

Towards a Typology of Old Babylonian Adoption Recordings

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Abstract

An Old Babylonian (OB) adoption agreement created an artificial family bond with reciprocal benefits and obligations by creating fictitious ties between the adoptee and the adoptive family. However, our interpretation of the OB adoption is limited to the scribe's adaptation of the oral adoption agreement in an abridged record. Typology, as a method, can simplify the study of Old Babylonian adoptions gleaned directly or indirectly from the recorded adaptation of the adoption agreement. I present a typology that is a hybrid of Hilprecht's (1909, 32), Stone's (1991, 3–6) and Obermark's (1992, 29, 39–41ff.) typologies. My typology underpins the identification of the requisites distinguishing an adoption as such, in highlighting the adoption's characteristics, including its ultimate purpose. It also provides an outline of the majority arrangements and supplementary reciprocal obligations and/or benefits that can be reflected in a written abridged format—custom-made by the involved family members to suit their circumstances, obligations and needs.

Keywords: Old Babylonia; adoption; typology; ancient law; Old Babylonian family; Old Babylonian law

Introduction

Typology can be a useful device¹ to simplify the study of Old Babylonian (OB)² adoption recordings.³ Scholars present various typologies in their study of OB adoptions. For instance, Stone (1991, 3–6) categorises the recorded OB Nippur adoptions into four classes, Hilprecht (1909, 32) presents a scheme of the adoption agreement, and Obermark (1992, 29, 39–41ff.) categorises the elements and sub-groups in a general study of OB adoptions. Other scholars, including Van de Mierop (1993–1994, 124–30), Charpin (1994, 94–96), Veenhof (1994, 143–57) and Westbrook (1995a, 1647; 1982, 78–82; 1993, 195–204) place different emphases on the application of the identified adoption types in OB society.

Obermark (1992, 30) refers to the “remarkable diversity” of the OB adoption recordings’ content in creating artificial family bonds between the adoptee and the adoptive family (Obermark 1992, 1, 29; cf. Suurmeijer 2010, 9ff.).⁴ Although many adoption recordings “shared a basic structural similarity and employed similar terminology, there was evidently no standardised formula or scheme upon which the scribes were obliged to draw” (Obermark 1992, 30).

I propose that since the scribe conceptualised the oral provisions into an abridged written record, the recording was a mere adaptation of the oral adoption agreement.⁵ We glean our interpretations directly or indirectly from the written record. Therefore, we need to identify the characteristics of an adoption agreement and distinguish each adoption’s unique arrangements as reflected in the abridged recording, keeping in mind that the adoption’s arrangements were flexible by nature and to a degree unstructured in adapting to the needs, obligations, and circumstances of the family members. Also, the involved parties’ actions were governed by the so-called human and group orientation, played out within the social and economic structures of OB. From this

1 See Obermark’s (1992, 29) comments regarding the usefulness of typology in the study of OB adoptions.

2 The following abbreviations are used: OB = Old Babylonia/Babylonian; ANE = Ancient Near East/Eastern; LH = Laws/Collection/Code of Hammurabi; OT = Old Testament.

3 Renteln and Dundes (1994, 2) surmises that the so-called “written” law societies are “accustomed to think in terms of a ‘text’ in fixed, unchanging form;” in contrast to the so-called “oral”/“folk”/“unwritten” law (*lex non scripta*) societies for whom a recording “would not stop the folk process of oral transmission whereby additional variations would continue to be introduced” (cf. Renteln and Dundes 1994, 2–4). Thus, I have opted to use the term “recording” rather than “text” in support of my thesis that OB adoption legal practices—as part of the unwritten law of OB society—were flexible by nature and to a degree unstructured in adapting to the needs, obligations, and circumstances of the family members.

4 For ease of reading “adopter,” “adoptee” and “adopted” include the singular and plural form. “Adopter” refers to the person who adopted another person. “Adopted” refers to the person who was adopted. “Adoptee” and “adoptive” refer in general to an adopter and/or adopted.

5 Cf. Obermark (1992, 29–30).

stance, I present an alternative typology—a hybrid of Stone’s (1991, 5–6), Obermark’s (1992, 29) and Hilprecht’s (1909, 32) typologies. I identify the requisites distinguishing an adoption agreement as such, taking into regard its ultimate purpose and possible adaptable content, initiated by the circumstances, needs, obligations, and desired benefits of the family members involved.

First, I reflect on the contributions that scholars have made to the study of OB adoptions. Next, I present the overlapping features that created, drove, and influenced the adoption agreement’s arrangements. I then identify the requisites of the OB adoption, followed by a discussion of the custom-made arrangements and supplementary reciprocal obligations and/or benefits, gleaned from most of the OB adoption recordings.

Major Contributions by Scholars

Throughout the millennia, adoption has been practiced in societies⁶ such as Babylonia,⁷ China, Greece, Rome,⁸ Israel,⁹ and ancient Egypt,¹⁰ as well as in recent legal systems or traditions.¹¹ However, adoption is not a widely spread practice and performed different functions in societies (Goody 1969, 55–58).

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- 6 Goody (1969, 55–78) investigates the uneven distribution of the adoption-construction between Eurasia and African societies as well as differences in the functions and purposes for an adoption. For instance, in some African legal systems, adoption is “rarely” found, while fostering is common and the latter involves “no permanent change of identity” (Goody 1969, 55, 75, 76).
 - 7 Pinches (1891, 189) refers to the “kind-heartiness” of the OB in adopting children and named the recorded adoption “tablet of sonhood.” See also Yaron (1965, 171–83). Driver and Miles (1952, 75) literally translated adoption as “sonhood.”
 - 8 Howe (1958-1983, 173–74) sketches the “evolution of adoption” from the time of the Roman Empire to the recent adoption laws in the United States. In Roman law the rights and needs of an adoptive parent were the focal point, while in the United States it shifted to those of the adopted child. Still, the focus was the creation of the parent-child relationship to continue the family line (Howe 1958-1983, 175).
 - 9 Feigin (1931, 193–94) opines that Israelite adoptions were mentioned by accident. Adoptions were created due to the nature of a polygamous family and/or advantages of a leviratic marriage. Malul (1990, 97–126) compares the language used in the adoption formulas of saved foundlings from the Bible and Mesopotamian sources. However, see the comments by Kamionkowski (2007, 103–13) on Malul’s interpretation. Mendelsohn (1949, 180–83) discusses similarities in the OT and OB adoptions’ legal terminology and formulas.
 - 10 Eyre (1992, 207–21) illustrates how an ancient Egyptian husband adopted his wife as his child in providing her with matrimonial property to ensure material security, securing her social position as a childless woman and serving as a divorce settlement (Eyre 1992, 208, 207, 211, 214–15).
 - 11 In Western Europe, adoption provided shelter for orphans and an heir for a childless couple. The implications were that the adoptee was integrated as a family member into the adoptive family and not the biological family (Goody 1969, 57–58). Cf. Huebner’s (2013) outline of the adoption and fostering practices in the “Ancient Eastern Mediterranean.”

