ADOPTION IN THE ROMAN WORLD

Adoption in other cultures and other times provides a background to understanding the operation of adoption in the Roman world. This book considers the relationship of adoption to kinship structures in the Greek and Roman world. It considers the procedures for adoption, followed by a separate analysis of testamentary cases, and the impact of adoption on nomenclature. The impact of adoption on inheritance arrangements is considered, including an account of how the families of freedmen were affected. Its use as a mode of succession in Rome is detailed, and this helps us to understand the anxiety of childless Romans to procure a son through adoption, rather than simply to nominate heirs in their wills. The strategy also had political uses, and importantly it was employed to rearrange natural succession in the imperial family. The book concludes with political adoptions, looking at the detailed case studies of Clodius and Octavian.

HUGH LINDSAY is Senior Lecturer in Classics at the University of Newcastle, New South Wales. His previous publications include *Suetonius: Caligula* (1993) and *Suetonius: Tiberius* (1995), and he co-edited (with Daniela Dueck and Sarah Poethecary) *Strabo's Cultural Geography* (Cambridge, 2005).

ADOPTION IN THE ROMAN WORLD

HUGH LINDSAY

CAMBRIDGE
UNIVERSITY PRESS

Contents

vi   *Contents*

Figures

vii

Preface

This is a book about the social and political impact of adoption in the Roman world, with the main emphasis on the period from the Gracchi to Hadrian, and a primary interest in its operation in Rome and Italy. It has a different focus from the work of Olli Salomies (1992), which concerns itself with adoptive and polyonomous nomenclature, with a special focus on the Imperial period. It has some common ground with Jane Gardner's works, especially *Family and Familia in Roman Law and Life* (1998), although it is on the whole less legal, and more concerned with the practical operation of adoption in different situations. My concern has been with how Romans viewed adoption and what problems they believed it could be used to solve. Some of the same ground is covered by both Salomies and Gardner, but here more space is devoted to the functioning of adoptions in politics and everyday life, and trying to understand how adoption has been utilised in other places and times. Despite extensive use of legal sources to understand the theory behind Roman adoption, the cases discussed are mostly selected from literary sources, since it is here that the functioning of adoption in real situations can be assessed. The onomastic evidence is useful, and the main features of Roman nomenclature after adoption are explored, but by its very nature nomenclature can only provide answers to a restricted range of questions about the impact of adoption. Considerable attention is given to adoption as a mode of succession, utilising primarily legal and literary sources. This is most relevant to the elite and the imperial family, although the legal sources are not so confined, and in both cases raises questions about whether adoptions are being used to serve political rather than familial ends. It is hoped that the material brought together here may be of interest to students of European social history in general as well as to those concentrating on Rome.

After some introductory remarks about Roman family life and the extent to which adoption may have been used in the community, the first three chapters consider adoption broadly as a strategy, and the use to which it can

ix

be put in different social, cultural and temporal situations. This represents a revision and expansion of an essay which first appeared in S. Dixon, ed., *Childhood, Class and Kin in the Roman World* (2001) under the title 'Adoption and its Function in Cross-cultural Contexts'. The nature of Greek and Roman kinship structures is also reviewed, since discussions of the Classical world have been greatly influenced by now discredited approaches to the development of the family. In the case of Rome, the picture today is of the family still under the theoretical power of the *paterfamilias*, but the later Republican and early Imperial periods saw greater recognition of the female line and its capacity to continue family interests. Changes in the law of inheritance which take more account of cognate relationships are part of this trend in the period between the second century BC and the second century AD. Fashions in nomenclature also demonstrate these bilateral trends. The treatment of adoption in the Greek world is designed to provide some pertinent background for Roman adoptions, especially testamentary cases. By the mid second century BC the Greek world was under Roman rule, and some influence on Roman custom can be expected. An earlier version of this study appeared as 'Adoption in Greek Law: Some Comparisons with the Roman World' in *Newcastle Law Review* 3.2 (1999) 91–110.

Chapters 4 to 6 discuss what is known of the origins of adoption at Rome and describe the procedures relating to adoption, focusing on the period from the second century BC to the second century AD. Chapter 4, on *adoptio* and *adrogatio*, covers the origin and functioning of these institutions at Rome. This includes treatment of age and capacity, aspects of the legal and sexual status of adopters, assimilation and participation of adoptees in the family, guardianship and the adoption of minors, and adoptions of and by women. The procedure for *adoptio* and *adrogatio* is described, including sections on the role of the *comitia curiata* and the investigation by the pontiffs. Chapter 5 is devoted to testamentary adoptions and their relationship to other testamentary arrangements. Chapter 6 reviews the effect of these different social transformations on individual nomenclature. This presents a review of Roman nomenclature after adoption, with a review of the main findings of Salomies in his 1992 work. It also treats his simplified conclusions published in M. Corbier, ed., *Adoption et fosterage* (1999).

Chapters 7 and 8 treat adoption as a strategy for succession. The legal position of adoptees under the civil law and praetorian law is scrutinised and assessed. Both inheritance under a will and intestacy are considered as well as the circumstances under which adoptees could claim under a complaint of an undutiful will. This is a reworking of an essay which first appeared as 'Adoption

and Succession in Roman Law' *Newcastle Law Review* 3.1 (1998) 57–81. Chapter 8 is devoted to manumission and succession in freedman families with special emphasis on the adrogation of freedmen. In these cases adoption seems to be employed by citizens in order to harness the wealth of freedmen.

