
8th LUMEN International Scientific Conference Rethinking Social Action.
Core Values in Practice | RSACVP 2017 | 6-9 April 2017 |
Suceava – Romania

Rethinking Social Action.

Core Values in Practice

Inheritance – between the Bible and the Civil Code

Liviu-Bogdan CIUCĂ

<https://doi.org/10.18662/lumproc.rsacvp2017.16>

How to cite: Ciucă, L.-B. (2017). Inheritance – between the Bible and the Civil Code. In C. Ignatescu, A. Sandu, & T. Ciulei (eds.), *Rethinking Social Action. Core Values in Practice* (pp. 169-175). Suceava, Romania: LUMEN Proceedings
<https://doi.org/10.18662/lumproc.rsacvp2017.16>

© The Authors, LUMEN Conference Center & LUMEN Proceedings.
Selection and peer-review under responsibility of the Organizing Committee of the conference



This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial 4.0 Unported License, permitting all non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited

8th LUMEN International Scientific Conference
Rethinking Social Action. Core Values in Practice |
RSACVP 2017 | 6-9 April 2017 | Suceava – Romania

Inheritance – between the Bible and the Civil Code

Liviu-Bogdan CIUCĂ¹

Abstract

Private law institutions, such as inheritance, marriage, engagement managed to be transmitted through the entire human history, while maintaining their decisive role in forming family ties, or with respect to reasons for property issues. This article aims at approaching a research on the institution of heritage and its customary and legislative transformations, building a bridge in time between the text of the Bible and the Civil Code. The analysis is focused on the importance given to the institution in the two different historical moments, the principles that would govern it, the way to transfer the property right by mortis causa. Thus, it will highlight both surprising similarities and differences arising from the social, legal or religious culture of the time. The method of dividing inheritance, the situation of the surviving husband, the rules of escheat, the existence of forced heir are just some of the issues addressed in the paper, all these analyses leading to an unequivocal conclusion: Inheritance meant and represented, from time immemorial, both an engine for economic development and a strengthening factor for family and social development.

Keywords: inheritance, Bible, civil, Code, analysis.

1. Introduction - Biblical archaeology elements

This article aims at approaching a research on the institution of heritage and its customary and legislative transformations, building a bridge in time between the text of the Bible and the Civil Code.

The analysis is focused on the importance given to the institution in the two different historical moments, the principles that would govern it, the

¹ Professor PhD, Faculty of Juridical, Social and Political Sciences, “Dunărea de Jos” University of Galați, Galați, Romania, eurom2000@yahoo.com, oanagrama@yahoo.com.

<https://doi.org/10.18662/lumproc.rsacvp2017.16>

Corresponding Author: Liviu-Bogdan CIUCĂ

Selection and peer-review under responsibility of the Organizing Committee of the conference



way to transfer the property right by mortis causa. Thus, it will highlight both surprising similarities and differences arising from the social, legal or religious culture of the time.

Within the economy of the article hereto, this chapter is intended to present certain biblical archaeology elements in order to give credit to the sources that offered the elements, the text and background concerning the matter of inheritance, such as it is found the Book of Moses.

The Bible concretely represents an entire anthology of Christian, Judean or Christian-Judean texts that were grouped into two great parts according to the Christian acceptance: The Old Testament and the New Testament. All the writings were made in Aramaic, Greek and naturally Hebrew. If according to Christianity the Scripture is composed of the Old Testament and the New Testament as a whole, in the Hebrew tradition “these canonical writings are organized into three units consisting of separate books or scrolls, also known as Tanakh, TNK being the acronym for the three sections: Torah (Teaching), Nevi'im (Prophets), Ketuvim (Writings)[1]. Obviously, from the perspective of the performed research, our attention is drawn to the Old Testament and especially to the section called Torah. The Old Testament gathers 39 books and the New Testament is made of 27 books, the entire Bible, such as accepted by Christianity, having 66 Books all-in-all. It must be noticed that the Bible is the most quoted paper as to the editorial records. Thus, either criticised or praised, the Bible holds the record of the best-selling in the world. It has been translated into 500 languages and dialects, there being tenths of translations into English alone. The New Testament is currently available in over 1000 languages. It has been estimated that the Bible has been sold worldwide in over 6 billion copies. Much behind it ranks the Red Book comprising Mao Tse-Tung's quotes, which has been sold in approximately 900 million copies.

Etymologically, the term “Bible” is of Greek origin, namely *biblion*, meaning book, considering that the term, in turn, has Phoenician influences considering the existence of the port of Byblos. The oldest translations of the Bible, within the articulated meaning of translation, were made between 200 B.C. – 400 A.D., into Latin and Greek. The Late Middle Ages Christian missionaries had an important contribution to the translation of the Bible. Along the manuscripts of Qumran, which are deemed to have been written around 200 B.C., *mijna* contains a series of written laws revealing the teachings of the Tannaim. The oldest complete Bible (Old and New Testament) was discovered in 1944 in Sinai at the Saint Catherine Monastery's library. This Bible is called Codex Sinaiticus.

