace or to the state, notably labor or military service which was called "*ilku*".¹⁰⁰

To circumvent the law, which prohibited the sale of real estate held in fief, and to be able to sell or buy property, the citizens resorted to these fictive adoption practices. The seller would adopt the buyer, as a son, and transfer the property to him disguised as his inheritance share. The adopted son (the buyer), in return, gave the adopter (the seller) a gift (*qīštu*), which was equal to the price of the property. Real estate was thus bought and sold without offending the

⁹⁶ Harris., 356.

⁹⁷ Ibid.

⁹⁸ Dandamaev, *Slavery in Babylonia*, 444.

⁹⁹ Stone and Owen, 2.

¹⁰⁰ Francis Rue Steele, *Nuzi Real Estate Transactions*, American Oriental Series vol.25 (New Haven, Connecticut: American Oriental Society, 1943), 15.

existing law. Contrary to the genuine adoption agreements where the inherited property would be transferred after the father's death, in these fictive adoptions, these transfers took place immediately after the agreement. To prevent future litigation, the adoptive father would clear all the subsequent claims to the property. The feudal service (*ilku*) was the direct responsibility of the adopter and would be carried on by his heirs. An adoption agreement usually included the above-mentioned clauses and conditions.¹⁰¹

VII- Disinheritance of an adopted son

In the Code of Hammurabi (CH) two sections, 168/169, were assigned for disinheritance of a son who committed "grave offences." It is interesting that the first time offence was forgiven; but if the offence was repeated, then punishment would be implemented while requiring judicial approval.

Sections 168-169:

[168] If a man should decide to disinherit his son and declares to the judges, 'I will disinherit my son,' the judges shall investigate his case and, if the son is not guilty of a grave offence deserving the penalty of disinheritance, the father may not disinherit his son.

*[169] If he should be guilty of a grave offence deserving the penalty of disinheritance by his father, they shall pardon him for his first one; if he should commit a grave offence a second time, the father may disinherit his son.*¹⁰²

The translation of this paragraph in the Chicago Assyrian Dictionary implies that this section would apply only to the disinheritance of an adopted son.

*. . . if he (the adopted son) has committed a serious crime against his father . . .*¹⁰³

This interpretation has been disputed and the present view is that these paragraphs did apply to both natural and adopted sons alike.¹⁰⁴ The law code did not specify the nature of the "grave offenses" which deserved the disinheritance of a son by his father. Some of the offenses, which required severe punishment, have been mentioned in other paragraphs of this law code, in section 195:

¹⁰¹ Ibid., 14-15.

¹⁰² Roth, *Law Collections*, 113.

¹⁰³ CAD vol. 1, "A part I" (1964), 18a.

¹⁰⁴ See Driver and Miles, *Babylonian Laws* 1: 349; Yaron, *The Laws of Eshnunna*, 155.

*If a child should strike his father, they shall cut off his hand.*¹⁰⁵

In the above offense there is no clause for forgiveness for the first time offence, as in the paragraphs related to disinheritance.

Section 157- 158:

If a man, after his father's death, should lie with his mother, they shall burn them both.

*If a man, after his father's death, should be discovered in the lap of his (the father's) principal wife who had borne children, that man shall be disinherited from the paternal estate.*¹⁰⁶

In the above two sections of the laws; offence, severe punishment and disinheritance took place after the death of the father.

The above references may indicate that parental powers were somehow limited and severe punishment of the children required approval of a judicial or municipal authority.

In his study of Nuzi tablets, Paradise¹⁰⁷ enumerates four offences which may initiate disinheritance: (1) The failure to serve or obey the parent or guardian, (2) selling property to an outsider, (3) heirs raising claims against each other, and (4) in the case of a sole heir as an adopted son-in-law, taking a second wife.¹⁰⁸ Paradise translated the clause of disinheritance in two different phrases; forfeiting the property, and as disinheriting or breaking the "clump" (*kirbānu hepū*) of the son.¹⁰⁹ Breaking the clump signifies breaking the familial ties and is used when the son refuses to serve, obey or respect the parents or guardian. Forfeiting the property is used in the other three offences that merit the punishment.