David (1927) conducted the first study of OB adoptions that included 22 adoption recordings, the adoption paragraphs from LH and those found in the lexical series, *ana ittišu*.¹² Driver and Miles (1952, 249–65, 383) commented on LH’s adoption sections.¹³ Harris (1975, 137, 309, 332, 347–49, 352, 355–67) examined adoptions from the city-state of OB Sippar.¹⁴ Westbrook (1982, 48–60; 1993, 195–204) studied the OB adoption from a strict legal perspective, especially relating to the sections found in LH and marriage arrangements. Stone and Owen (1991) studied 25 Old Babylonian Nippur adoption recordings (ca. 1873 to 1721 B.C.E.) within the city-state’s socio-economic circumstances. Also, from a social-economic perspective, Obermark (1992) studied 99 OB adoption recordings and those found in LH and made observations on the latter-mentioned scholars’ contributions, especially those of Stone (1991, 1–33) and Westbrook (1982, 48–60; 1993, 195–204). Suurmeijer (2010, 9–40), focussed on 63 adoption recordings using the database of OB Sippar recordings from the Department of the Near East at Ghent University.¹⁵ Spada (2018, 11–36) translated and discussed OB scribal school exercises and/or model contracts of the slave adoptions and manumissions from the Hilprecht Sammlung.

Overlapping Features of the Oral OB Adoption

I propose that the following notions lie at the heart of the OB adoption agreement as explained in more detail throughout the article:

- The arrangements of the oral adoption agreement were flexible by nature¹⁶ and even to a degree unstructured in meeting the circumstances, needs, obligations, and desired benefits of

12 Cf. also David (1928, 37–39).

13 The discussed paragraphs were 185, 186, 187, 188–189, 190, 191, 192 and 193. Cf. Obermark’s (1992, 95–114) observations on the Driver and Miles (1952) study. Cf. also Obermark’s (1992, 100ff.) remarks that while the adoption agreements constitutes “normative law” as a “binding agreement,” the adoptions described in LH were “extraordinary cases” making provision for “allowances” in the instance of transgression. However, I disagree that the OB adoptions constitutes “normative law” and support Van den Bergh’s (1994, 7) notion that such a view derives from our contemporary understanding of our law. See also fn. 16, *infra*.

14 Cf. discussions of Sippar adoptions in Ellis (1975, 130–51; 1997, 57–67) and Veenhof (1994, 143–57).

15 Suurmeijer (2010, 9–40) conceits that among 6700 Sippar recordings (“texts”) over a time-span of some 300 years, 63 recordings (“texts”) are adoptions with 68 adoptees.

16 Unlike Western law, which gained certainty through mainly precedent and specialisation. Legal scholars considered unwritten law to hold the disadvantage of “uncertainty” (cf. Van den Berg 1994, 16). “Our idea of law is based on a formalised, binary concept of validity: a rule is either valid or not. And valid rules can only be produced by a limited number legitimate ‘sources’.” Van den Bergh (1994, 7) also surmises that our “understanding of law” lies therein that it necessitates the requirement “to be a complete and cohesive system of valid normative propositions.” Cf. Claassens’ (2012/1, 23–50) comparison of Western jurisprudence, customary law, and ANE law traditions. See

- the adoptee (adopter and adopted) and his/her biological (birth) family;
 - the adopter and adoptive family; and
 - the families connected with one another through the adoption, termed the “interconnecting family.”¹⁷
- The adoption was focused on certainty through the process of securing arrangements between the involved family members. As Westbrook (1982, 16) states, “the essential purpose” of an OB agreement was not the “conclusion of the content” but rather the “various transactions ancillary thereto.” We can glean from the recordings that the involved family members partook in various ceremonies securing the agreed adoption.¹⁸
 - Overall, the oral adoption was created, driven and influenced by the following overlapping features:
 - (1) the “creation of an artificial family bond” by a custom-made adoption agreement;
 - (2) a “human orientation” concerning the adoption agreement’s content in that the involved family members could in their discretion agree to those custom-made arrangements that suited their needs, obligations, and desired benefits; and
 - (3) a “family relationship orientation” concerning the family members’ dependence on a system of relationships.

The illustration below supports my discussion of these overlapping features.

Renteln and Dundes (1994, 1–4) reasons for their choice of the term “folk law” instead of “customary law.” Both terms are assigned to the *lex non scripta* (unwritten law). South African legal practitioners refer either to “customary” or “indigenous” law.

17 For ease of reading, “interconnecting family” includes the singular and plural form. I explain the term later in the section.

18 Although today’s scholars specialising in the field of ethnological-historical jurisprudence differ in their theoretical outlook in their study of ancient law traditions, Van den Bergh (1994, 17) surmises that, at least, the mainstream adapted the following “basic postulates”; i.e., “1. the law has evolved from implicit and loose rules to explicit and fixed rules; customary law precedes codes, unwritten law. 2. The law derives from folk custom and is not invented by legislators; early folk custom is an unspecified whole of law, religion, morals, etc. 3. Law is not an autonomous system, but a function of society, even when jurists develop it into a special skill. 4. The study of law is a means to understand society and the study of society is indispensable to understand law.”

