

Disability and the Ancient Roman *Familia*

by

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DEDICATION

Meis familiaribus

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LIST OF ABBREVIATIONS

Citations of primary sources in Latin and Ancient Greek follow standard abbreviations in the *Oxford Classical Dictionary*.

Bruns = *Fontes Iuris Romani Antiqui*

CIL = *Corpus Inscriptionum Latinarum*

FIRA = *Fontes Iuris Romani Anteiustiniani*

ILS = *Inscriptiones Latinae Selectae*

ILLRP = *Inscriptiones Latinae Liberae Rei Publicae*

ABSTRACT

“Disability and the Ancient Roman *Familia*” explores how and to what extent expectations and ideals associated with roles in the Roman household worked to exclude people on the basis of bodily and mental phenomena in the period extending from roughly 150 BCE to 250 CE. The primary motive of this work is to complicate existing presuppositions about disability in Rome and to provide a higher-resolution picture of what might have counted as disabling in marriage, slavery, childhood, and the role of the *pater familias*. Taking a cue from the field of disability studies, I emphasize the historical fluidity of disability as a social category. This research provides added insight into the values associated with idealized household relationships. Further, I make the case that the Romans conceived of a type of disability, a moral disability, that operated primarily (but not exclusively) in legal contexts.

After a brief introduction, Chapter One illustrates that a construction of disability was operative in Roman marital relations, both in terms of partner selection and maintaining a *iustum matrimonium* or “legal marriage”. Examining marriage with a view to disabled histories encourages us to see the disabling character of marriage requirements and the possible role of dowry as an index of disability.

Chapter Two excavates some aspects of the intersection of enslavement and disability. The concept of *utilitas*, of “usefulness,” provided a means for elite writers to inscribe their ideas of economic value onto enslaved bodies and, thereby, to construct disability in enslaved bodies. What “usefulness” really entailed is ill-defined, especially in the context of the luxury market,

where Rome's elite paid large sums of money for enslaved people characterized as other on the basis of their bodies and behaviour.

In Chapter Three, after establishing the criteria for the normative child in the imagination of Roman medical, legal, and literary authors, both in terms of age stages and expectations about their bodies and behaviours, I explore disability in Roman childhood. I complicate the assumption that most Roman parents would not raise a disabled child – an assumption that both participates in and is produced by a “Roman mirage,” an image of Rome as a hyper-militarized, fighting fit, totalitarian state with no room for disabled people. I argue that drawing the line of who counted as a prodigy, who would be killed or violently excluded from the community, and who would be raised in a *familia* was not straightforward. Further, I argue that two of the most disabling conditions for a child growing up in Rome, especially for an elite Roman boy, would be anything that impacted speaking and walking in the manner his parents expected.

This project concludes with an examination of the construction of the *bonus pater familias*, the “good male head of household.” In the Roman imagination, the *bonus pater familias* was a Roman man of a particular character, of a stable masculinity, who possessed reason (defined by his community) and who knew how to manage resources and the people dependent upon him in the household in a particular way. One figure excluded from the role of the *pater familias* is the *prodigus*, a figure that embodies a distinctly Roman category of moral disability.

Introduction

Bodies/Minds/Mores and the Making of *Familia*

“There is no sense, no justice, in treating impairment as an ahistorical, pre-social, natural category or as some curiosity to be mulled over by natural historians or philosophers, and no merit in reducing it to pathology to be prodded and poked by medical professionals.”

Hughes 2020: 27

The history of disability, and specifically the history of disability in the Roman Empire, is a rapidly broadening avenue of research. Disability is, and always has been, a part of human lives: everyone is likely to experience disability or its impacts at some point.¹ The new enthusiasm in academia and beyond for exploring disability and the lives of disabled people, therefore, makes an abundance of sense.²

Perhaps because of disability’s ubiquity, it is challenging to define. Indeed, as I make clear in Chapter One, how we define which bodily phenomena “count” in that category varies from culture to culture, in time and in space. Put very broadly, there are characterizations of bodily and behavioral phenomena in various corners of the Roman world that do not map onto characterizations that we find in our own time. Indeed, for a Roman historical context, disability is indisputably an etic category: scholarship on disability in ancient Greece and Rome has long

¹ Noted already in many a work, but most acutely by Kafer 2013: 8. A similar sentiment appears in Stiker 2019: 1, Hughes 2020: 26.

² Even a cursory list of recent works that address disability in Roman antiquity specifically reflects this: e.g., Laes 2022; Adams 2021; Hughes 2020; Laes 2018; Goodey and Rose 2018.

observed that these cultures had no single word to encompass the totality of phenomena that are deemed other in these ways.³

My dissertation is therefore an investigation into possible definitions, focusing on disability in the specific context of the *familia*, or “household”. It makes two important contributions. First, by focusing on a specific context, I provide a higher-resolution picture that complicates existing understandings about disability in Rome.⁴ The idea that disability is context-dependent and that it is defined through encounters with other people, with institutions, with architecture and the material world, also mean that it is not simply constructed differently from culture to culture but also within a given culture. What disability meant in a household between a *paterfamilias* and an enslaved person on the one hand and what disability meant in the Forum between political figures, or in a temple ritual among priests, or in a military legion, on the other, were not the same. The risk in overlooking context is that one’s entire perspective of Roman disability can be flattened.⁵ One view, for example, that prevailed in scholarship for decades gives the impression that the Roman Empire was a homogeneous society of hyper-militarized people consciously engaged in eugenic practices, and this is a view that still persists