Finally, we should mention the disinheritance of an adopted girl from a document from the reign of Apil-Sîn (1830-1813 B.C.). A woman named, Ḫaliyatum adopted Amat-Šamaš as a daughter and bequeathed her properties to her with the stipulation that her daughter will support and maintain her with oil, clothing, and other necessities. The daughter failed in her duties. Ḫaliyatum went

¹⁰⁵Roth, *Law Collections*, 120.

¹⁰⁶ *Ibid.*, 111.

¹⁰⁷ See Paradise, 219.

¹⁰⁸ See above section on "Adoption as Son and Son-in-law".

¹⁰⁹ This symbolic act of "breaking the clump or breaking the clod" did have far broader significance than forfeiting of property. It indicated that it was a symbolic act of disinheritance, that a family member was excluded from inheritance and expelled from the family, see Malul, *Mesopotamian Legal Symbolism*, 77-93.

to the court and disinherited her recently adopted daughter.¹¹⁰

VIII- Dissolving the adoption

Adoption was dissolved if the adoptive parents declared to their adopted child: *ul mārī attā* “you are not my son” or *ul mārī attī*, “you are not my daughter”; or when the adopted children said to the father: *ul abī attā* “you are not my father” or to the mother *ul ummī attī*, “you are not my mother”. The Laws of Hammurabi made provisions for the adoptive parents to retain their adopted children in case the natural parents attempted to reclaim their son. Under certain conditions, the law allowed the adopted children to break their adoption contract and return to their former family.

It was mentioned earlier that if a craftsman adopts a child to teach him his craft and fails to do so, according to section 189 of Hammurabi’s laws, the child should return to his father’s house.¹¹¹ The other sections of these laws permitting dissolution of the adoption agreement are:

Section 190:

*If a man should not reckon the young child whom he took and raised in adoption as equal with his children, that rearing shall return to his father’s house.*¹¹²

In this condition, if the adopter has not counted and treated the adoptee as his own then the child is given permission to go back to his paternal family. In the next paragraph of the Code, the law allows the adopter to rescind the adoption agreement after conceiving his own natural children.

Section 191:

*If a man establishes his household (by reckoning as equal with any future children) the young child whom he took and raised in adoption, but afterwards he has children (of his own) and then decides to disinherit the rearing, that young child will not depart empty-handed; the father who raised him shall give him a one-third share of his property as his inheritance and he shall depart; he will not give him any property from field, orchard, or house.*¹¹³

There is disagreement in translation and interpretation of this paragraph of CH. Driver and Miles have translated it as follows:

¹¹⁰ See Driver and Miles, *Babylonian Laws*, 1: 405.

¹¹¹ See above section on adoption of an heir.

¹¹² Roth, *Law Collections*, 119.

¹¹³ *Ibid.*, 119-120.

If a man, who has taken the infant in adoption to himself and has brought him up, has built him a house (and) afterwards gets sons and sets his face to expel the adopted child, that son shall not then go destitute; the father who has brought him up shall give him one-third of his inheritance out of his property when he goes; (but) he shall not give him any (portion) of field plantation or house.¹¹⁴

The first translation indicates that the father was getting rid of his adopted son and because this son was not a member of his family any longer, he therefore, was not entitled to inherit real estate property. But he was not to go empty handed¹¹⁵ and would be compensated, but not with real estate. In the second version of the translation the father already had built the son a house (may be the son was already married and had his own family and house), therefore, he would not be entitled to get more real estate and would only get his share of movable property. Regardless of which is the correct interpretation, this section of Hammurabi's laws allowed the father unilaterally to break the adoption agreement and expel the adopted son from his family with compensation. The law, however, did not protect the adoptees when they revoked their adoption agreement.

The next two paragraphs, 192 and 193, from the CH dealt harshly with and inflicted severe punishment on the children adopted by the courtiers of palace and *sekretu* women if they denied the adoptive parent. The section 187 gave absolute right and power to the above adopters to retain the adopted child and if the child dared to repudiate or desert the parent, he could face dismemberment.

Section 192 states:

If the child of (i.e., reared by) a courtier or the child of (i.e., reared by) a sekretu should say to the father who raised him or to the mother who raised him, 'You are not my father,' or 'you are not my mother' they shall cut out his tongue.¹¹⁶

In this condition the adoptee had spoken and the organ that had committed the offence, namely the tongue, was punished. The next section of CH, which applied to a deserting son is paragraph 193:

If the child of (i.e., reared by) a courtier or the child of (i.e., reared

¹¹⁴ Driver and Miles, *Babylonian Laws*, 2: 75.