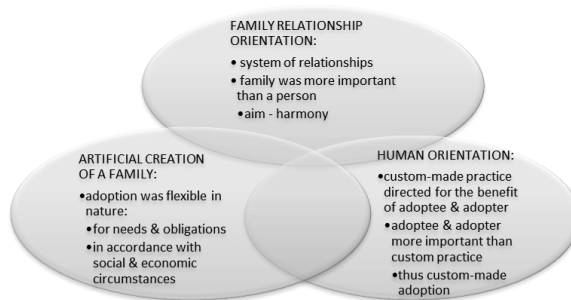


Figure 1. Overlapping features of the oral OB adoption

Feature 1): The Creation of an Artificial Family Bond

Strictly speaking, an OB adoption agreement created an artificial family bond, irrespective of the family members’ biological kinship. Through an adoption, the adopted and adopter acquired a family status that may have included the status of a son, daughter, brother, sister, mother or father.¹⁹

Feature 2): Human Orientation

An adoptee was artificially tied to his/her adoptive family by means of agreed reciprocal benefits and obligations, within flexible and adaptable legal practices.²⁰ In a practical sense, the legal practices did not dictate the content of the oral arrangements and did not compel the involved family members to adhere strictly to such practices. Rather, the adoption agreement’s content was human orientated, in compliance with the agreed needs and desired benefits as well as the obligations between the involved family members, in accordance with their immediate circumstances.²¹

19 Obermark (1992, 1) defines adoption as “the creation of an artificial family tie through the designation of an outsider as a son or daughter – *ana mārūtīm*.” Cf. Suurmeijer (2010, 9, 19–14, 21, 27); Frymer-Kensky (1981, 211).

20 Cf. Obermark (1992,1).

21 For instance, OB Nippur consisted of interrelated social institutions (Stone 1982, 50–70). Stone (1982, 50) categorises Nippur’s interrelated social institutions into (1) patrilineal lineages, (2) temple office group, and (3) *nadītu* priestess institutions. The patrilineal lineages were the traditional and earliest social grouping based on kinship relationships (Stone 1982, 52). The temple office group was based on kinship ties involved in agricultural production, providing remuneration for state personnel in terms of rations or pay or through assignment of land portions (de Graef 2002, 143; Stone 1982, 55). The third group, the *nadīātu* of Nippur, contained a combination of the linages, the temple group, and the similar priestess group from Sippar (Stone 1982, 55). However, in Nippur this priestess group (Stone 1981, 18) served both the linages and temple group and held property to the advantage of their family members and other *nadīātu* (Zagarell 1986, 425).

Feature 3): Family Relationship Orientation

The involved family members' choices, behaviour, position, and status were relative to a *system of relationships* within the “family,” the “extended family,” and the “interconnecting family.” In anthropological terms, the “family” commenced with a nuclear family: a married man and woman and their children who lived together as a unit (Leemans 1986, 15). The “extended family” is defined as a “group together in one organisational framework” or a few nuclear families with an ancestor connecting all the descendants (Leemans 1986, 1–16). The “interconnecting family” is at least two or more families connected artificially by marriage and/or adoption. The “family” as a unit, “extended family,” and the “interconnected family” were based on a *system of the relationships*²² centred on the notion of reconciliation and restoration of harmony in maintaining good relationships.²³

The Typology of The OB Recorded Adoption

The oral adoption agreement was a common practice in Old Babylonia. The involved family members partook in lengthy negotiations to reach consensus regarding the provision for future eventualities and/or requirements. After reaching consensus, an abbreviated version was recorded. Obermark refers to the “remarkable diversity” of the adoption agreement’s content. Although many adoption agreements “shared a basic structural similarity and employed similar terminology, there was evidently no standardised formula or scheme upon which the scribes were obliged to draw” (Obermark 1992, 30). The written record of the adoption held a “fixed structure,” like “a form, to be filled out with names and numbers” (Veldhuis 1996, 24).

I propose that, although not obliged to follow a certain formula or scheme, the scribe would have utilised the “fixed structure” in the form of a template, learned during the scribe’s scribal school education. Perhaps the scribe identified the common determinants between the oral arrangements and those of the template. During the recording, the scribe made the template fit the custom-made oral arrangements. Thus, our interpretations are limited by the scribe’s incorporation of the agreed oral arrangements into a concise written record that reflected the scribe’s idiosyncratic style.

22 Frymer-Kensky (1981, 209–14) stresses the importance of kinship relation and looks at the social role of each person in his or her juridical relationship position in the family as an integral part of the family. Fleishman (2001, 93–97) examines kinship relations as sometimes extending further than a biological connection to include an adoptive status. Cf. Westbrook (1995b, 149–63).

23 The striving for harmony in OB family life can be illustrated by an old Babylonian proverb: “If there be strife in the abode of relations, there is eating of uncleanness in the place of purity.” Langdon (1912, 231) interprets it as “Strife in a family is compared to defiling a holy place with filth and calumny.”

From different vantage points and/or defined focus areas, scholars used general or specific classifications to assist and simplify their study of the OB adoption.²⁴ I have incorporated some of these classifications to construct an integrated typology. My typology differs in that it underpins the identification of the requisites distinguishing an adoption as such, in highlighting the adoption’s characteristics. It also provides for an outline of the majority arrangements that can be reflected in a written abridged format—custom-made by the involved family members to suit their circumstances, obligations and needs.

The table below supports my discussion of the typology wherein I adapted the following scholars’ classifications (typologies), i.e., Hilprecht’s (1909, 32) scheme of the adoption agreement, Obermark’s (1992, 29, 39–41ff.) elements and sub-groups of the adoption agreement, as well as Stone’s (1991, 3–6) division of the adoption agreement into four “classes.” The columns in bold represent the requisites, and the column in italics represents my outline of the custom-made clauses, usually reflected in a formula, although not standardised.