³ Beginning with Garland 1995. Despite recent claims of the limited value of the etic category of disability for the study of ancient history (e.g., Goodey and Rose 2018), it is analytically useful. On the point of using etic categories for exploring history: homosexuality as a concept did not exist—arguably—before the social construction of the homosexual person in society (e.g., Foucault 1976 [1990]), but certainly people in the past nevertheless engaged in same-sex relationships and can be recognized according to etic terms. See Halperin 2002. Likewise, despite the ancients’ barely trading in such a concept, the “ancient economy” is a legitimate field of inquiry. Finley 1973 remains foundational. See also Morley 2004: 33-50.

⁴ Especially relative to Laes 2018, the first major synthesis of a social history of Roman disability at a macro level.

⁵ In the otherwise ambitious and impressive text of Hughes 2020, for instance, his conclusion that Roman antiquity was a place wherein all disabled people were people “good to mistreat” misses the mark: Roman attitudes are not so easily summarized. He otherwise makes crucial observations about the role of physiognomy, the disabling effect of an “ocularcentric culture of appearance and light”, and this moral component of disability in Roman culture, but without sensitivity to context. There is also a great deal that is simply historically wrong about his assertions that “the emergence of Christianity out of the ruins of the Roman Empire” was the first opportunity for the normate to characterize the disabled as “good to be good to”.

in some quarters in popular culture.⁶ My issue with such an image is not that attitudes *we* would recognize as eugenic did not exist in the Roman Empire – indeed, they did – but that such an image suggests that disabled people did not and could not exist in the Roman Empire. This is not only inaccurate, but it also misses out on a key point: Rome was a society as complex as our own in its approach to disability. Characterizing Roman attitudes toward disability in such a way does not encourage self-reflection: pointing the finger at just how monstrously bad “the Romans” were in their views on disability allows us to retain the uncontested image of a uniform moral progress toward our current historical moment. Second, by articulating what Roman authors across several genres considered “other” in respect of the body and behaviour in relationships defining the *familia*, I throw into sharper relief the normative values that are embedded in the relationships of the ideal *familia* in Roman (elite) imaginations. I also highlight the stories of people who would have been disabled in the context of these idealized relationships.

It is perhaps evident already that I begin from examining how Roman sources categorized things as “normate” and “other” in the contexts of idealized relationships. This approach could strike readers as unnecessarily structural. Such a criticism is entirely well taken, and I offer two responses. First, this project represents the very beginning of what I want to do with this subject. In creating as synthetic an account of disability in this context as I can, there will be

⁶ E.g., Roth *et al.* 2019; Barnes 1997. One need only perform a quick internet search to find “pop history” articles depicting the Romans as a cruel and unusual lot: a BBC introductory page for the layperson that begins, “Mad emperors, brutal entertainments, and lascivious lifestyles. These are the familiar images of ancient Rome, but what was it really like?” (BBC 2014) says a great deal. In addition, the most easily searchable article on disability in ancient Rome, Brignell 2008, asserts that “A high percentage of disabled children were abandoned outdoors immediately after birth and left to die because many Romans felt it was pointless to prolong lives that could prove to be a practical and financial burden on the rest of the family,” and that “the majority of Roman disabled offspring died through abandonment or lack of medical treatment.” While this view is already less prevalent than when I began researching this dissertation, I credit this development to the efforts of public history scholars of ancient disability, like Draycott and Sneed.

simplifications and generalizations that occur and that I expect – and indeed hope – future readers will complicate, poke holes into, probe, or tear down.

Relatedly, as a first attempt, I sketch the worldview of Roman authors to the best of my ability. It is the case that many of the authors concerned tried to organize their world by using stark, binary distinctions.⁷ However much oppositions such as “healthy” vs. “sick”, or “sound” vs. “flawed” mean different things in different contexts, such binaries nevertheless emerge in Roman authors’ works with regularity. Despite the distance of the dominant anglophone cultures in North America or Europe from any culture one could label Roman, many societal structures in these modern contexts have inherited much from Roman ideas. This is especially the case in the legal systems predicated upon Roman attempts to categorize the world around them. In a superficial comparison, for example, certain legacies even remain unchanged (e.g., the legal descriptors of *mens sana, bonus pater familias*, etc.). The cultural context that informs such terms is of course worth teasing out, because the world in which such terms were conceived is vastly different from the contexts in which they pervade now. The point stands, however, that this legacy of structural (and especially binary structural) distinctions is a heritage of such knowledge making.

Across genres, Roman authors write with a specific set of persons in mind, an inchoate group that could be labeled the “normate.” “Normate” is a term coined by Rosemarie Garland-Thomson to denote a putative nondisabled majority for whom society is tailored.⁸ I am interested in exploring the Romans’ fabrication of such a normate from genre to genre – however much we

⁷ A brief note about authorship: I here describe “Roman authors” as shorthand, not as a deliberate erasure of the collaborative process of text creation and the complexities of domination involved in enslaved labourers’ work as scribes (e.g., Moss 2021). I treat the solitary elite male author not as a reality, but as a shorthand for the dominant discourses in which these sources are participating.

