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Evolution of legal capacity in Georgian and Roman law for natural persons

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Abstract
This article traces the historical development of the legal capacity of natural persons within the contexts of ancient Roman law and modern Georgian legislation. It begins by examining the gendered distinctions that once characterized the determination of legal age and capacity in both Roman and old Georgian civil laws. Highlighting the progress made, the article notes that contemporary domestic and international legislation no longer employ such gender-based differentiations. The current civil legislation in Georgia is outlined, emphasizing the differentiation of rights based on age and health status. This includes a detailed discussion of the legal capacity of minors, the incapacitated, and individuals with limited legal capacity, as well as the implications for property relations and legal transactions. The article also discusses the significant legal reforms enacted in Georgia from April 2015, transitioning from a medical model to a social model of legal capacity. This reform allows for greater autonomy and legal engagement for persons with disabilities, including the ability to marry, inherit property, and participate in legal proceedings. The support recipients' legal liabilities and their expanded rights are examined, illustrating the alignment of Georgian civil legislation with international human rights standards, particularly the Convention on the Rights of Persons with Disabilities. This analysis reveals the dynamic evolution of legal capacity from ancient to contemporary times, shedding light on the nuanced interplay between health status, legal capability, and societal inclusion. The article concludes that Georgian civil law has not only embraced international norms but also significantly advanced the legal agency of individuals with disabilities.

Keywords: Legal capacity, Georgian law, Roman law, disability rights, civil legislation

1. Introduction
This article delves into the pertinent subject of the legal capacity of natural persons, tracing its development from both Georgian and Roman law perspectives. Between 2014 and 2015, a significant reform was undertaken that fundamentally transformed the institution of legal capacity, a change well-recognized by the legal fraternity.

The primary aim of this article is to elucidate the evolution of the legal institution of a natural person's capacity, spanning from Roman law to contemporary times. Further, the research explores if the current civil legislation, in its governance of legal capacity, aligns with international human rights standards and fulfills the stipulations of the "rights of persons with disabilities" conversion.

Structured in five sections, the article's progression is as follows:

- The second section delves into the regulation of legal capacity within Roman law.
- The third section explores the institute of legal capacity in ancient Georgian law, referencing numerous historical Georgian sources.
- The fourth section discusses the governance of the institution of legal capacity in contemporary civil law, specifically spotlighting regulations and reforms from November 1997 to today.
- The concluding section encapsulates the key discussions throughout the article and offers a final summation.

2. Institute of Legal Capacity in Roman law
The foundation of civil legislation in numerous European states rests on the Roman law as reinvigorated over time [1].

[1] Zimmermann R. 2007. Römisches Recht und europäische Kultur. JuristenZeitung; p. 5.

Professor Valerian Metreveli posits, "Roman law stands as perhaps the most impeccable legal system, having exerted an unparalleled influence on the global legal tapestry. It showcases remarkable precision in defining legal categories, profound exploration of individual legal entities, and a commendable mastery of legal techniques" [2].

A pivotal epoch in Roman law history is Emperor Justinian I's codification in the sixth century. At this juncture, the Eastern Roman Empire, Byzantium, encompassed vast territories, such as Asia Minor, the Balkan Peninsula, the Mediterranean's eastern shoreline, and regions like Phoenicia, Lebanon, and Palestine. The Empire further expanded with the annexation of regions like the Apennine Peninsula, parts of Spain, and North Africa's northern coast during the Emperor's reign. Implementing political-legal reforms became imperative for the administration of the Roman Empire. The prevailing legislation of ancient Rome was becoming outdated, and no new legal framework was in place. This necessitated Emperor Justinian I's codification initiative. The codification drew from ancient Roman legislation, incorporating various sources: The Tableau XII laws, their commentaries, the Senate's resolutions "senatusconsulta," popular assembly decisions, magistrate edicts (primarily Praetors), court practice materials, and works of Roman lawyers from the second to fourth centuries. These documents were collectively termed "IUs" (Justice). Subsequently, "constitutions"-decrees promulgated by Roman emperors-also adopted this designation. Post the Roman Empire's bifurcation in 395, laws termed "leges" were considered authoritative legal sources. Later on, the emperors' constitutions were mandated to have legal force [3].