2. Theoretical Background - The Law of Moses

The Samaritans considered that all the discoveries granted by God were found in the Torah, its text being mandatory, while the other texts of the Bible were just aiding, additional reading. The Torah is considered as fundamental by the Jews and an equivalent form of the New Testament Gospels.

The central point in Moses' story is the giving of the Law, the establishment of the Mosaic code. Everything preceding this moment was just the prelude. Everything following it represents the consequence. This giving of the Law was the very act whereby a new nation was born. The Sumerians, whose law code dates back to 2500 B.C., were probably the first people to have a written code, which lacked the passion for justice. Five hundred years later, the Sumerian code was reasoned and incorporated in Hammurabi's Code, but again, this law system was devoid of Torah's democratic spirit, a written law code that eclipsed all the laws known before by its all-encompassing humanity, its passion for justice, its love for democracy. The same helped form a new typology of Jews and guided their thinking to new paths, which had the tendency to further the Jews more and more from their neighbours [2].

3. Argument of the Paper - The Inheritance

According to the Cornilescu translation, the word inheritance is found 103 times in the Bible [3]. From the perspective of this research, we shall reveal only those texts where the term inheritance refers to the mortis causa property transfer.

Thus, in the Book of Genesis, 31:14, Rachel and Leah answered: "Is there any portion or inheritance left to us in our father's house?"; Genesis 48:6 "As for the offspring born to you after them, they shall be yours. They shall be recorded under the names of their brothers with regard to their inheritance." Numbers 18:20 "You will have no inheritance in their land, nor will you have any share among them. Numbers 27:4 "Give us property among our father's relatives". Numbers 27:7 "What Zelophehad's daughters are saying is right. You must certainly give them property as an inheritance among their father's relatives and give their father's inheritance to them." Numbers 36:7 "No inheritance in Israel is to pass from one tribe to another, for every Israelite shall keep the tribal inheritance of their ancestors." Deuteronomy 10:9 "That is why the Levites have no share or inheritance among their fellow Israelites." Judges 2:29 "And they buried him in the land of his inheritance."

Judges 11:2 “Gilead’s wife also bore him sons, and when they were grown up, they drove Jephthah away. “You are not going to get any inheritance in our family,” they said, “because you are the son of another woman.” 1 Chronicles 28:8 “that you may possess this good land and pass it on as an inheritance to your descendants forever.” Job 42:15 “and their father granted them an inheritance along with their brothers.” Jeremiah 32:8 “Since it is your right to redeem it and possess it...” Ezekiel 46:16 “If the prince makes a gift from his inheritance to one of his sons, it will also belong to his descendants; it is to be their property by inheritance.” Numbers 27:9 “If he has no daughter, give his inheritance to his brothers.” Numbers 27:10 “If he has no brothers, give his inheritance to his father’s brothers.” Numbers 27:11 “If his father had no brothers, give his inheritance to the nearest relative in his clan, that he may possess it. This is to have the force of law for the Israelites, as the Lord commanded Moses” [4].

From this last quote, we find on the one side within the Law of Moses the identification of strict and clear rules regarding the division of the inheritance but also the existence of a division principle based on the proximity to the succession’s author. Within the text of the Law of Moses, there may be identified rules that set out property right transfer principles and procedures, both *inter vivos* and *de mortis causa*, finding alongside that they proved perennial, by enduring through centuries due to their utility. The surviving spouse’s role in collecting the inheritance, the establishment of classes and degrees of heirs and the maintenance of the inheritance within the lineage (people, nation) in the case of “vacant” succession, are rules applied by the Jews that have been described in the Bible and which had the authority bestowed by the divine inspiration and supported in front of the people by the elders, the wise, the rulers of the tribes and by Moses.

4. Argument to support the thesis

Such as His Excellency, Mosen Rosen said in an illuminating statement in “Biblical Teachings” [5], Torah, “The Book of Books”, withstands the millennia because the past and present, the eternal and the every day life always resonate, because it expresses the entire range of human feelings from all generations. Narrating stories thousands of years old, it commemorates the present by bringing before us characters from the distant past”.

The Books of Moses, comprising the Genesis, Exodus, Leviticus (book of law), Numbers and Deuteronomy, were initially written on scrolls and after the 2nd century, they were written on pages that were united to

form the Codices. Among them, we mention the Codex Vaticanus, made of 759 pages that is deemed the oldest Bible manuscript. The Codex Sinaiticus, discovered in the already specified conditions in the previous chapter, contains 129 pages of apocryphal.