⁸ Garland-Thomson 2017: 8.

ought to disrupt this idea in the modern world and however much this concept was not even true for many of the people who lived in the world of these authors. Because my project is primarily interested in social constructions, however, I am trying to imagine what these Roman authors believed the *familia* was and the values they ascribed to it. That said, wherever I can, I will highlight where authors' distinctions of this kind (namely, of a kind of "normate" vs. "other") fail.⁹

Models: Social vs. Medical vs. Cultural (Political/Relational)

For this project, I draw on theoretical foundations established in Disability Studies that have since been used in the study of disability history in antiquity. Disability Studies is an organic development from Disability Rights activism in the 1960s, inspired by the Civil Rights movement, and it was introduced as a subject of scholarly inquiry in the 1970s.¹⁰ When scholars began investigating the historical development of the concept of disability, a crucial debate about its very nature took form. The question is whether disability is defined by conditions deemed pathological by medical authorities and determined by biology, or if it is defined by how society marks or otherwise excludes the disabled body. These two sides were – respectively – the medical model of disability, which arguably has been present for as long as “disability” has been an established concept in Anglophone societies, and the social model of disability, which now

⁹ Such an approach as I am taking does not invalidate other admirable projects that make use of a more open and creative modern-ancient dialectic. Silverblank and Ward 2020, for example, made the persuasive appeal that scholars ought to use insights from Disability Studies in classical reception, to challenge the perception of disability as static, as a given, and to expand our experiences of ancient texts. Other exciting opportunities include the work of embodied approaches to historical topics, as by Morris (2022 [diss.]) and, to a lesser extent, Bernidaki-Aldous 1990; the opportunities in museum studies for revolutionizing accessibility in museums and in artistic projects; and the possibilities of poetry and performance practices (e.g., Koppers 2008).

¹⁰ Described in Barton and Oliver 1997. The narrative of disability rights as an outgrowth of the Civil Rights movement is centered on the United States; the development of the field in other parts of the Anglophone world does indeed seem to have followed it.

largely supersedes the medical model within contemporary studies of disability history. The social model of disability argues, unlike the medical model, that society creates disability through the enforcement of a norm in its institutions, architecture, and attitudes. In other words, there is nothing in the body that is truly “other”, but society makes it so.

Although activists and some historians have largely moved away from perceiving disability in modern society in a purely medical way, the model lives on in modified form. This is especially true in cases of retrospective diagnosis, that is, the practice of attempting to puzzle out from the ancient evidence which pathologies people in the past encountered. For example, by looking at a sculpture with a distinctively shaped mouth, an art historian might say that the artistic subject represents someone with a cleft palate,¹¹ or an ivory statuette with a curved spine represents someone with Potts disease.¹²

Retrospective diagnosis of a strictly clinical medical model presents difficulties. To begin, the ancient evidence does not always provide sufficient information to diagnose a modern pathology definitively.¹³ Second, even in those cases where we have enough information to make a reasonably secure identification of a particular pathology in modern medical terms, the analytical payoff for cultural history is limited.¹⁴ For example, the historian A. Gibson has attempted to use modern speech pathology as a benchmark against which to measure ancient medical authors’ thinking about speech disorders, and he concludes that Galen and Caelius Aurelianus differentiate between voice and speech disorders and that their therapies for these

¹¹ As Sneed does in her 2021:761—765 article, following Skoog 1969: 50, Grmek and Gourevitch 1998: 234.

¹² An entire work was devoted to this enterprise: Grmek and Gourevitch’s *Les maladies dans l’art antique* (1998).

¹³ Not all accounts of pathologies from the ancient world are as detailed as Thucydides’ description of the plague at Athens (2.47-54). Even with Thucydides’ legendarily detailed account, modern historians of infectious diseases have still struggled to come to a common diagnosis for the plague (Littman 2009, for example, wrestles with the current arguments to make some tentative claims about the possible pathogen).

¹⁴ Other scholars, such as Goodey and Rose 2018, Graumann 2013, and Lo Presti 2013, have already endorsed this criticism.

disorders have modern parallels.¹⁵ At the end of his work, however, we have neither a context-rich account of “broken speech” in these ancient authors, nor any analysis beyond a thin comparison between speech pathology ancient and modern. He asserts the possibility of stroke as the cause behind a case of lingual paralysis in Caelius Aurelianus,¹⁶ but this diagnosis is not substantially supported by the ancient text, and the motive of the argument is unclear.

Underlying this practice, however, is an admirable belief in the importance of the continuity of human experiences: by identifying the conditions people had in the past with conditions people have today, one creates the opportunity for increased empathy across time. As Morris argues in her 2022 dissertation, in which she uses her own firsthand experience of the condition of cerebral palsy to look for evidence of cerebral palsy in ancient sources, ableist historical accounts might simply fail to see the existence of disabled people where disabled historians might. When retrospective diagnosis is less about the understanding of fixed pathologies in the past and more about disabled scholars like Morris finding themselves in an archive that often erases them, the scholarly project redeems a modified medical model. With such a motive, scholars engage in an affective and embodied exploration of ancient material, using their own experiences of their own bodies to see themselves in the past, rather than evaluating ancient evidence in strictly clinical medical terms. Activists of all kinds, and especially in queer studies, are increasingly looking to ancestors: finding and re-imagining pasts in which people with similar embodied experiences fought for survival, thrived, and challenged framing assumptions about the normate.¹⁷

¹⁵ Gibson 2006.