Under the guidance and initiative of Byzantine Emperor Justinian I, the Corpus Iuris Civilis was formulated between 529 and 534. The emperor labeled his compilation the "Temple of Roman Law." This collection, premised on the adaptation and consolidation of ancient Roman law, comprises 16 books, further divided into titles, with ordinances within each title chronologically arranged. Three substantial collections were curated by the Legislative Commission during 529-534: 1) Institutes, 2) Digests or Pandects, and 3) The Justinian Code. All these collections were vested with legal power, and Emperor Justinian prohibited their commentary. Post his demise, the "Novellas" was released, encapsulating the emperor's post-code constitutions. The Institutes broached subjects like persons, objects, inheritance, transactions, and trials. Divided into four primary sections, it covered legal subjects and their rights, property law, obligation law, and family and inheritance law. Roman jurists in the XII century termed this legal anthology Corpus Iuris Civilis [4].

In Roman law, "persona" signified a being endowed with specific legal rights and obligations. This legal system differentiated between free individuals (Homines liberi) and slaves (Servi). Free individuals, possessing the "persona" status, were recognized as legal entities [5]

Ancient Roman Civil Law didn't employ the term "entitlement." Instead, Roman jurists utilized "caput" to describe a legal subject. In Latin, "kaput" conveyed meanings such as life and leadership. A legally capable individual was termed "persona." Attaining the status of a free individual was prerequisite for enjoying civil rights. Slaves, termed "servus" in Latin, were not recognized as legal subjects. They also lacked the privilege of forming families. Scholar Giorgi Nadareishvili elucidates that in ancient Rome, a natural person's legal capacity encompassed three integral components: 1) Free man status (status libertatis), 2) Citizen status (status civitatis), and 3) Family status (status familiae). Consequently, not all residents in Rome were legally capable. A free status, Roman citizenship, and being liberated from the family patriarch's authority (patria potestas) were imperative for a natural person's comprehensive legal capacity. Furthermore, full legal agency in private affairs required rights like IUs konnubii (enabling Roman-style marriages and family creation) and IUs kommercii (permitting participation in all property-related matters) [6].

Emperor Justinian I's Corpus Iuris Civilis featured a title (Title III) that addressed the regulation of person's rights, with an ordinance declaring: "Every man is either free or a slave." Nevertheless, there were nuanced distinctions among free individuals, as some were inherently free while others were emancipated (26:16). Additionally, ancient Rome occasionally witnessed societal classifications like patricians and plebeians [7].

Title V of the Institutes' first book is dedicated to discussing the status of freed individuals. Professors Marina Garishvili and Mariam Khoperia expound that such individuals were essentially those emancipated from legal slavery. These individuals, while enjoying freedom, had public rights that differed from regular Roman citizens. Their participation in private matters was contingent on their relationship with their erstwhile master and his lineage [8].

Regarding foreigners' (Peregrini) legal status in ancient Rome, it hinged on the treaties between their native lands and Rome. Such foreigners could acquire Roman citizenship, expanding their rights. However, there were stipulations to this: peregrines were forbidden from owning Roman land and participating in Roman-style marriages (IUs konnubii) unless granted Roman citizenship [9].

Additionally, women, despite being free individuals, were not entirely equal to men. Their capacity to engage in legal transactions was contingent on their guardianship status. This, however, began to change as the Empire evolved, with women gaining greater legal agency [10].