Table 1. Outline of the applicable typologies and my proposed integrated typology

Hilprecht’s scheme ²⁵	Obermark’s elements and 6 basic clauses ²⁶	Stone’s 4 classes ²⁷	Requisites (R) and custom-made arrangements (C-M)
	(1) sonship/daughterhood (2) “X has established (the adopted) as his/her heir” (3) adopted son/daughter and heir (4) “X is the (adopted) son/daughter of X” (5) third party “gives” son/ daughter/slave (6) adopted daughter/daughter-in-law	(1) single male adopts son/s (2) couple adopts son/s (3) new spouse adopts “stepchildren” (4) woman as an adopter and/or adoptee	R) Requisites of the OB adoption agreement ----- R 1) Requisite: artificial family status between adopter and adopted is created; usually reflected in a basic clause, i.e., (1) a single male adopts one or more sons (2) couple adopts one or more sons (3) new spouse adopts “stepchildren” (4) woman as an adopter and/or adopted (5) slave adoption (6) adopted daughter/daughter-in-law (7) brotherhood/sisterhood adoption
oath	oath and witnesses		R 2) Requisite: consensus supported by oath, witnesses and seal impressions -----
	support and obligations		R 3) Requisite: ultimate purpose – support in general terms

24 See my discussion under the heading “Major Contributions by Scholars,” *supra*.

25 Cf. Hilprecht (1909, 32).

26 Cf. Obermark (1992, 29, 39–41).

27 Cf. Stone (1991, 3–6).

Hilprecht's scheme ²⁵	Obermark's elements and 6 basic clauses ²⁶	Stone's 4 classes ²⁷	Requisites (R) and custom-made arrangements (C-M)
adoption property	description of inheritance		<i>C-M) Custom-made arrangements</i>
regulations: adoptive property	adoption payment		<ul style="list-style-type: none"> • <i>C-M 1) supplementary reciprocal obligations and/or benefits</i> Usually recorded in a formula:
provisions of the adoption's solution	4 categories of penalties: (1) forfeiture (2) payment/monetary fine (3) combination of forfeiture/monetary fine (4) slavery		<ul style="list-style-type: none"> • <i>C-M 2) description property/inheritance</i> • <i>C-M 3) regulation of obligations e.g. regarding adoption payment</i> • <i>C-M 4) circumstances/consequences of transgression</i> <i>(1) forfeiture</i> <i>(2) payment/ monetary fine</i> <i>(3) combination of forfeiture/monetary fine</i> <i>(4) slavery</i>

Next, I outline the requisites as well as the main recorded custom-made arrangements of the OB adoption agreement.

Requisites (R) of the Adoption Agreement

The identified requisites of OB adoption agreements were:

R 1): the adopted and adopter in an identified created artificial family bond with one another;

R 2): consensus reached regarding the arrangements, supported by an oath, witnesses and seals;

R 3): the provision for reciprocal support in general terms.

R 1): Artificial Family Bond Created between the Adopted and Adopter

Usually the precise wording of the recorded adoption reflected the created artificial family tie of the adoptee to the adoptive family. In most of the recorded adoptions involving minors, the biological parents' names are included, together with a statement that the child is adopted "from" them. The adopted minor was sometimes denoted as "suckling male child," "suckling female child," or "young child" (Obermark 1992, 19–20). The adult adopted's parentage was seldom mentioned; if mentioned, it was for identification purposes (Obermark 1992, 18–19) While the adopted adult entered into the agreement on his/her own behalf,²⁸ an adopted minor was assisted by his/her

28 Sometimes with the reference "on his own" (Obermark 1992, 18–20).

biological parent (Obermark 1992, 18–20). A slave was accompanied by a third party (Obermark 1992, 40).

Obermark (1992, 29, 39–41) identifies six “basic clauses” that demonstrated that an adoption had taken place. In the absence of an express reference, the adoption’s occurrence can be reasonably deduced from the context of the text. The clauses are as follows: (1) The *ana marūtīm* clause that identified the adoption for “sonship/daughterhood” (Obermark 1992, 39). (2) The *ana aplūtīm* clause that occurred in adoption agreements omitting the sonship or daughterhood-reference. The formula usually reads: “X has established (the adopted) as his/her heir.” (3) The *ana marūtīm u aplūtīm* clause that refers to the adopted son/daughter as the heir of the adopter. (4) The “X DUMU X” clause that usually reflects a formula, reading: “X is the (adopted) son/daughter of X.” (5) The “third party” clause referring to a third party, usually the biological parent, who “gave” the adopted son or daughter to the adopter. The adoptees were either small children or slaves on whose behalf someone else agreed to the adoption. (6) The *ana marūtīm u kallūtīm* clause that occurred in a few adoptions of “a daughter or a daughter-in-law” (Obermark 1992, 40).

Obermark’s first four “basic clauses” correspond to Stone’s (1991, 3–6) category of four “classes”, as discussed below. I add Westbrook’s (1995a, 1647; 1982, 78–82) and Obermark’s (1992, 78–82; 83–94) outline of the slave adoption (clause 5) and adopted daughter-in-law (clause 6). The brother-sisterhood adoptions (clause 7), is added for the sake of completeness, though it seldom occurred in OB texts (Obermark 1992, 1, 84–85).

I propose that the seven clauses of the OB adoption agreements identified²⁹ in the proposed integrated typology do not represent a closed number, due to the flexible nature of the OB adoption agreement.

Clause 1: Male Adopted One or More Sons

The most common adoption type was a single male (adopter) who adopted one or more sons (Stone 1991, 3–5). The support clause usually reflected the adopted son’s/sons’ pledge to support the adopter by providing a lifetime of allotments such as grain, oil, and wool. In exchange, the adopted son/s stood to inherit the adopter’s estate (Obermark 1992, 18–19; Stone 1991, 6–11).

29 Obermark (1992, 39ff.) incorporated Stone’s four classes but added Westbrook’s (1995a, 1647) discussion of the slave adoption (Obermark 1992, 83–94) and Westbrook’s (1982) *ana marūtīm kallūtīm* adoption (cf. Obermark 1992, 78–82).