¹⁶ Gibson 2006: 843.

¹⁷ As Strassfeld notes in the acknowledgments of *Trans Talmud* 2022: vii, with particular attention to trancestors but a broader invocation of activist ancestors.

Scholars of premodern disability, especially, initially turned to the social model after the medical.¹⁸ As I wrote above, the social model entails treating disability as a bodily or mental impairment which, *in interaction with society*, results in a limitation on that person's performance in particular societal roles. It is the interaction of physical state and environment that creates a disability and is therefore not a thing inherent to a person.¹⁹

This idea was strongly influenced by the work of the anthropologist N. E. Groce, who explored the nature of deafness on Martha's Vineyard in the nineteenth and early-twentieth centuries. In that period, the island had a much higher proportion of Deaf²⁰ inhabitants than was statistically normal in other populations for the time (1 in every 155 inhabitants vs. 1 in every 5,728).²¹ Everyone – Deaf and hearing alike – used sign language informally, as a matter of course, with the result that social interaction was unimpeded among the inhabitants of the island. Groce describes the post office as the social hub of the community, and, of an evening, it would be filled with people carrying on full conversations in silence, even if everyone present was hearing. What is more, when Groce was pursuing her research, it was difficult for her informants to remember who had been Deaf and who had not, because, in the words of one, “[Deafness] was taken pretty much for granted. It was as if somebody had brown eyes and somebody else had blue.” Thus Deafness, while identifiable and disabled elsewhere in the same period, was not disabling in this particular social context.

¹⁸ See Laes 2016; Krötzl, Mustakallio, and Kuuliala 2016; and Stahl 2011, to name a few.

¹⁹ This distinction was first publicized by the Union of the Physically Impaired Against Segregation (UPIAS) in 1976, after which the World Health Organization (WHO) published the *International Classification of Impairments, Disabilities and Handicaps (ICIDH)* using this distinction.

²⁰ I am using the capital D because, although the Martha's Vineyard community predates the establishment of many aspects of Deaf culture we are familiar with today, the reality of the conditions in the community mean that we can identify a Deaf cultural community retrospectively.

²¹ Groce 1988: 3.

This distinction between bodily condition and disability is cited also by the World Health Organization (WHO) and the United Nations (UN). These institutions have developed definitions of disability that are intended for transnational application and that have been constructed with input from medical professionals, policy specialists, and people with disabilities. The WHO defines disability as “the umbrella term for impairments, activity limitations and participation restrictions, referring to the negative aspects of the interaction between an individual (with a health condition) and that individual’s contextual factors (environmental and personal factors).”²² The UN takes a slightly different approach, but also emphasizes that disability is not a person’s condition: persons with disabilities are “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”²³

The model I strive to adhere to most in this dissertation is the relational model, which recognizes the character of how disability is constructed but also the material, embodied experiences of living with that disability. What “counts” as a disability is partly material, in that there are phenomena occurring in a person’s body or behaviour, and partly social, that these phenomena are marked by oneself or others in society and often excluded from the normate. Expectations about what a person should be or look like, or how they should behave, inform everything in a society from architectural choices to cultural institutions. When these expectations do not take into account the broad range of ways of being in the world, they construct disability.

²² WHO 2011: 4.

²³ United Nations 2008: Article 1. The idea that someone is disabled or nondisabled on the basis of whether they can take part in an occupation is described by McRuer 2012 as the “economic model” of disability.

Since the mid-2010s and the landmark text of Kafer's *Feminist, Queer, Crip* (2013), the possibilities of defining disability have diversified further into what we might call the cultural model: Kafer, for example, takes disability as an explicitly political and relational concept, highlighting that the medical and social models' shortcomings include their failure to recognize disability as inherently political and relational.²⁴ Medical models assume that disability can exist in a vacuum (which it certainly does not, as even the medical conditions we define as diagnoses are culturally shaped), whereas social models do not locate disability in the body, but in society. This means that the social model does not *prima facie* take into account material differences in a person's embodiment – like the reality of pain, for example.²⁵ To regard disability as political and relational, as in the cultural model, is to understand the following: like other social constructions in our world like race and gender, the distinctions, labels, or encounters we have in society as unique bodies and minds are shaped by cultural context, but our intersectional embodiment plays a role in those interactions. Our understandings of bodily or behavioral phenomena, and how those understandings (of ourselves or others) shape our interactions in the world, defines disability.

Until very recently, historical investigations of disability, especially within Classical Studies, have been heavily influenced by the medical model. This approach encourages the perception of disability as a self-evident pathological distinction and as a feature belonging and inherent to a person.²⁶ While treating bodies and conditions in this way might seem an objective thing to many readers, the issue with such a model is that it simultaneously erases certain things

²⁴ Kafer 2013 also models what definitions of disability can do when we introduce ideas from feminist and queer studies like temporality (specifically, the idea of disabled futures) and contestation (how people break or push against the frame of ideological expectation).