Title VIII of the first book of Justinian's institutions defined the legal situation of natural persons as either independent or dependent on others, e.g., "Persons in power of others." This led to a distinct classification of human rights, where some natural persons enjoyed complete rights while others were under the authority of another person. These dependent

[2] Metreveli V. 2009. Roman Law. Tbilisi: Meridian, p. 5.
[3] Sulguladze N. 2000. Monuments of Roman Law, Digests of Justinian, Book One. Tbilisi: Meridian, pp. 7-8.
[4] Bornhak C. 1939. Römisches und deutsches Recht. Historische Zeitschr; p. 7.
[5] Honsell H. 2010. Römisches Recht. Berlin: Springer Berlin Heidelberg, p. 23.
[6] Nadareishvili G. 2009. Roman Civil Law. Tbilisi: Bona Causa, pp. 121-123.
[7] Härtel G.K. 1979. Römisches Recht und römische Gesellschaft, p. 17.
[8] Garishvili M., Khoperia M. 2013. Roman Law. Tbilisi: Meridian, p. 200.
[9] Stark E. 1979. Römisches Recht, p. 27.
[10] Kaser M. 2002. Römisches Privatrecht. Berlin: Duncker & Humblot, p. 402.

individuals could be under their parents or slaveholders. Interestingly, these individuals did not own property. Any property they acquired, even in their old age, was deemed to be in favor of the family's head. These dependent individuals also lacked the authority to enter into binding agreements independently. For such transactions to be valid, the consent (auctoritas) of the family's head was essential. They could only marry with the head of the family's approval. Thus, legally, family members were considered "persons in power of others" [11].

Roman civil legislation thoroughly addressed the legal capacity of natural persons, taking into account their age and health [12]

Professor Lado Chanturia's monograph classifies legal capacity in Roman civil law into four age groups:

1. Children under seven, termed "infantes," were viewed as fully incapacitated but could receive gifts.
2. The next group consisted of children aged seven to fourteen, termed "impuberes" (Sexually immature).
3. Between fourteen and twenty-five, individuals were labeled "minors" (sexually mature). The first two age groups had assigned caregivers (Curatore), and their consent was vital for any valid transaction.
4. By the age of twenty-five, an individual was considered fully capable. Presently, the legal capacity of natural persons is determined by their age in nearly all global jurisdictions [13].

In their scholarly work on ancient Roman civil legislation, Professors Marina Garishvili and Mariam Khoperia also delineated age stages reflecting mental and physical development:

1. a) Children under seven (Infantes, qui fari non possunt) and b) boys under fourteen and girls under twelve (qui fari possunt, e.g., infantia maiores). Both groups were seen as incapable of engaging in binding transactions, such as transferring property or making a will.
2. The age of majority (Puberes) was fourteen for boys and twelve for girls. Adult males were deemed fully capable, while females were only partially so. Adult women couldn't transfer property rights or make a will independently. However, adults under twenty-five (Minores viginti quinque annis) enjoyed specific privileges, like "restitution in integrum." Minors not under a family head's authority had assigned guardianship (Tutela) or custodianship (Cura). The research also considered two adult periods, regardless of gender, wherein a) imperfect adults (pUberes minores) who weren't under their father's authority were deemed entirely incapable and b) individuals over twenty-five were regarded as fully capable by Roman civil legislation [14].

This information underscores that ancient Roman civil legislation used gender as a differentiation factor when determining legal capacity based on age.

Professor Valerian Metreveli emphasized that the human rights of Roman citizens in civil law hinged on two pillars:

Marriage rights

The right to commerce (Entailing buying and selling property rights). Legal capacity was pivotal in Roman Civil Law, particularly concerning age and canonization. When finalizing transactions, a person's health and conscious intent were paramount. Limitations to legal capacity arose from ailments and moral decay. Such individuals required guardians. Additionally, those perceived as wasteful or weak-willed posed threats to transactional integrity. Public opinion also deemed those viewed as dishonorable or shameless as having limited legal capacity [15].

Professors Marina Garishvili and Mariam Khoperia discussed "sanitas" in ancient Rome, a condition affecting one's legal capacity. They differentiated between: A) Physical ailments, such as bodily abnormalities or specific organ diseases, and B) Mental health issues, where the affected was entirely incapacitated. If a mental disorder was treated, capacity could be restored. Roman civil law deemed reckless or naive individuals as having limited legal capacity. Such persons had full rights but couldn't seek redress for damages stemming from their reckless actions [16].