Clause 2: Couple Adopted One or More Sons

Usually the adopters were a childless couple who adopted one or more sons to nurture, as with a parent-child relationship (Stone 1991, 1–6;³⁰ Obermark 1992, 13, 21).

Clause 3: New Spouse Adopted Children Previously Born to Spouse

In the third clause (class), a new spouse adopted the children of his/her spouse born from the latter's previous marriage (Stone 1991, 5). As Obermark (1992, 14) eloquently remarks, the “familial adoption turns two broken families into a whole one.”

In one Nippur adoption recording, the adopted sons had to support their stepmother in her old age. In Nippur adoption recordings, the status of the wife's sons was in accordance with their mother's status. For instance, if at divorce the mother was sold into slavery (renunciating the marriage), then the same applied to the sons if they renunciate their adoptive father (Stone 1991, 5).

Clause 4: Woman Adopter and/or Adoptee

The fourth clause (class) usually involved the *nadiātu* or other priestesses, depending on the interpretations gleaned from the text (Obermark 1992, 14; Harris 1975, 137, 309, 332, 347, 352, 355–67).³¹ As an exception—for financial support in old age—the daughter could inherit her father's estate, usually when the father had no other children (Obermark 1992, 67–68).

There were instances in which the adopter was a single woman with the status of either a *nadītu*³² or a *qadištu* priestess. Usually the adopted was an heir of the female adopter's estate. The adoption of a single man by a woman was rare (Obermark 1992, 68; Harris 1975, 355–67).³³ Nippur adoptions involving priestesses are fragmentary, and the array of such adoptions come from Sippar (Stone 1987, 24; Stone 1991, 6).³⁴

30 Stone (1991, 1–2, 5–6) focusses on the classes one and two adoptions.

31 See discussion of the adoption agreement involving women in Obermark (1992, 70–77).

32 The *nadiātu* priestesses of Nippur differ from those of Sippar. Unfortunately, the excavated contracts of Nippur are in a “fragmentary condition,” thus we must contend with limited information of the group's function in Nippur society (Obermark 1992, 15). The *nadiātu* in OB Nippur lived in a secluded area. The different groupings of *nadiātu* had in common that they were not allowed to have children. Some groupings could marry (Stone 1982, 55). Cf. Van Wyk (2015, 119–23).

33 Cf. discussion by Greengus (1969, 505–32).

34 See Stone (1987, 216–17, 219). The social role of the *nadiātu* in OB Nippur was extinguished with Nippur's decline (Stone 1982, 69). The factors that brought about the eventual decline of Nippur are still debated. However, it seems there was an economic crisis in the southern cities of OB during Samsu-iluna's eleven-year reign (Stone 1982, 52). Samsu-iluna's political motives, changing of the flow of the Euphrates, climatic circumstance, flooding, and excess irrigation all contributed to Nippur's decline. Nippur was finally abandoned during the thirty-first or thirty-second year of

Clause 5: Slave Adoption

A distinction should be made between the adoption of a slave³⁵ or former slave as an adopted and the enslavement³⁶ of an adopted as a penalty for transgression. The latter is discussed (*infra*) in the “custom-made” section under “slavery as penalty.”

Obermark (1992, 83–94) identifies 30 OB adoption recordings involving a slave or former slave as the adopted. Usually we deduce the status of the slave from the context of the recording. Sometimes the slave’s name and status were indicated with a determinant *šumšu*. Examples of slave adoptions from Sippar reflect the diversity of custom-made arrangements:

- A *nadītu* priestess adopted a slave. The conditions and purpose of the adoption were centred on the provision of financial support.
- A slave girl was given by her biological parent to a *nadītu*, provided that at the *nadītu*’s death the adopted slave girl would receive her manumission.
- An adopted slave who held the responsibility to assist his adoptive father in the repayment of a debt. Only with the fulfilment of the repayment would the adopter release the adopted slave from slavery (Harris 1975, 347–49).

Clause 6: Daughter-in-Law Adoption

In three Sippar recordings, CT 47 40, Waterman 72, and CT 33 34, a *kallatum*³⁷ was adopted and the adopter paid the brideprice (*terḥatum*)³⁸ to her biological parent/s.³⁹ The purpose of the adoption was for the adopter “to give” the bride in marriage to a third party/bridegroom (Obermark 1992, 78).⁴⁰

Obermark (1992, 80) agrees with Westbrook (1982, 39) that this was not a “real adoption” but rather a “hybrid adoption,” since an adoption should at least involve the

Samsu-iluna’s reign (Ellickson and Thorland 1995, 352; Stone 1981, 26–28; 1982, 69; 1977, 267–90).

35 Westbrook’s qualified definition of a “slave” is “a person who is owned by another in the manner of a chattel, subject only to special considerations that may arise from his humanity.” Still the “ambiguity of native terminology” as well as different systems may “affect” such a definition (Westbrook 1995a, 1634).

36 Redemption was a right in some of the slavery contracts, especially debt-slavery (Westbrook 1995a, 1635, 1648–53).

37 The common translation for *kallatum* is “bride” (Stol 2012, 132). Stol (2012, 133) prefers Kraus and Westbrook’s notion of the *kallatum* as a “daughter-in-law after the marriage as well as before.”

38 Stol (2012, 132) mentions that *terḥatum* can mean payment for the right to control (R. Westbrook), “bridal payment” (R. Yaron) or by the more common/traditional translation of a “brideprice.”

39 Cf. Obermark (1992, 78–92).

40 Cf. examples of a so-called adoption marriage in Stol (2012, 140ff.) as well as the discussion at pp. 160ff. regarding the *nadītu* priestess who adopted a second wife (sister) for her husband to bear children.

adopter's and adoptee's compliance with reciprocal benefits and obligations in the creation of a "bona fide family tie." In this "hybrid adoption" the adopter is only acting as a parent-in-law focusing on the conclusion of a marriage (Obermark 1992, 80).