²⁵ Shakespeare and Watson 2010. These authors also make clear that proponents of the social model, like Oliver, did not intend to efface the body in their definition.

²⁶ Garland 1995 encourages this positivist approach by firmly grouping bodily conditions into one of two categories, disabilities or deformities, without sensitivity to context.

and reifies others. For example, in this model, a blind person is considered disabled by dint of the assumption that all blind people have the same pathology of blindness and that blindness is universally disabling. This fails to account for cultural differences across time and space, as blindness itself might not have the same cultural resonance nor even have counted as a distinct physical state.²⁷ An adherent of the medical model might protest that bodies are objectively bodies, that they are constituted and behave in the same ways across centuries, and that a blind person always, by definition, experiences x, y, or z. The counter position (the cultural model) is that, while ancient bodies were made of the same stuff, our experiences of our bodies and our expectations for our bodies are not unaffected by our understanding of them. As a white cis woman in North America in 2022, for instance, I might relate information about my body in specific modern medical terms (e.g., I have migraines with aura), and understand how that medical condition impacts my daily life (e.g., on days when I have migraine, I am much less likely to be able to attend class or do work). Ancient accountings of bodily or mental phenomena would be labelled in completely different ways (e.g., a young boy who believes he has a “sacred disease” because he regularly falls unconscious; when he falls, he worries not only about the discomfort of people seeing him fall when he’s in the marketplace, but also whether the gods are angry at him and making him fall²⁸). The labels and ways we describe our own bodies and behaviours shape our imaginings and experiences in ways it can be difficult to think beyond.

²⁷ For example, an interesting question arises around the reason that jurists in the Roman *Digest* must reach for Greek words to specify variations in low vision. To my knowledge, Latin has no such variation in its language around vision impairments, so it is possible that Latin-speaking Romans did not recognize differences among what could be identified as various forms of vision impairment and that they simply characterized all cases in a uniform way. (It is also possible, however, that this is simply a product of Greek medicine being in Greek, and most people outside of a medico-legal context would not be concerned with differentiation of this kind.)

²⁸ For the basis of this imaginary vignette, including the attribution of shame and worry about divine displeasure, see the Hippocratic treatise *Morb. sacr.* 15.

Recent Approaches to Disability in the Roman Empire

The most recent monograph to emerge about disability in Roman antiquity specifically is Laes' *Disabilities and the Disabled in the Roman World: A social and cultural history*.²⁹ Laes synthesizes a great deal of data, organizing the book according to his chosen categories of disability: mental and intellectual disabilities, blindness, deafness, speech defects, and mobility impairments. Indeed, Laes' undertaking is admirably ambitious, and, as Moss eloquently puts it, he does more than "the mere summary of extant evidence (with theoretical preface) so fashionable these days."³⁰ He explores how disabilities are portrayed from context to context (literary to legal, for example), and details how contemporary researchers can identify those disabilities in the past, instead of simply listing the references he has found as interesting anecdotal evidence.³¹

The sort of shopping-list approach that Moss critiques and Laes avoids in this volume is common in studies of disability in antiquity. A particularly egregious example is the work of Gevaert, who in 2012 listed disabilities he found in Martial's epigrams with limited analysis to accompany them.³²

Gevaert's work is also representative of another trend in the scholarship in that it provides synchronic pictures or "snapshots" of a specific ancient author's or genre's view of disability, which is an important step in analyzing disability history – as Bond and Gellar-Goad did in their work surveying the evidence for disability in Roman satire.³³ Detailed studies of this kind are important for understanding disability in a highly contextualized fashion particular to a

²⁹ Laes 2018.

³⁰ Moss 2018.

³¹ Whereas see also his misnamed 2011 article, "How does one do the history of disability in antiquity? One thousand years of case studies."

³² Gevaert 2012.

³³ Bond and Gellar-Goad 2016.

genre. That said, Gevaert also extrapolates from the narrow perspective to a broader Roman view, but with limited contextualization of sources: putting together palaeopathological evidence, modern medical statistics, and gynaecological texts, for example. My dissertation departs from these approaches, as I aim to elucidate disability in a structure of Roman society (the *familia*) but with a sensitivity to genre and to the questions that arise in comparisons across texts.

Exciting new work on disability and the body in the Ancient Mediterranean emerges with increasing frequency. For example, Ellen Adams’s edited volume *Disability and the Classical Body: The Forgotten Other* showcases a glimpse of the new possibilities in bringing Disability Studies theories to bear on ancient material. As is often the case with edited volumes, and as Sneed highlights in her review of the book, the degree to which the contributing authors engage disability theory is uneven.³⁴ The existence of a volume of this kind underscores the degree to which studies of ancient Greece and Rome specifically are at last embracing more robustly – as this dissertation likewise does – the theoretical opportunities long afforded by foundational ideas in Disability Studies.

Why the *familia*?