3. Institute of Legal Capacity in Old Georgian Law

Professor Valerian Metreveli delves into the research of the history of the state and law of Georgia, which commenced in the 18th century. He credits King Vakhtang VI of Kartli as a significant figure in the evolution of Georgian law. In the early 18th century, this king established a commission of scholars under his guidance, thereby initiating significant legislative undertakings. King Vakhtang VI compiled and consolidated various legal texts that were fragmented due to the tumultuous times. Under his reign, he assembled significant Georgian legal monuments such as Beka and Agbugha law, George the Brilliant law, and Catholicos law, integrating them into a comprehensive collection. Moreover, he formulated his own legal book, which was subsequently appended to this collection [17].

By the 18th century, the paramount source of law in Georgia was the "Vakhtang Batonishvili's Law" a legal collection curated by King Vakhtang VI. Other legal monuments primarily served a supplementary, consultative role. This law book held sway throughout Georgia and remained influential even after Georgia's integration with Russia. Encompassing 270 verses and prefaced by a preamble, the collection touches upon civil, criminal, family, and hereditary law. The book also contains sections dedicated to procedural law [18].

Within King Vakhtang VI's legal compilation, evidence of the existence of legal institutions pertaining to legal capacity and competency is evident. Such norms correlate legal capacity with the age and health of a natural person. Parallels to Roman civil law are evident, particularly in the grounds for limiting legal capacity, notably immaturity and

[11] Garishvili M., Khoperia M. 2013. Roman law. Tbilisi: Meridian, pp. 207-210.
[12] Metreveli V. 1995. Roman law. Tbilisi: Meridian, p. 45.
[13] Chanturia L. 2000. Introduction to the general part of the Civil Law of Georgia. Tbilisi: law, pp. 151-152.
[14] Garishvili M., Khoperia M. 2013. Roman law. Tbilisi: Meridian, pp. 217-218.
[15] Metreveli V. 2009. Roman law. Tbilisi: Meridian, pp. 52-53.
[16] Garishvili M., Khoperia M. 2013. Roman law. Tbilisi: Meridian, pp. 218-219.
[17] Metreveli V. 2003. History of the State and Law of Georgia. Tbilisi: Meridian, p. 10.
[18] Zoidze B. 2005. European Private Law Reception in Georgia, Tbilisi: Publishing Case Study Center, p. 88.

discernment. One such decree in Vakhtang VI's collection dictates that natural persons below ten years were perceived as being of limited capacity [19].

Article 187 of Vakhtang VI's law collection expounds upon the limited competency of a ten-year-old in contrast to the actions of a mature man. Furthermore, the article details situations regarding the treatment of an infirm or wounded person by a minor [20].

Davit Purtseladze, in his scholarly work "Civil Law," highlights that full legal capacity was attained at eighteen years of age. Furthermore, the legal age for matrimony was set at twelve for females and fifteen for males. The age requirement for transacting real estate was twenty-one years. He emphasizes the absence of a clear demarcation for civil adulthood in ancient Georgian law. However, other historical references cite the legal age for various responsibilities, ranging from testaments to trusteeship. These age determinations underwent periodic revisions by various rulers, culminating in Catherine II's decree in 1785 setting the adulthood age at twenty-one [21].

One can infer that ancient Georgian law drew heavily from the age classifications entrenched in Roman law [22].

Furthermore, the scientific literature cites minors, mental health issues, physical disabilities, or illnesses as justifications for curtailing an individual's legal actions. Such "incapacitated" individuals were often assigned a guardian or custodian, chosen either from kin or external associates [23].

The Civil Law Code of the Georgian Soviet Socialist Republic of 1924 included fundamental provisions on the rights and legal capacities of subjects (individuals). The code, irrespective of gender, race, nationality, and creed, conferred legal rights upon all natural persons. "To advance the country's productive forces, the Socialist Soviet Republic of Georgia grants all citizens, unless restricted by the courts, civil rights (the ability to possess civil rights and responsibilities)" [24].