The flexibility of an adoption agreement is illustrated by Suurmeijer's (2010, 23–27) discussion of Sippar daughter-in-law adoptions⁴¹ followed by his investigation of a young girl's adoption as a daughter/daughter-in-law by a *nadītu* priestess (Suurmeijer 2010, 36–46). The *nadītu* paid to the girl's biological parents five shekels for the *terhatum* (brideprice), and the girl entered as a *kallatum* into the *nadītu*'s household to contribute by working for her sustenance.⁴² When the *kallatum* reached marriage age, the *nadītu* would arrange for the girl to be wed as a "first wife." In such instances, the *nadītu* may have profited 10 shekels or more, since that was the going rate for the *terhatum* for a first wife (Suurmeijer 2010, 23–27).

Clause 7: Brother and Sister Adoption

The brother-sisterhood adoption type seldom occurred in OB recordings, although it was a common practice in Nuzi.⁴³ In the "sistership" adoption the adopter man or woman adopted another woman as a "sister." Usually it was the brother who adopted his sister. In the "sistership" adoptions from Nuzi, the brother, as the protector of his sister, had the right to marry her off to a third party who adopted her as a "sister."⁴⁴

R 2): Agreement Supported by Oath, Witnesses, and Seal Impressions

The adoption agreement, in its abridged written format, only served as some form of proof regarding the family members' reciprocal benefits, duties, and obligations, including the types of penalties in the event of transgression.⁴⁵ Thus, the recording was not a complete record of the adoption. Rather, the oral adoption agreement consisted of "various transactions ancillary thereto"⁴⁶ and was not concluded at a specific moment. We can glean from the abridged recording of the adoption that the involved family members partook in various ceremonies in securing the adoption.

The adoption, though an "auxiliary of transactions," took place in the presence of witnesses whose names and statuses, as well as those of the scribe/s who wrote the

41 CT 47, 40 (H_a 25).

42 Cf. Stol's (2012, 131) investigation of the amount of silver paid for the brideprice in OB texts.

43 Cf. Greengus (1969, 512; 1975, 5–31).

44 Cf. Eichler (1977, 45–59); Greengus (1975, 5–31); Grosz (1988, 131–52).

45 Cf. Obermark (1992, 35).

46 Cf. Westbrook (1982, 16).

tablet, were reflected in a recorded list.⁴⁷ We can also infer from the recording that the involved family members took a ceremonial oath (Veldhuis 1996, 24).⁴⁸

The manner in which the seals were placed on the recorded tablet served as an additional measure to protect the interests of the involved family members, and indicated whose rights were protected. For instance, there were different seal practices in Nippur and Sippar. Charpin (1994, 95) observes that most of the Nippur adoption recordings, discussed by Stone and Owen (1991), contained only the seal of the adopter and that the contract was drawn up for and given to the adoptee, thus serving to protect the adoptee. Suurmeijer (2010, 21) refers to four Sippar seal envelopes. Two of the seal envelopes contained the seals of the biological parents of a *young* adopted daughter.⁴⁹ Suurmeijer (2010, 21) surmises that was to protect the rights of the adoptive parents against claims by the birth parents. The other two seal envelopes concerned the adoption of a *mature* son,⁵⁰ but in these two instances the biological parents are not mentioned, and they contain the seal of the adoptive parent. This served to protect the rights of the mature adoptee (Suurmeijer 2010, 21).

R 3): Ultimate Purpose: Provision for Reciprocal Support

Stone (1991, 1–11) and Obermark (1992, 17, 21, 22, 29–31) placed different emphases on some aspects of the adoption’s purpose, as reflected in especially the first four clauses (classes).

Support Clause in Clause 1: Male Adopts One or More Sons

Stone (1991, 1–5) argues that most of the class (clause) 1 adoptions were motivated by economic rather than familial concerns, serving “primarily as a means of property transfer.” This was necessary because of the restrictions placed on the alienation of real estate in Old Babylonian Nippur.⁵¹ Stone (1991, 1–2, 11) explains that support clauses were not always included in the recordings because the adopted and adopter did not necessarily live together as family and the obligations of the adopted and adopter needed to be outlined. The primary goal was the transfer of property with the built-in provision of support (Stone 1991, 1–2, 11).

Support Clause in Clause 2: Couple Adopts One or More Sons

Stone (1991, 3–5, 11) opines that the provision of support in the class (clause) 2 adoption was almost always absent in the adoption recordings. It was a “familial” and

47 Cf. Westbrook (1982, 16); Obermark (1992, 35–36) and Tanret and Suurmeijer (2011, 78–112).

48 Cf. Greengus (1995, 469–84).

49 CT 47, 40 and BM 97108A with the phrase-clause “taken as daughter” from previous parents.

50 Di 2162 and BE 6/1, 96.

51 Obermark (1992, 16) disagrees that the first category adoption was established due to the restriction on the alienation of land.

“real” adoption. The aim was for a couple to adopt one or more sons to ensure the provision of an heir and mutual support (Stone 1991, 5, 11).

Support Clause in Clause 3: New Spouse Adopts Children of Spouse from Previous Relationship

Usually the support clause was omitted, because the motive was familial rather than economic (Obermark 1992, 14). Stone (1991, 1–6,11) concurs that the class (clause) 3 adoption was a “familial” and “real” adoption within the context of a marriage (Stone 1991, 11). Obermark (1992, 23) agrees with Stone (1991, 10–11) that the emphasis was on inheritance and, in the instance of repudiation, penalties would have been enforced.⁵² Stone (1991, 10–11) states that due to the absence of the support clause there were severe penalties for repudiation, especially for the adopted. This indicates that the couple’s aim was to provide heirs to support them in a parent-child relationship (Stone 1991, 6, 10–11).⁵³

Support Clause in Clause 4: Woman Adopters/Adoptees

The support clause occurred in most of this type of adoption, probably because single, childless women depended on support and maintenance to secure economic and physical security (Obermark 1992, 23, 45–46). Obermark (1992, 23) opines that age is an indication of the motives for this type of adoption. An older adopter would need care and support (Obermark 1992, 23). The adopter usually raised the younger adopted child and in return the adopted child supported the adopter in old age (Obermark 1991, 24). However, Suurmeijer (2010, 20–21) shows that in the case of the adoption of a *nadītu* from Šamaš, the aim was not the provision of support and care in old age. Rather the emphasis was placed on taking “care” of the “deceased *nadītu*’s spirit.” This type of support obligation secured the “*quid pro quo* agreement” of providing reciprocal benefits involving “sustenance and inheritance” (Suurmeijer 2010, 20).