At first glance, especially for readers who view *familia* as a one-to-one translation of the modern idea of “family,” the choice of the *familia* as the context in which to consider Roman disability may not be self-evident. To present an idea that the “family” is a given, a guaranteed social fact in the historical past that looks uniform across the Roman Empire, would be at best

³⁴ Sneed 2022, Adams 2021.

misleading and at worst an erasure.³⁵ Like the modern “family,” the ancient *familia* was a social construction. In the Roman case, *familia* included everything that we might describe as family, but also household belongings, any groups of enslaved people living in the same house, and ancestral lineages.

The key reasons I have selected the *familia* as the context for my exploration are threefold. First, the *familia* was considered by elite Roman authors themselves to form a structure fundamental to all other spheres of life.³⁶ Second, as I have mentioned in the discussion of models, recent approaches to disability emphasize its relational character: in other words, disability does not exist in a vacuum but is culturally specific. The Roman *familia* comprises a set of relationships, idealized and framed by assumptions in almost every genre of literature, and so it is especially suited to an investigation of the kind I undertake. Finally, an approach emphasizing the *familia* allows me to range across genres of source material, while nevertheless remaining focused upon a specific set of ideological constructions (e.g., husbands and wives, children, slavery). This has the advantage of stressing the culturally contingent character of disability, while nevertheless allowing me to “zoom out” and explore a multiplicity of genres.

Parameters for this study

Evidence for disability in Roman antiquity is scattered throughout disparate time periods and places across the Republic and Empire – thus I have chosen a very broad time scale, from roughly the second century BCE through the fourth century CE. I also have recourse to two legal

³⁵ See McRuer 2002:77-102 for a thorough discussion of the tangled history of queerness, disability, and domesticity.

³⁶ One articulation of this idea is Cicero *De Officiis* 1.17, in which he describes the association of spouses, then of parents and children, and then of the *domus* (“house”) in general, as the beginning of society, the first “nursery” of civil government. This quotation continues to be used today to assert the importance of marriage in a modern context (e.g. it was cited to support a multiplicity of viewpoints in the landmark case of Obergefell vs. Hodges 2015 that legalized same-sex marriage across the U.S.A.).

sources that figure prominently in my discussion, but that technically fall outside these parameters: the Twelve Tables and the *Digest* of Justinian. The former, although superseded by much later legislation, can be seen as revelatory of early Roman priorities and values, and specifically priorities and values that authors in later periods sought to preserve or at least engage with. Indeed, its importance to Romans of the last two centuries BCE is underscored by the fact that schoolboys (including Cicero in his youth, for example) were made to memorize it. The latter source, the *Digest* of Justinian is a compilation of earlier legislation, some of which is drawn directly from the period of my interest. Another reason for so expansive a time frame is the social historical concept of the *longue durée*: broadly drawn, the social worlds of the Roman Republic and Empire seldom shifted rapidly.³⁷ The materials I consult for this work therefore span both centuries and genre. While I emphasize legal sources especially, I also employ letters, histories, poetry, declamations, and, in some cases, art historical, archaeological, and epigraphic sources. By beginning each chapter with an examination of legal sources and then contextualizing those conclusions with the use of a variety of material, I hope to provide as synthetic a view as possible.

Using legal sources as a starting point is a unique intervention of this dissertation. Toohey (2013, 2017) illustrated the value of these texts for the study of disability in his work, and I have taken his recommendation to explore this avenue further because of the special opportunity legal sources present for the cultural history of disability. In the ancient Roman context, legal sources respond to, categorize, and provide perspectives with an implicit normative baseline – a normate – in mind: jurists, for example, write opinions to protect a

³⁷ This is not to say that social trends would never shift rapidly. But if we are trying to characterize change in the cultural attitudes of an empire, we are more often talking about paradigm shifts than we are about sudden societal about-faces. Although inspired by the approaches of Bloch and Febvre, the idea of the *longue durée* was made pre-eminent by Braudel 1949.

particular kind of person, but bodies and behaviours that challenge this normate nevertheless emerge in the text.

Chapter Outline

I explore a distinct type of relationship in each chapter of the dissertation. Chapter One takes as its focus Roman marriage, the conjugal relationships imagined between husbands and wives. Roman *iusta matrimonia* (roughly “legal marriages”) were products of negotiation, especially with respect to conditions believed to be incompatible with successful marriage. This negotiation existed not only in a sense hitherto understood, namely of negotiations beforehand between prospective partners and their respective *familiae*, but also in the continuation of those marriages in the face of negative societal attitudes.

In Chapter Two, I focus on the other required but often obscured members of a Roman aristocratic household: the enslaved people whose labour made the daily life of the wealthy possible. Much of this chapter explores disabling elite ideologies about the purchase of enslaved people, primarily through a consideration of both the legal parameters for slave sale and slave market expectations as expressed in other literary sources. Studies of disability in Roman slavery to this point (and there are not many) have not addressed both the picture suggested by literary authors (the possibility for people with othered bodies to be luxury items, the courtly “curiosities” of the poetry of Martial and the histories of monstrous emperors) *and* the view presented by legal evidence that suggests a narrow definition of “usefulness” with a high risk of abandonment and murder. I argue that, despite the seemingly disparate outcomes of these broadly sketched groups, all enslaved people could be categorized according to elite authors’

attitudes about “usefulness” and I underscore the precarity that enslaved and disabled members of a household could face, given this dangerously nebulous ideology.

