

'I CARED FOR AND RESPECTED HIM AS IF HE HAD BEEN MY NATURAL FATHER': ADOPTED SONS IN FOURTH-CENTURY ATHENS

'Not everyone feels the same degree of affection for their adoptive fathers as they do for their natural parents.' (Lycurgus 1.48)

Solon's Law on Wills/Adoption

1. Those citizens who had not been adopted and thereby may neither renounce [the inheritance] nor claim their rights in an *epidikasia* when Solon entered on his archonship shall be allowed to bequeath (*diathesthai*) their own property as they wish, as long as they do not have male legitimate children, and their intellect was not disturbed by insanity, senility, drugs, sickness or by the manipulation of a woman, or forced by necessity or imprisonment. (Cited at [Dem.] 46.14: Leão and Rhodes 2016. fr. 49a)

Adoption procedures: the introduction to the father's phratry

2. In the presence of the phrateres, the introducer, who would usually but not always be the father of the candidate and a phratry member, would approach the phratry altar with the sacrificial victim, a sheep or a goat. There he would be received by the phratry priest or the phratriarch, who would ask the introducer the identity of the candidate. In several instances an oath of the introducer is mentioned at this stage, to the effect that the candidate was born of a legally married citizen mother, and, where appropriate, that he was the introducer's own son. ... At this point, whether before or after the oath is not clear, there was an opportunity for phrateres to object to the candidate. To do this, the person making the objection took hold of the sacrificial victim and led it away from the altar, thus in effect putting a halt to the proceedings while the matter was resolved, presumably by recourse to a vote if necessary. If there were no objections, the victim would be slaughtered and burnt on the altar; the rest of the meat was distributed to the phrateres, who ... would apparently take it home rather than eat it on the spot. (Lambert 1993, 170-171)

Case 1: Isaeus 7 *On the estate of Apollodorus*

(Translations from Isaeus 7 are from Edwards 2007.)

3. Apollodorus had a son he educated and cared for, as was only fitting. While this boy was alive, [Apollodorus] hoped to make him heir to his property, but when he fell ill and died ... last year, Apollodorus, depressed by all his troubles and complaining about his advanced age ... came to my mother, his own sister whom he valued above all others, and said he thought he should adopt me; he asked her permission and received it. He was determined to do this as quickly as possible, and so he immediately took me home with him and entrusted me with the management of all his affairs, saying that he could no longer do any of this himself, but I would be able to do all of it. Isae. 7.14-15

4. [Apollodorus] could have chosen a child to adopt from the family of one of his friends and given him his property. But because of his age, even the child's parents would not have known whether he would turn out an excellent man or a worthless one. But he knew me from experience and had tested me enough. He knew exactly how I behaved towards my father and mother, that I was attentive to my relatives and knew how to look after my own affairs; and he was well aware that in my position as Thesmothete [junior archon] I was neither unjust nor greedy. (Isae. 7.33-34)

Case 2: Isaeus 2 *On the estate of Meneclēs*

(Translations from Isaeus 2 are from Griffith-Williams 2022.)

5. From the following facts it will be easy for you to judge that Meneclēs was not insane or persuaded by a woman when he adopted me, but in his right mind. First of all, my opponent has devoted most of his speech to the allegation that Meneclēs was under the influence of my sister when he adopted me, but she had been married [to her second husband] long before the adoption, so if he had been influenced by her he would have adopted one of her sons, since she had two. (Isae. 2.19)

6. Our father, gentlemen, Eponymus of Acharnae, was a friend and associate of Meneclēs, and was on intimate terms with him. We were his four children: two sons and two daughters. And after our father died my brother and I gave our older sister to Leucolophus, when she reached the appropriate age, with a dowry of 20 minas. And four or five years later, when our younger sister was almost old enough to marry, Meneclēs's first wife died. After he had performed the customary rites for her, Meneclēs asked us for our sister in marriage, reminding us of the friendship between him and our father and his feelings towards us. And we, knowing that our father would have married her to no-one else with greater pleasure, gave her to him, not without a dowry as my opponent is always saying, but with the same dowry as we gave to our older sister. And so it was that, having previously been his friends, we became his relatives. First, I want to produce testimony that Meneclēs received a dowry of 20 minas with my sister. (Isae. 2.3-5)

7. ... Meneclēs spoke to us, praising our sister highly but saying that he was worried about his own advancing age and childlessness; she must not be rewarded for her goodness by growing old alongside him without children. So he begged us to do him the favour of giving her to another husband, with his blessing. And we told him to persuade her about this; we would do whatever she agreed. She, at first, resisted his suggestion, but with the passage of time she was with difficulty persuaded. (Isae. 2.7-9)

8. It is noticeable that Isaeus never presents the narrative from the woman's point of view, or uses her as a source of information about the events he described. Although women were not allowed to testify formally as witnesses in the Athenian courts, they often had information of potential relevance to litigation, especially about household matters. ... In this case, the marginalization of the woman may have been a deliberate strategy to make the judges think that she would not have been assertive enough to persuade Meneclēs to adopt her brother against his will. (Griffith-Williams 2022, 99)