Regarding the legal institution of legal capacity, the Civil Law Code of 1924 provided only general regulations. "The ability of every individual to acquire civil rights through their actions and establish civil duties (capacity for action) arises directly upon reaching the age of majority, which is recognized at 18 years" [25] The code identified several reasons for limiting an individual's capacity, including physical illness, mental weakness, excessive wastefulness that jeopardizes their assets, and a combination of illiteracy and deafness [26]. The code also addressed the legal capacities and liabilities of minors aged 14 and above. "A minor aged 14 or a person deemed wasteful and under guardianship can enter a transaction with the approval of their legal representative (parent or guardian). Such an individual can independently utilize their earned salary and is accountable for damages they might cause to others through their actions. Furthermore, any transaction aimed at limiting one's capacity or ability to act is deemed void". [27]

Additionally, the code deemed transactions made by incapacitated individuals or those temporarily unable to comprehend their actions as void (Civil Law Code of the Georgian Soviet Socialist Republic of 1924, Article 31). According to this Code, an individual deemed incapable wasn't held responsible for damages they caused. Instead, the person overseeing their care was held accountable [28].

The Civil Law Code of the Georgian Soviet Socialist Republic of 1965 addressed issues of legal capacity and provided grounds for its limitation. Article 9 of the code stated, "The ability to possess civil rights and duties (civil rights) is recognized equally for all citizens of the Georgian SSR and other allied Republics. A citizen's legal capacity originates at birth and ceases upon death. As per the law, a citizen can hold property personally, has the right to use residential properties and other assets, inherit and bequeath property, choose their place of work and residence, and possess the rights to works of science, literature, and art, discoveries, inventions, rational suggestions, along with other property and personal non-property rights".

The 1965 Civil Law Code extended the content of legal capacity regarding marriage compared to its predecessor. "A citizen's ability to acquire civil rights and assume civil responsibilities in full commences from the age of adulthood, which is eighteen. However, where the law permits marriage before eighteen, such an individual gains full legal capacity from the marriage date. No one can be restricted in their capacity or legal capability unless it aligns with scenarios and guidelines stipulated by the law".

The Civil Law Code of the Georgian Soviet Socialist Republic of 1965, distinct from its predecessor, segmented the age groups of natural persons concerning legal capacity. It determined that for minors under fifteen, transactions were made on their behalf by a parent, adoptive parent, or guardian. Nevertheless, these minors could engage in DIY household transactions independently. For those aged between fifteen to eighteen, transactions required consent from a parent, adoptive parent, or guardian. Evidently, this age group could independently execute minor household transactions, manage their salary or scholarship, and exercise rights as authors or inventors. The authority for guardianship could, either on its initiative or due to the intervention of other interested parties, restrict or even revoke the right of such individuals to manage their wages or scholarships independently [29].

The 1965 Civil Law Code provided procedures to recognize a citizen as incapable if, due to sickness or frailty, they couldn't comprehend the consequences of their actions. Such recognition and subsequent establishment of guardianship were governed by the Civil Procedure Code of the Georgian Soviet Socialist Republic. Regarding limitations on legal capacity, "transactions on behalf of an individual recognized as incapable due to mental weakness or sickness are managed by their guardian." If such a person recovers, the imposed guardianship is reviewed and possibly

[19] Chanturia L. 2000. Introduction to the General Part of the Civil Law of Georgia. Tbilisi: Law, p. 159.
[20] Dolidze I. 1981. The Law of the Sixth. Tbilisi: Science, p. 235.
[21] Purtseladze D. 1966. Civil Law. Tbilisi: Science, p. 84.
[22] Zoidze B. 2005. European Private Law Reception in Georgia, Tbilisi: Publishing Case Study Center, p. 59.
[23] Ibid, pp. 79-86.
[24] Civil Law Code of the Georgian Soviet Socialist Republic of 1924, publication of the People's Commissariat of Justice, Tiflis, 1924, Article 4.
[25] Ibid, Article 7.
[26] Ibid, Article 8.
[27] Ibid, Articles 9 and 10.
[28] Ibid, Article 405.
[29] Civil Law Code of the Georgian Soviet Socialist Republic, publishing house Soviet Georgia, 1965, Articles 13 and 14.

terminated by a court's decision [30].