Support Clause in Clause 5: Slave Adoptions

Obermark (1992, 84) remarks that all the slave adoptions should contain the element of manumission, though it was not always explicitly mentioned in the recordings. The recording usually reflects the symbolic reference that the adopters “purify” the slave adoptee (Obermark 1992, 83–84). Other phrases that occur include “...has cleansed his (the slave’s) forehead” or that the manumission took place “in the presence of (the god) Šamaš” or that the adoptee has “turned (his) face to the East.” Obermark (1992, 85–86) opines that the phrases indicated that a religious ceremony would have taken place.

The main purpose was to secure the adopters’ “physical and economic security in old age” (Obermark 1992, 82, 44–46). Harris (1975, 347) stated that an adopted slave never

52 Cf. Westbrook (1982, 16)

53 Obermark (1992, 107–08) differs with Stone’s view as to why the couple adopted one or more sons.

inherited property and the intention was that the slave would provide a lifetime of support to the adopter. At the death of the adopter, in return for the support, the slave would be freed. Obermark (1992, 93, fn. 15) disagrees with the latter point, and surmises that the adopter would rather during his/her lifetime give such manumission to the adopted slave in the latter's fulfilment of given support.

Ultimate Purpose of the Adoption (R 3)

Obermark (1991, 17, 21, 22, 29–31) holds the view that all adoption types held a provision of support, even if it was not explicitly mentioned. For the adoption simulated aspect/s of a biological kinship's reciprocal duties of support. There seemed to be a "genuine kinship" due to the presence of the support clause with the usual *quid pro quo* that the adoptee will inherit from the adopter's estate (Obermark 1993/1994, 108). In most adoptions the purpose for the adoption was for a "pragmatic economic self-interest" to ensure "physical and economical security for old age" (Obermark 1993/1994, 108). In addition, although the sentiments of love and affection cannot be reflected in the recording, Obermark (1992, 24) held that we cannot exclude such sentiments because of their omission.

I agree that the ultimate purpose of the adoption was to provide for reciprocal support in general terms and did not necessarily included financial support. The aim of the adoption could have been a *quid pro quo* of emotional and/or educational and/or financial support depending on the family members' needs and obligations, centred on a system of kinship relationships. I have categorised the latter as the "supplementary reciprocal obligations and benefits" that the involved parties could have included in their agreement. I discuss this category in the following section, the "custom-made practices," *infra*.

Custom-made Practices (C-M)

This categorisation of the possible custom-made practices is superficial and cannot represent a closed number of practices. Due to the flexible nature of the adoption agreement, a custom-made clause might fit loosely within this typology. Still, as Obermark (1992, 35–38) stresses, the absence of a clause or some details thereof does not mean that it was excluded in the oral adoption.

I first present a selection of scholars' identification and emphases on the different aspects of support in what they have perceived as the main drive for the OB adoption. However, these aspects of support rather constitute supplementary reciprocal obligations and benefits (C-M 1) as agreed upon between the involved parties, depending on their circumstances, needs, and obligations.

Then I reflect on those custom-made practices that provided for penalties applicable to both the adopter and adopted in the instance of transgression or non-fulfilment of the arrangements.⁵⁴ Usually, a clause, recorded nearer to the end, contained the following:

- C-M 2): the built-in description of the property;
- C-M 3): regulation of *quid pro quo* obligations, for example regarding the adoption payment;
- C-M 4): circumstances and consequences in the instance of transgression, leading to the penalties, i.e.,⁵⁵
 - forfeiture of estate or inheritance
 - payment of monetary fine
 - a combination of forfeiture
 - monetary fine or slavery.

C-M 1): Provision for Supplementary Reciprocal Obligations and/or Benefits

Continuation of Family Line through Religious Rites

Driver and Miles (1952, 383) maintain that adoption was for the continuation of the family to perform religious rites after the death of the adopter. All adoptions were real adoptions for there is no evidence in the OB sources of “pseudo” or “foster” adoptions of inferior status (Driver and Miles 1952, 383). Suurmeijer (2010, 27) shows that in general the adoption of a male infant secured an heir. The adoption of a mature female often guaranteed the performing of required rituals for the adoptee *nadītu* with the latter’s death (Suurmeijer 2010, 19–21, 27). Suurmeijer (2010, 9) focuses on the so called “true adoptions” (indicating *ana marūtīm legūm /nadānum*) and concludes that in OB Sippar the so-called implicit adoptions did not record an explicit adoption but rather recorded different transactions (Suurmeijer 2010, 9–10).

54 Podany, Beckman and Colbow (1991-1993, 39–51) refer to an adoption and inheritance recorded during the reign of Iggid-Lim, king of Ḫana. The sanction clause stated that if the adopted child renounced his parent, the eldest child would receive double the inheritance with another child in succession, thus, securing the adoptive parents against the claims of the biological parent (Podany, Beckman and Colbow 1991-1993, 48–49). An outline of some house property is made. Possibly it was the dowry of the adoptive mother and the reference was for protection against the claims of her children and the adopted son, on the death of the husband (Podany, Beckman and Colbow, 1991-1993, 51).

55 Obermark (1992, 47ff.) discusses his proposed four categories of penalties.

Economic Advantages

OB Adoptions may include the rendering of services and/or financial support and/or provided for provision to secure the continuation of the family line.

Mendelsohn (1949, 19) considers the adoption to have economic value providing for the rendering of services.

Davies (1993, 1, 97) opines that adoption was for the preservation of the family. The childless parent adopted a child and the child's biological family would have considered it worthwhile, because in exchange they gained in monetary compensation.

Stone (1991, 2–3) makes a distinction between family adoptions as real adoptions and economic adoptions that were a fiction, created for the transfer of property. Stone (1991, 2–3) surmises that the real adoptions' function included that of providing a childless individual/couple with an heir, while uplifting the family status and/or providing some social advantages.