5. Argument to argue the thesis - Inheritance in the Civil Code

Under a tessellated influence, namely of the French, Italian, German, Spanish, Swiss, Brazilian Civil Code, but maybe mostly of the Civil Code from Canada, Quebec Province, the New Civil Code adopted in 2009 and enforced as of 2011, confirms the importance of the inheritance institution for society's development. Unlike the Old Civil Code, the current code dedicates an entire book to this institution (Book IV – “About inheritance and liberalities”), approaching between art. 953-1163 provisions referring to inheritance in general but also to concrete aspects envisaging the legal inheritance, testamentary trust, the coexistence of the two types of inheritance, the vacant succession as well as texts regulating the will, the disinheritance and transmission of inheritance. It must be specified that we shall encounter aspects concerning the inheritance regulated in the text of another book such as inheritance ineligibility and the possibility of removing succession effects. If we are to refer only to art. 963 “(1) Inheritance is due, in the order and according to the rules set out in the title hereto, to the surviving spouse and the decedent's relatives, and namely, to his descendants, ascendants and collaterals, as the case stands. (2) The descendants and ascendants are entitled to inheritance regardless of the relationship degree with the decedent, and the collaterals only to the fourth degree included. (3) In the absence of legal or testamentary heirs, the decedent's patrimony is transmitted to the Commune, City or, as the case stands, to the Municipality on the territory of which the assets were found at the date of opening the inheritance [procedure]”[6], we shall find that the inheritance is due in certain order and by observing strict rules.

Similar to the Bible's text, we shall find the special status of the surviving spouse, the identification of heirs based on principles that generate classes of heirs or their degree.

6. Dismantling the arguments against

Thus, it can be found that the biblical text reveals, similarly to the Civil Code in what concerns the general principles, the principle of summoning the relatives in the order of classes of heirs, the principle of

relationship proximity degree within the same class of heirs, the principle of equality among the relatives of the same class and same degree and we can even find that within the Hebrew Law even operated the principle of succession representation. Obviously, even if the principles are maintained, there are also procedure approach differences determined by the culture and customs of the time, there being such circumstances in history where one could identify in the rules of the Amorite king Lipit-Ishtar of Isin 1934-1924 B.C. and then in Law 170 of Hammurabi, regulations that specify “when the man has children from both his first wife and the surrogate wife, the children shall equally share the property originating in the father’s estate” [1].

7. Conclusions

This article is not intended to approach the topic from the theological viewpoint or that of historical events. We only attempt to challenge to a comparative research or analysis of the inheritance institution such as found in the biblical text and as it is regulated at present by the texts in effect. Such analysis shall undoubtedly lead to the conclusion that the inheritance institution, not only is it regulated in detail in Moses’s time but it also has a particularly important role in both the civil and religious rules of the time. We may appreciate quasi-total similarities of certain principles and procedural rules regarding the devolution succession. In our opinion, such similarities unequivocally prove the utility of the institution, the inheritance being both in the past and at present, a strong factor of social and family coagulation and economic development. Thus, even by the diachronic analysis of the evolution of the inheritance institution, we may identify religious, cultural and economic values that have dominated and are still dominating the society.

References

- [1] Hoffmeier JK. *Arheologia bibliei* [The Archaeology of the Bible]. Oradea: Editura Casa Cărtii; 2009. 22, 44 p.
- [2] Dimont M. *Jews, God and History*. Penguin Publishing Group, 2004, pp. 47-48 quoted by T Aldea. *The Light of Torah*. Bucharest: Editura Viața și Sanătate; 2016. 90 p.
- [3] Asociația Biblică Română. *Biblia pentru studiu*. 2014. Available from: https://issuu.com/edituraviatasisanatate/docs/bs_sample
- [4] Moise, *Cartea Numeri*, pp.178, *Biblia sau Sfânta Scriptură a Vechiului și Noului Testament cu referințe* [The Bible or the Holy Writ of the Old and

- New Testament with references]. Oradea: Asociatia Biblica Romana “Casa Bibliei”; 2012.
- [5] Mosen R. Invataturi Biblice (Biblical Teachings), Editura Federatia Comunitatii Evreiesti din RSR. 1978.
- [6] Legea nr. 287 din 2009 privind Codul Civil, publicata in Monitorul Oficial al Romaniei Partea I nr. 511 din 24 iulie 2009, modificata prin Legea nr. 71 din 2011 si rectificata in Monitorul Oficial al Romaniei Partea I nr. 427 din 17 iunie 2011 si in Monitorul Oficial al Romaniei Partea I nr. 489 din 8 iulie 2011, (Law no. 287 from 2009 regarding Civil Code published in the Official Gazette of Romania, Part I, No. 511 from 24 July 2009, amended by Law no. 71 from 2011 and corrected in the Official Gazette of Romania, Part I, No. 427 from 17 June 2011 and in the Official Gazette of Romania, Part I, No. 489 from 8 July 2011.