According to Article 51 of the 1965 Civil Law Code, transactions made by a minor aged fifteen or older were deemed invalid, with exceptions for minor household transactions, deposits made in credit institutions, and their management. Minors between fifteen and eighteen could only make transactions with the consent of their parents, adoptive parents, or guardians. Transactions made without this consent could be declared null by the court, with the aforementioned exceptions still applicable. Additionally, "a transaction made by an individual recognized as incapable due to illness or infirmity is deemed invalid" [31]. The civil law code also provisioned for invalidating transactions where the involved party couldn't grasp the significance of their actions at the time [32].

The 1965 Civil Law Code connected the legal responsibility (delinquency) of an individual to reaching fifteen years of age. Parents, adoptive parents, or guardians were held accountable for damages caused by a minor under fifteen. If the minor lacked sufficient assets, liability transferred to the parents, adoptive parents, or guardians [33]. For damages caused by someone deemed incapable, the guardian or responsible organization bore the responsibility. A capable citizen who, at the time of causing damage, was in a state where they couldn't comprehend their actions was not held accountable. However, exemptions weren't granted if their state resulted from alcohol, drugs, or other means [34].

4. Institute of Legal Capacity in Modern Civil Law

After the 1965 Civil Law Code of the Georgian Soviet Socialist Republic was invalidated, from November 1997 to April 25, 2015, according to Article 12 of the Criminal Code, a person declared by the court to be incapacitated due to illness or infirmity was deemed incapable. The rights of an individual recognized as incapable were exercised by their legal representative, the Guardian. Yet, if such a person showed significant recovery or was cured, the court would still deem them as incapacitated. Recognizing an individual as incapacitated led to an absolute deprivation of their right to engage in private legal relations. Any transaction made by these individuals or a Will revealed to them was invalid, as they were wholly incapable of expressing and forming their will – they lacked the ability to engage in basic transactions. In this context, the individual, despite being a subject of the right, was unable to form a legally competent will [35]. Moreover, the objective intent of the law manifested in a specific relationship through the subjective intent of the Guardian. Persons deemed incapable couldn't fully exercise the rights and responsibilities granted to a subject of the law. Additionally, an individual, mentally infirm or ill, who caused harm to another due to an unlawful act, wasn't held liable for compensation. Such individuals were termed as "delinquent persons."

The ratification of the Convention on the Rights of Persons with Disabilities, which became effective in Georgia from April 12, 2014, brought forth discussions on aligning the grounds, processes, and legal outcomes of declaring a natural person as having limited legal capacity, and offering support, with international human rights standards. The main consideration was whether the rights of persons with disabilities were protected and if the process to recognize them complied with legal standards and requirements.

It's worth mentioning that the Convention mandates member states to ensure and promote the comprehensive realization of human rights and fundamental freedoms for persons with disabilities, without discrimination based on disability (Article 1 of the Convention on the Rights of Persons with Disabilities). For this objective, member nations commit to implementing necessary legislative, administrative, and other measures to uphold the rights defined by this Convention. [36] As such, it's crucial to actively involve persons with disabilities in all sectors outlined by the Convention.

In 2015, Georgia embarked on a reform of the Legal Institute of Legal Capacity, which drastically transformed the legal status and standing of individuals declared incapable. This reform was precipitated by a constitutional claim filed on July 13, 2012, by a Georgian citizen, Maia Asakashvili. She was the direct guardian of the claim's subject, Irakli Kemoklidze, whom the court had deemed incapacitated. Through her claim, Maia sought to challenge certain provisions of both the Criminal Code and the Penal Code as unconstitutional. These provisions pertained to the alleged unconstitutionality of specific regulatory acts concerning individuals deemed incapable due to mental conditions or illness. Maia Asakashvili signed the constitutional claim herself. However, the said constitutional claim wasn't examined in detail because the Constitutional Court couldn't identify an authorized entity in the constitutional proceedings (2012, July 13, №2/3/514 of the Constitutional Court of Georgia, decision on the case "citizen of Georgia Maia Asakashvili V Parliament of Georgia").