Cuq (1952, 57–58, 48) maintains that an adoption was “real” when the adoptee was adopted into the family as a son or daughter, while in “pseudo” adoptions the adoptee was appointed as an heir in exchange for services and/or financial support during the adopter's lifetime. The adoption may either have been for the continuation of the family line or held an economic value of support/maintenance (Cuq 1952, 57–58).

C-M 2): Built-In Description of Property of Estate/Inheritance

Sometimes there was a precise description with location markers, or specific income of the involved property, although there was no standardised formula (Obermark 1992, 43–44).

We can usually deduce from the generic formula that in instances of repudiation, specified properties would be forfeited.⁵⁶ In most instances it was an array of assets such as a “house, field, orchard, and moveable property” (Obermark 1992, 32).

C-M 3): Regulation of Quid Pro Quo Obligations

For example, the regulation of the adoption payment. Usually the clause stated the type of payment and to whom it was to be paid, whether in favour of the biological parents or the adopter. In most infant/childhood adoptions, there was an adoption payment made

56 Fleishman (2001, 93) discusses the formulas found in the recordings of adoptions, marriage arrangements, and acquisition of slaves. Obermark (1992, 105–08, esp. 108) discusses the adoptive father's circumstances and justification for repudiation and, stresses the limitation of the demands of such an adoptive parent towards his/her adopted child.

to the biological parents, e.g., the nursing of the adoptee (Obermark 1992, 41–43, esp. 41).

C-M 4): Circumstances and Consequences of Transgression

Forfeiture/Monetary Fine/A Combination Thereof

The penalty may have led to either a forfeiture of estate or inheritance or the payment of a monetary fine, or a combination of both.

Regarding the adopter, criminal behaviour may have given legal validation for the (adoptive) parent to renunciate the adoption (Fleishman 2001, 94 fn. 6; Stone 1991, 29–30, 39–40). The clause usually provided that the father dissolves the adoption family tie with the declaration “you are not my son/daughter.” However, some clauses provided for sanctions in preventing a repudiation made without cause. The declaration may read: “If a mother/father says to her son ‘you are not my son,’ she forfeits ‘house and property’” (Fleishman 2001, 94). Thus, if the adoption was repudiated without cause, the most common penalty was that the adopted father would forfeit his property (Fleishman 2001, 95; Obermark 1992, 51).

Fleishman (2001, 93, 95, 97) investigates which property would be forfeited: all the adoptive parent/s’ property or only the inheritance portion of the adopted child. If the adoptive parent forfeited all the property it would be to disadvantage of the other children. Thus, Fleishman (2001, 97) surmises that the penalty is limited to only the adopted child’s inheritance share. The adopted child would then be remunerated with his inheritance share, preventing the child from being left desolate (Fleishman 2001, 93, 95, 97).

Slavery as Penalty

In general, the penalty for slavery was directed at the adopted in the renunciation of his/her adoptive parent/s (Obermark 1992, 30, 51, 84–85). Usually it was reflected in a standard clause, as a “recitation of *verba solemnia*” or formal words with the dissolution of the adoption (Westbrook 1995a, 1647). For instance, a clause stating: “If a son says to his father ‘You are not my father,’ he will shave him, place the slave-mark upon him and sell him” (Westbrook 1995a, 1647). Obermark (1992, 35–36) adds that in texts denoting the breaking of the “tablet of heirship,” such a clause was “central to the repudiation of the adoption process.” The recording of the renunciation itself was only for testimonial purposes (Obermark 1992, 36).⁵⁷

57 Obermark poses the questions “... was the contract intended as a comprehensive record of the adoption agreement? Or was it rather, at least at times, more of a summary of the salient points of the agreement, with detailed information included only on those issues which it was thought might give rise to future litigation?” and concludes that the latter is “more likely” (Obermark 1992, 32–33).

Conclusion

The oral adoption agreement was a common practice in Old Babylonia and our interpretations are limited by the scribe's summarised adaptation in written form (Veldhuis 1996, 24; Obermark 1992, 29–30). We cannot rely on the absence of a clause as an exclusion in the oral adoption (Obermark 1992, 35, 38–39). Still, we can ascertain that the oral adoption agreement was created, driven, and influenced by at least three overlapping features: Feature 1): The adoption agreement created an artificial family bond with reciprocal benefits, duties, and obligations between the involved family members. Feature 2): The agreed arrangements were flexible and even to a degree unstructured, and were adapted to the circumstances, needs, obligations, and desired benefits of the involved family members. Feature 3): The involved family members' choices, behaviour, position and status were relative to a *system of relationships* within the “family,” the “extended family” and the “interconnecting family” to ensure and maintain harmony.

Within the framework of the flexible nature of the adoption, I have presented a typology of the adoption structure by identifying three requisites (R) of an adoption distinguishing it as such, as well as the adaptable arrangements chosen in accordance with the circumstances, obligations, needs and desired benefits of the involved family members. The requisites are: R 1): The presence of an identified artificial family bond created between the adopted and adopter reflected within, at least, seven basic clauses. R 2): A consensus reached regarding the adoption arrangements between the involved family members. The written format was not a complete account of the adoption. The involved family members partook in various ceremonies in the presence of witnesses and took a ceremonial oath. In addition, the manner in which the seals were placed on the tablet served as additional protection for the interests of the involved family members. R 3): The ultimate purpose of all adoption types was at least that of the provision of support in general terms, even if it was not explicitly mentioned in the recording.

The categorisation of the possible custom-made practices (C-M), reflected in the recording, is superficial and not exhaustive and may have included the following: C-M 1): Supplementary reciprocal obligations and/or benefits that may have included the continuation of family line and religious rites, as well as holding economic advantages for the involved parties. C-M 2): A built-in description of the property. C-M 3): The regulation of *quid pro quo* obligations. C-M 4): The circumstances, and consequences in the instance of transgression.

Overall the kinship relationships, obligations, social circumstances, and economic factors would have governed the application of the adoption practices with the aim of maintaining harmony within the system of family relationships.

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