Chapters 9 to 12 review some of the best-known cases of *adrogatio* and *adoptio* amongst the elite where there is sufficient evidence to provide a commentary. Examples of testamentary adoptions are also treated, again selectively. Here examples are discussed which seem not to be motivated primarily by politics; the main aim is inheritance. In both groups attention is paid to the proximity between adopter and adoptee. A large number of the cases known involve close kin, often maternal kin. These are often identifiable because of transformations in nomenclature. In contrast, adoptions within the agnatic line are hard to track through nomenclature and may be underrepresented in the record. In other cases friends of the family are chosen: some of these may in fact be relatives, but the links are not evident on the basis of the available evidence.

In chapters 13 to 16 significant political adoptions are discussed. There are special studies of the adoption of Clodius, the adoption of Octavian, and after discussion of the motives behind elite adoption at Rome, Pompeii and Ostia, finally imperial adoptions. In the study of Clodius, adoption is seen as an institution which can serve a particular political end. Cicero's analysis in *De domo sua*, where he outlines his objections to the adoption, is conditioned by his irritation at the advancement of Clodius. He presents an argument which is dependent on thinking about adoption in the domestic sense, but major political players at the time saw no problem in using it quite cynically to acquire the relevant plebeian status for a candidate whose interests they chose to promote. The domestic concerns were shoved aside and effectively ended by the immediate emancipation of Clodius. The case of Octavian may have been influenced by this precedent. It also involves the use of adoption to secure political ends. Caesar's murder in 44 BC revealed a will in which Octavian received a large part of Caesar's estate, as well as his testamentary adoption. The testamentary adoption gave him only limited rights in relation to Caesar, but the adrogation which he orchestrated after entering on his extraordinary consulship on 19 August 43 BC legitimated his access to Caesar's tribe and filiation, and, just as importantly, presented the succession of Octavian to Caesar's power as an act willed by the dictator. The parallel with Clodius is that politically interested parties once again supported what was clearly a sham. An adrogation could only take place when the two parties to the adoption were present. It was theoretically not possible for Caesar to adrogate

Octavian. Adoptions amongst the elite are often hard to classify, since motives may be partly political, partly merely for inheritance. Inscriptional evidence from Pompeii and Ostia suffers from similar problems. The early imperial adoptions are familial adoptions, but involve overtly political ends. Under the Julio-Claudians the façade of a domestic situation was maintained, but the public nature of these adoptions soon became apparent. Imperial adoption was gradually assimilated to designation as imperial successor. Nevertheless, the institution was a useful method of underlining family solidarity and dynastic continuity.

The strands are brought together in a conclusion which emphasises both the common thread of fictitious kinship running through the various uses made of adoption and the particular aims that each approach served. Adoption for a Roman, as Cicero emphasises in *De domo sua*, was about *sacra*, inheritance and continuation of a name (Cic. *Dom.* 13.35).

As I have mentioned, this study includes developed versions of three papers already published, all significantly revised. Two of the papers appeared in the *Newcastle Law Review*, and I am pleased now to be able to offer them to a wider audience.

At a late stage when the text was substantially complete I received a copy of Christiane Kunst's book (2005). She covers many of the same areas and is interested in a number of the same issues. My material is arranged very differently from hers, and I have not dealt with the more speculative issue of intra-familial conflict treated in the latter part of that book, but I have taken account of her arguments where I could.

I am pleased to acknowledge assistance I have had from many quarters in my pursuit of ancient adoption. Several years ago Mireille Corbier, on learning that I was working on adoption, very kindly supplied me with a copy of *Adoption et fosterage* (1999). Suzanne Dixon was very supportive and helped me to utilise comparative material. The chapter in *Childhood, Class and Kin in the Roman World* (2001), a volume in honour of Beryl Rawson, provided an opportunity to share some of my findings, and to contribute to a volume celebrating her contribution to the study of the Roman family. I have now greatly expanded its ambit, and I hope it helps to make sense of Roman adoptions. Thanks also to Tim Parkin and to my colleagues at Newcastle, especially Elizabeth Baynham, Jane Bellemore, Terry Ryan and Harold Tarrant. I would also like to thank Brian Bosworth for commenting on an early version of my chapter on Greek adoptions. The readers for Cambridge University Press provided useful criticism of a first draft of the text and I hope that the revised version meets with their approval. Thanks also to my wife, Kate, and son, Leo, for their patience.

Abbreviations

Abbreviations of titles of ancient works correspond to those used in the *Oxford Classical Dictionary*, ed. S. Hornblower and A. Spawforth.

AE	*L'Année epigraphique*, Paris 1888–
Broughton, *MRR*	T. R. S. Broughton, *The Magistrates of the Roman Republic*, New York, 1951–2
CIL	*Corpus Inscriptionum Latinarum*, Berlin 1863–
Cod. Iust.	*Codex Iustinianus*, ed. P. Krueger, Zurich 1880
Dig.	*Digesta Iustiniani*, ed. T. Mommsen, Berlin 1877, translated in *The Digest of Justinian*, 4 vols., Philadelphia 1985
EJ	V. Ehrenberg and A. H. M. Jones, *Documents Illustrating the Reigns of Augustus and Tiberius*, 2nd edn, Oxford 1955
Hist. Aug.	*Historia Augusta*
IG	*Inscriptiones Graecae*, Berlin 1873–
ILS	*Inscriptiones Latinae Selectae*, ed. H. Dessau, Berlin 1892–1916
LT	*Laudatio Turiae* (= EJ 357)
PIR²	*Prosopographia Imperii Romani*, 2nd edn, Berlin 1933–
PLRE	*Prosopography of the Later Roman Empire*, vol. i, ed. A. H. M. Jones and others, Cambridge 1971; vols. ii and iii, ed. J. R. Martindale, Cambridge 1980–92
RE	*Real-Encyclopädie der klassischen Altertumswissenschaft*, Stuttgart 1894–1980