¹¹⁵ This expression of "should not go empty handed from house" is commonly used among modern Assyrians. *بِدَقَّةٍ هَبْتَهُ كَأَنَّ كَلْبَهُ فِي بَيْتِهِ.*

¹¹⁶ Roth, *Law Collections*, 120.

*by) a sekretu identifies with his father's house and repudiates the father who raised him or the mother who raised him and departs for his father's house, they shall pluck out his eye.*¹¹⁷

This exception to the usual rules was made because neither of these two groups could have natural children. The severity of the penalties in breaching the adoption indicates that there must have been some difficulty in keeping the children adopted by a courtier or a *sekretu*, due to expectation that a child would follow or inherit the parent's position. For a courtier's son this would mean castration.

From the extant legal documents there is no evidence to show whether these punishments were actually implemented or were written as a deterring factor or were used as a symbolic expression of a subsequent severe punishment.¹¹⁸

In the tablets of adoption agreements there are no references made to the above-mentioned laws and stated penalties. In the majority of the adoption contracts when a person adopted a child there was a clause related to revocation of adoption by either party. In some documents there were clauses included, that the child was incontestable and penalties would be applied if anybody tried to reclaim the child. The penalty imposed on the parent who denies his adopted child is usually expressed as "he forfeits his house and furniture" or "forfeits his property", etc. If the adoptee broke the relationship then the parent was granted the power to shave the adoptive son's head, to put the *abbuttu/m*¹¹⁹ on him, and sell him for silver (sell him for slavery) and his tablet of adoption was broken. The following adoption tablets are some examples of written adoption contracts with clauses for penalties for repudiation of adoption or reclaiming the child:

Yahatti-Il is the son of Hillalum and of Alittum. He shall share their good times and their bad times. If Hillalum his father and Alittum his mother say to Yahatti-Il their son 'You are not our son', they shall forfeit house and property. If Yahatti-Il says to Hillalum his father and Alittum his mother 'You are not my father. You are not my mother', they shall shave him and sell him for silver. Even if Hillalum and Alittum, have many sons, Yahatti-Il is the heir, and shall receive two shares from the estate of Hillalum his father; his younger brothers shall take shares brother like brother. A claimant who raises a claim against him infringes

¹¹⁷ Ibid.

¹¹⁸ These expressions still are used among modern day Assyrians. The expression of "to cut out his tongue, Syriac; ܕܩܘܬܐ ܕܗܘܐ ܕܥܝܢܐ is used as "to be silent after doing or saying a wrong thing". The expression "to pluck his eyes out, Syriac: ܕܩܘܬܐ ܕܗܘܐ ܕܥܝܢܐ" is used as "let him be punished" as a sever punishment for a wrongful act.

¹¹⁹ Slave mark, a characteristic hairstyle for slaves. See *CAD* vol. 1 "A part I", (1963), 48.

*the taboo of Šamaš, Itur-Mer (god of Mari), Šamši-Addu and Yasmah-Addu, and shall pay 3½ minas of silver, . . . 18 witnesses, date.*¹²⁰

In a tablet, from the Yale Babylonian collection from the reign of Iggid-Rim king of Ḫana¹²¹, some of these clauses were included. Part of the translation is as follows:

*If he says to Išme-Dagan ‘ you are not my father ’ or to Addanahda ‘ you are not my mother, ‘ his head will be smeared with hot asphalt, and he will give 1 gun of silver. Among all (?) the children of Išme-Dagan, Igmil-Dagan is the senior child and will enjoy two inheritance shares. Adni-Dagan will come (only) after him. The son is incontestable and free from claims or release. A claimant who makes a claim (since they) have sworn in the names of Šamaš, Dagan, Itūr-mēr, Iggid-Lim the king-will pay 10 mina of silver to the palace...’*¹²²

There were other reasons for the dissolution of an adoption by a parent. For example if an adopted son failed to support his parents, he was subject to be expelled from the family. The series *ana ittišu*, too, described some examples such as, when an adopted son misbehaved, ran away or frequented the streets, the adopter had the right to eject him from sonship and to disinherit him.¹²³