The reform of the Institute of Legal Capacity was predicated on the decision of the Constitutional Court of Georgia dated October 8, 2014, case number №2/4/532, 533 "Irakli Kemoklidze and Davit Kharadze V. Parliament of Georgia". Before this reform, the recognition of a person as incapable followed a medical model. The Constitutional Court of Georgia declared unconstitutional certain norms of the Criminal Code and provisions of some normative acts (Constitutional Court of Georgia 2014 October 8 №2/4/532, 533 decision on the case "Irakli Kemoklidze and Davit Kharadze V. Parliament of Georgia"). As a result, legislative amendments became essential. Since April 2015, the status of a person recognized as incapable shifted to that of a person with psychosocial needs—termed "receiving support". Instead of a guardian, these individuals were provided with legal supervision, known as "support" or a "supporter". Thus, common courts ceased recognizing individuals with profound mental disorders as completely incapable. Based on expert opinions, courts now decide how to restrict an individual's legal capacity without deeming them entirely incapable, which would entirely bar them from participating in civil relations.

Following changes in the CCP, the legislation now permits supported individuals to engage in transactions, marry

30 Ibid, Article 15.
31 Ibid, Article 52.
32 Ibid, Article 54.
33 Ibid, Articles 464 and 465.
34 Ibid, Articles 466 and 467.
35 Zoidze B. 2016. The law of a person with psychosocial needs. TSU Law Review, N1, p. 31.
36 Convention on the Rights of Persons with Disabilities, Article 4, Part 1, subparagraph "A".

(provided they sign a written marriage contract beforehand), participate in elections, inherit, and exercise other non-proprietary or proprietary rights [37] A supported individual is deemed a delinquent person, which entails an obligation to compensate for any damages they cause [38] Hence, a social model of limiting legal capacity was established in Georgia during this reform.

The Convention on the Rights of Persons with Disabilities amplifies the principle of "access to justice" for disabled individuals. This emphasizes the active participation of supported individuals in legal proceedings, signifying that they are no longer restricted from approaching the courts [39] Before this reform, incapacitated individuals weren't permitted to initiate court proceedings or be active participants. Active procedural capacity became a crucial right for those receiving support post-reform. Previously, the legal representatives of such persons, which could be parents, adoptive parents, or guardians, represented and protected the rights and interests of incapacitated citizens in court. Article 81, part three of the Criminal Code of Georgia now mandates that if the court grants support for procedural representation to a supported individual, such cases must be heard with the obligatory participation of both the supported individual and their supporter. If a supported person is not backed by a court decision for procedural representation, they can exercise their procedural rights in court without any restrictions and fulfill procedural obligations [40]

One significant procedural change worth noting is that, prior to the reform, recognizing a citizen as disabled and incapacitated was addressed within the undisputed production door of the CCP. The new version presents this as a distinct production door. As a result, a wholly new institution was formed, not fitting into either undisputed or simplified production since the principle of exhaustive listing (Numerus clausus) applies. Recognizing someone as a person with limited legal capacity and as a recipient of support was deemed important enough to warrant its distinct door. The procedure for recognizing someone as a recipient of support mirrors that of undisputed proceedings, albeit with minor procedural variations. Specifically, when the court receives an application, it mandates an examination, and the issue is deliberated upon with the mandatory involvement of the reference person's attorney [41]