Chapter Three contributes to the longstanding debate over whether ancients cared for their children, but with a consideration of a more specific question: whether ancients cared for their disabled children. To begin, I explore whom Roman authors classified as children in the first place and the normative developmental arcs they believed children followed. I counter what I name “the Roman mirage,” the persistent and popular notion that Romans belonged to a uniformly eugenicist society that never raised children with disabilities, and that this selective reproduction was motivated out of a commitment to raising the citizen body as a fighting force. While certain children were murdered or abandoned because of negative attitudes toward the conditions with which they were born, Romans also clearly had interests in raising children in general and specifically in raising children who were sickly or who had bodily or behavioral phenomena they elsewhere classified as other.

Finally I turn to the figure of the *bonus* or *diligens paterfamilias*, the “good” or “careful head of household,” in Chapter Four. Such a construction was (and in some legal systems today, is) a standard of expected behaviour with respect to property and the people in a household. Both at law and in broader society, the *bonus paterfamilias* ought to have authority over his own property, control over his impulses (especially with respect to spending), communicative ability, a reliable sense of reason, and a stable masculinity. I explore the extent of accommodation afforded to property owners who were not deemed to fit this description and argue that it is in the case of the *prodigus*, the opposite of the *diligens paterfamilias*, that we see the clearest articulation of a distinctly Roman phenomenon of a kind of moral disability. While the interplay of morality and disability has been explored in an ancient context by Hughes (2020), and disability was indeed often morally inflected in ancient Rome, the concept of moral disability has

not yet been presented in the way it is here. The example of the *prodigus*, as the jurists especially conceived of it, was a condition that was a distinctly moral condition, a diseased set of *mores* (“habits”), for which there could be legal accommodation on the model of, but crucially distinct from, a mental condition. Understanding this condition *qua* disability illustrates the historical value in using Roman elite ideology to better understand their patterns of othering – and ultimately thereby to contribute to a historical understanding of definitions of disability.

Chapter One

Fortuitis Casibus: Sickness and Health in Imperial Iusta Matrimonia

quid enim tam humanum est, quam ut fortuitis casibus mulieris maritum vel uxorem viri participem esse?

“For what is more humane than that the husband of a woman take part in the vicissitudes of her fortune, or the wife of a man in his?”³⁸

(D. 24.3.22.7, Ulpian 33 *ad Ed.*)

Despite the absence of the single, capacious concept of “disability” as we have today, Romans categorized certain bodily and mental conditions as “flaws” in various aspects of their lives.³⁹ In the context of the formation of a *familia*, one such arena was legal marriage: for Roman jurists, a *iustum matrimonium* (“legal marriage”) involved the union of two people in a shared life.⁴⁰ Certain bodily and mental phenomena were identified by elite male authors in a variety of genres as incompatible with, or at least challenging to, marriage’s goals of harmonious cooperation and, in ideal circumstances, children. Yet, from the perspective of first- to third-century imperial jurists whose writings are preserved in the *Digest*, these perceived flaws in mental and bodily condition did not rule out legal marriage in all cases. In this chapter, I use

³⁸ All translations are my own unless otherwise noted.

³⁹ Please refer to the introduction for discussion of disability model in use in this chapter.

⁴⁰ Treggiari’s 1991 publication remains the landmark text on Roman marriage. In this chapter, for the sake of brevity, I do not explore marriages between men or between women, nor do I address marriages between enslaved people, between soldiers and their wives, and between foreigners who do not possess *conubium* (the right to be married). Although single-sex marriages do happen in the literary record (especially between men), they were not legally binding and are often the objects of ridicule (Hersch 2010: 33-39 discusses Nero’s wedding to Pythagoras [Tac. *Ann.* 15.37] and to Sporus [Suet. *Ner.* 28.1 and Dio Cass. 62.28.3]; and Juvenal and Martial’s scathing descriptions of men behaving as brides). The jurist Modestinus, for example, at *Dig.* 23.2.1, specifies *coniunctio maris et feminae* (“the joining of a man and of a woman”) in his definition of a legally binding marriage. Boswell 1994: 53-54 hypothesizes that the production of children and disposition of property encouraged a union between a man and a woman to be defined as legal marriage. For descriptions of same-sex marital unions, see Boswell 1994: 53-107, esp. 80-107, and Williams 1999: 245-52.

legal and literary sources from the late republic and high empire, and comparative material both ancient and modern, to trace the contours of Roman disability in the context of marriage. I illustrate that Roman *iusta matrimonia* were products of negotiation, especially with respect to conditions believed by elite Roman authors to be incompatible with successful marriage. This negotiation existed not only in the sense hitherto understood, namely of negotiations beforehand between prospective partners and their respective *familiae*, but also between married partners and their *familiae*.⁴¹ In some *familiae*, negative attitudes about certain conditions gave one partner a measure of power over the other; in others, couples worked together to form defensive strategies in response to such attitudes, with a view to protecting their marriage. An examination of these negotiations not only highlights how disability functioned in this context but also complicates a picture of Roman disability as uniform across social contexts. This supports my main contention: that it is essential to pursue the study of disability in Roman society in as micro-historical, culturally sensitive, highly contextual way as possible. When one examines just one aspect of the *familia*, one quickly realizes just how complex the ideals and the realities of disability were in ancient Rome, even for an elite subset of the population.