There is an Old-Babylonian document in which a son adopted by a *nadītum* was abrogated. The case was brought by his adoptive brother, before the elders of the city. The boy, who had deserted his mother for three years, was removed from adoption, therefore, his position as son and brother was nullified.¹²⁴

Renunciation of adoption required judicial approval similar to disinheritance of a son. There were two requirements to complete the process: one was breaking the adoption tablet; the other was an oral announcement (*verba solemnia*) by either party to nullify the kinship. This is well documented in two Old Babylonian tablets, that a verbal announcement was an important part and

¹²⁰ See J. N. Postgate, *Early Mesopotamia: Society and Economy at the Dawn of History* (London: Routledge, 1992; reprint, London: Routledge, 1996), 93.

¹²¹ Kingdom of Ḫana was located in Middle Euphrates Valley near the Khabur River. See Amanda H. Podany, “A Middle Babylonian Date for the Ḫana Kingdom,” *Journal of Cuneiform Studies*, 43/45 (1991-1993): 53-62.

¹²² See A. H. Podany et al, “An Adoption and Inheritance Contract from the Reign of Iggid-Lim of Ḫana,” *Journal of Cuneiform Studies*, 43/45 (1991-1993): 39-52.

¹²³ See Driver and Miles, *Babylonian Laws*, 1: 386.

¹²⁴ *Ibid.*

was required in the court of law, to complete the dissolution of adoption.

The first document recorded a case where a husband, Marduk-nāšir, went to court to divorce his sick wife, and to dissolve the adoption of her son whom he had adopted. In the presence of the court, the son declared to his stepfather:

*I am the son of Puzulum; you are not my father (mār Puzulimma anāku ul abī attā).*¹²⁵

Another instance of actual recitation is as follows:

*Rim-Adad [son of Nannatum] unto Nannatum his [fath]er said: "you are not my father"; he (moreover) broke his tablet of heirship. Nannatum approached the Nippur assembly; the Nippur assembly had Rim-Adad appear (before them). Whereas the Nippur assembly con[firmed] that Rim-Adad broke his tablet of heirship before Nannatum [his] father, they removed Rim-Adad from heirship. Henceforth Rim-Adad and any of his heirs shall not raise claim against Nannatum for heirship, house, field, garden, or any property whatsoever. He swore an oath to it.*¹²⁶

This text clearly indicates the importance of a written record in determining the status of the heirship; breaking the tablet and oral repudiation in the presence of the court of law, signified the end of this relationship.

Summary

The adoption of children was widely practiced in ancient Mesopotamia. They adopted males and females alike while the laws addressed the adoption of males only. The laws protected the rights and welfare of both parties involved. The Code of Laws of Hammurabi, the oldest comprehensive code of law, gave a prominent position to the adoption of children.

As any advanced society they were involved in a variety of litigations including disputes in adoption and resorted to the court of law for justice.

Their reasons for adoption were similar to those of the present time, and traditional adoption practices were to remedy deficits in family makeup. In certain areas they abused the system for economic gains and fictitiously used adoption for transaction of real estate properties. While the majority of adoptions were based on familial needs, some of the documents indicate that compassion played a role in adopting a stranger's children and even slaves in families who

¹²⁵ Samuel Greengus, "The Old Babylonian Marriage Contract," *Journal of the American Oriental Society* 89 (1969): 518.

¹²⁶ *Ibid.*, 519.

already had their own natural children.

Adoption was not limited to common citizens. As we have seen, kings and rulers also adopted children and gave their children in adoption.

Adoption of slaves not only was used to maintain support of elderly adopters, it was also used as a legal mean to emancipate favored slaves. The adopted slaves would earn their freedom after the death of the adopted parent(s), with or without inheritance rights.

An adopted person who betrayed his adoptive parents was severely punished while, adoptive parents who unjustly treated their adopted son and canceled his sonship, legally were required to compensate him financially as part of his inheritance rights.

Author's Note:

The aim of this paper is to familiarize the general public with the adoption practices of our forefathers in ancient Assyria and Babylon. There was no attempt made to discuss and compare the practice of their contemporaries, which is beyond the scope of this presentation.

The references cited are all from English language sources or English language translation of excerpts from non-English original books or articles. The quotations from these non-English sources are from English authors quoting them and I have included them as they were documented.