9. Some time after this, Meneclēs began to consider how he could stop being childless and have someone who would look after him in old age and bury him after his death, and then continue to carry out the customary rites for him. He saw that my opponent had only one son, so he thought it would be shameful to leave him without male children by asking him for his son for adoption. And so he found no-one more closely related to him than we were. He spoke to us, saying he thought it would be a good thing, since fate had denied him children by our sister, if he could adopt a son from the same family from which he would have wished to have natural children. 'I want to adopt one of you,' he said, 'whichever of you is willing.' And when my brother heard this, he approved of Meneclēs's proposal, saying that both his age and his loneliness needed someone to look after him and stay at home. 'As you know,' he said, 'I am often away from home, but my brother here' (meaning me) 'will look after your affairs as well as mine, if you want to adopt him.' Meneclēs agreed with what he said, and that is how he adopted me. (Isae. 2.10-12)

10. He adopted me while he was in good health, of sound mind, and firm in his intention; he introduced me to his phratry in the presence of my opponents, and enrolled me with his demesmen At the time, my

opponents made no suggestion that he was not in his right mind, although if they had any objection it would have been much better to try to persuade him while he was alive than to insult him now that he is dead and try to leave his family without heirs. For Meneclēs did not live just a year or two after the adoption, but 23 years. And during that time, long as it was, he never regretted what he had done because it was generally agreed that he had been well advised. And to prove to you that I am telling the truth about these matters I will produce phratry members ... and demesmen as witnesses to the adoption, and the clerk will read you the law itself, in accordance with which the adoption took place. Please read these witness statements and the law. (Isae. 2.14-16)

11. After these events Meneclēs started to think about a wife for me, saying that I ought to marry, and I married the daughter of Philonides. So Meneclēs showed the appropriate fatherly forethought for me, and I cared for and respected him as if he had been my natural father. My wife did the same, and he praised us to all his fellow demesmen. (Isae. 2.18)

12. I served as gymnasiarch in his deme, seeking honour as his son, and served in all the campaigns that took place at that time with his tribe and deme . . . (Isae. 2.42)

13. I buried him in an appropriate style for both him and myself, and I set up a fine monument to him, and I performed the ninth day ceremony and all the other customary rites at the tomb so well that all the demesmen praised me. (Isae. 2.36)

14. Although we do not know exactly what Meneclēs's brother had said in his prosecution speech, it is easy enough to reconstruct at least the main points of his case by reading 'between the lines' of Isaeus's response. ... [Meneclēs's brother] probably said that Eponymus of Acharnae and his family were acquaintances of Meneclēs, but the close friendship between them was a fabrication invented by the speaker. Eponymus died leaving his family in straitened financial circumstances, and his sons, who had struggled to find a modest dowry for their older sister, could not afford a dowry at all for the younger one. So, when Meneclēs's first wife died, leaving him elderly and vulnerable, they seized the opportunity and persuaded him to accept their younger sister without a dowry. A further opportunity arose when Meneclēs divorced his wife and was once again left on his own. Meneclēs's brother had offered his own son to be adopted by Meneclēs, but the speaker and his brother enlisted the help of their sister (the former wife of Meneclēs) to persuade him to adopt the speaker instead. Their motive, ostensibly to support the old man in his loneliness, was in reality to get their hands on his property. (Griffith-Williams 2022, 68-69)

Case 3: Menander's *Samia* (Demeas and his adopted son, Moschion)

(Translations are from Bain 1985. *Lacunae* in the text are indicated by ...)

15. (*Moschion*) I reckon it will be painful, but the most reasonable thing I can do for you is to tell you all about my father's character. I remember well, but pass over now, the life I led after that, when I was a child. His benefactions then were given when I was too young to appreciate them properly. After I was enrolled into my deme, just like anyone else, 'one of the crowd' as they say, but, my word, much unluckier by nature – I can say this because we are by ourselves – I outdid everyone acting as a *khoregos* and in displays of generosity. He kept hounds and horses for me. I led my *phyle* with distinction. I was able to give a little help to my friends when they needed it. Because of him I was a human being. But I gave him a fine return. I was well-behaved. (Men. *Sam.* 5-19)

16. (*Demeas*) [Chrysis] is responsible for what has happened. Obviously she caught [Moschion] when he had had a little too much to drink, when he wasn't in control of himself. Strong wine and youth collaborate to produce much folly when they find an accomplice nearby. I simply cannot believe that Moschion who was so well-behaved and self-controlled in dealings with others could behave in such a fashion towards me, his father, not even if he is ten times my adopted son, not my son by birth. (Men. *Sam.* 338-346)

17. (*Demeas*) I'm your father ... I took you when you were a baby [or small child – the Greek word is *paidion*], I brought you up. If ... you have had any pleasant ... in your life, I'm the one who gave it to you. Because of this, you ought to have put up with anything I did to hurt you and tolerated any of my mistakes as a son would. (Men. *Sam.* 697-700)

18. It must not be forgotten that at Athens an adopted son was almost invariably an *only* (legitimate) son, in whom was invested the entirety of his adoptive father's hopes for the perpetuation of his descent line (*oikos*) as well as for his support in old age (*gērotrophia*) and the tendance of his tomb after his death. The father would therefore be more than usually reluctant to believe any serious ill of his son, let alone to repudiate him or provoke him to a breach; and if he sees himself as forced to choose between his adopted son and a mistress, however passionately loved, who cannot give him a legitimate child, he is almost bound to choose the son. (Sommerstein 2013, 15-16)

References and further reading

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Brenda Griffith-Williams
b.griffith-williams@ucl.ac.uk