Regarding the legal capacity of natural persons by age category, post the declaration of Georgia's state independence, the Parliament of Georgia adopted the first Civil Code of an independent state on June 26, 1997, which has been in effect since November 25, 1997 [42] From that date, full legal capacity arises at the age of 18. Minors under the age of seven, given their mental judgment, development, and decision-making capacity in legal relations, are deemed incapable by Georgian legislation and in some European nations with a set minimum age. Minors do not engage in legal relations directly but through their legal representatives, such as parents or guardians. Any will made by them is considered void and does not produce legal effects. Minors under the age of 7 are deemed incapable in all substantive legal relations, such as property, contract, family, and inheritance, as well as in procedural legal relations. A transaction made by an incapacitated person that is approved by a legal representative does not validate the transaction, irrespective of its content [43] Natural persons with limited legal capacity can participate in legal relations, and their will can have legal consequences. Except in specific instances provided by law, the authenticity of a person with limited legal capacity's will requires either pre-existing consent or subsequent approval from their legal representative. Otherwise, the will expressed by the minor will be regarded as invalid and will not bear legal consequences [44].

5. Conclusion

From the research into the historical context presented in this article, we can deduce that ancient Roman and old Georgian civil legislation utilized gender differentiation in determining age categories to establish the legal capacity of natural persons. In contemporary times, neither domestic nor international legislation employs gender differentiation when establishing age categories for determining the legal capacity of natural persons.

Modern Georgian civil legislation differentiates the rights of natural persons in property relations based on both age and health status. Specifically, minors under the age of seven are considered incapable, taking into account their mental judgment, development, and capacity to make decisions in legal situations. Such minors do not directly participate in legal relations; they only do so through legal representatives such as parents or guardians. Any intention they express is deemed void, carrying no legal consequences. Indeed, minors under the age of seven are seen as incapable across all substantive legal relations, including property, contract, family, and inheritance. Even if a transaction made by such an incapacitated person receives approval from a legal representative, it does not validate the transaction, regardless of its content. In contrast, individuals with limited legal capacity can participate in legal affairs, and their intentions can have legal implications. Except in specific instances provided by law, the will of a person with limited legal capacity requires the consent of their legal representative to be valid.

The 2015 reform of the Institute of Legal Capacity shifted the paradigm in Georgia from a medical model to a social model when determining the legal capacity of a natural person based on their health. Consequently, Georgian civil legislation now permits those under support to enter into various legal transactions, own shares in businesses, and hold intellectual property rights among other non-material rights and property rights. These supported individuals are also held legally accountable for any damage they may cause. A notable outcome of the reform is the possibility for supported individuals to marry, provided they sign a prenuptial agreement. Furthermore, they can inherit assets either independently or with the assistance of a supporter,

[37] Khurtsidze I. 2017. Constitutional scope of limitation of legal capacity. Special edition of the academic Herald, p. 81.
[38] Article 995 of the Civil Code of Georgia.
[39] Article 13 of the Convention on the Rights of Persons with Disabilities.
[40] Article 81 of the Civil Procedure Code of Georgia.
[41] Khurtsidze I. 2015. Status of a person with psychosocial needs in Georgia. Academic Herald, N4, pp. 293-294.
[42] Chanturia L. (ed.) 2017. Commentary on the Civil Code, Book I, p. 9.
[43] Khurtsidze I., Limitation of legal capacity of a natural person in property relations, publishing house Georgica, Tbilisi, 2021, p. 228.
[44] Ibid.

depending on whether a court has mandated support for property rights. Incapacitated or disabled individuals, however, can only inherit through their legal representatives.

The Convention on the Rights of Persons with Disabilities amplifies the principle of "access to justice" for disabled individuals, ensuring the active participation of supported persons in legal processes. This means they are no longer barred from accessing the courts. Before this reform, incapacitated individuals weren't permitted to initiate court proceedings or be active participants. The post-reform era has significantly empowered such individuals, granting them active procedural rights.

In summation, the evolution of the legal capacity of natural persons from Roman law to contemporary times is evident. Present civil legislation, in its approach to regulating legal capacity, aligns with international human rights standards and effectively meets the requirements of the Convention on the Rights of Persons with Disabilities.

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