My investigation begins from a legal construction of disability, first examining the categories of people whose enjoyment of *iustum matrimonium* is questioned by the jurists. I argue that expectations surrounding capacity to consent and the condition of genitalia constructed the only fixed legal disabilities in Roman marriage, but that even these were subject to negotiation. Then, I explore issues of disability and marriage selection in literary sources more broadly, focusing specifically on issues of the regulation of women's bodies as part of the construction of disability. Here, I draw out the role of dowry in creating a kind of economic

⁴¹ A similar conclusion is reached by other means, a variety of multidisciplinary approaches, in Challet 2022.

construction of disability, as it encourages a woman's *familia* and prospective marriage partner to evaluate a woman's worth in monetary terms and devalue certain (especially physical) characteristics. I consider further the arguments that women were conditionally disabled by infertility, and in fact were disabled by remaining unmarried.⁴² I end the chapter with a case study of the marriage of Domitius Tullus, a man whose body, in Pliny the Younger's view, threatened to challenge ideal expectations of Roman marriage. In this case, Domitius Tullus and his wife faced suspicions that their marriage was not, in some sense, a real or true marriage, but managed through their maintenance of the match to convince their local community otherwise. This chapter illustrates that disability affected the formation and maintenance of marriages in the Roman world and enriches our understanding of Roman *iusta matrimonia* as complex negotiated settlements involving an array of values.

Capacity to be married

Legal Roman marriage was predicated upon the capacity and intent of the parties concerned: if both parties were of age, not too closely related, and had the right to marry (*conubium*), they were eligible to marry; if they had the "desire" to be married (*affectio maritalis*) and approval from their guardians, they would be married in the eyes of the law.⁴³ For jurists, such a "desire" did not need to look the same for men as it did for women, especially in the Republic. From the earliest sources about marriage, women merely had to refrain from

⁴² Except, of course, if they were Vestal Virgins.

⁴³ This was likely not automatic. Hersch 2010: 21-22, 39-40 sees *nuptiae* as the necessary publishing of consent and translates the term as "wedding ceremony" (51-54), arguing that a ceremony was vital to establishing a couple as married. This view challenges the work of previous scholars, for example Treggiari 1991 and Corbett 1930, who, to varying degrees, have thought of marriage as a less formal arrangement. Sometimes even the basic restrictions are glossed over by Romans wishing to marry off their children, especially for age at marriage. Child marriage certainly occurred in the Roman Empire. The question of age at first marriage in practice has received a great deal of attention: Hopkins 1965; Saller and Shaw 1984; Shaw 1987; Saller 1987; Lelis, Percy, and Verstraete 2003; Scheidel 2007. For child marriage specifically, see Piro 2013; and the reviews of Piro by Frier 2015 and McGinn 2015.

refusing to be married, whereas men had to give their express consent; the process of arranging a match was an agreement between two men, the prospective husband and his future father-in-law.⁴⁴ From a legal perspective, a woman's consent to a marriage was treated more seriously over time: we are told that in the high empire, a *filiafamilias* could even make her own match, provided that her father did not disapprove.⁴⁵ There is some evidence that written consent was a component in the marriage process, too, but such documents are mentioned only rarely and are not believed to be essential for a marriage to be valid, nor did they necessarily indicate the official beginning of that union.⁴⁶

Any bodily or mental condition that might affect a person's capacity or ability to express intent to be married could, therefore, impede the formation of a legal marriage union, in the view of Roman jurists.⁴⁷ The *Digest* of Justinian makes clear that at least one mental and one bodily condition placed people uncomfortably at the margins of these requirements. The people concerned are described as *furiosi* and *castrati* respectively.

Furiosi

The state of being *furiosus* or *furiosa* precluded legitimate betrothal and interfered with the married state. Gaius, a jurist of the first century CE, writes, "Why *furor* is an impediment to a

⁴⁴ Watson 1967: 41-4; Treggiari 1982: 37.

⁴⁵ Treggiari 1991: 146-7.

⁴⁶ Treggiari 1991: 146; Hersch 2010: esp. 52-3. For an example of a marriage contract from Roman Egypt, see *PSI* vi.730.

⁴⁷ Enslaved people (Tit. Ulp. 5.5; Paul *Sententiae* 2.19.6.), soldiers (before the rule of Septimius Severus, Phang 2001: esp. 142-196), and foreigners without *conubium* (Tit. Ulp. 5.4.) were categorically excluded from the privileges of legal marriage, but nevertheless established informal marriages for themselves. This is not to say that they viewed these marriages as any less binding: for example, after citing the practice of *contubernales* (enslaved people in informal marriage) to call one another *coniunx*, and their propensity to commemorate one another after death, Treggiari 1991:54 reflects that, "in many ways, *contubernium* imitates *matrimonium iustum*." The attitudes were very much the same, but the legal component seems the only thing missing. It is reasonable to imagine that, to varying degrees, the ideals of marriage espoused in literary sources, while they would appeal mostly to a class at leisure to write about such things, would not have been exclusively held by that class. For more on these marriages, see Treggiari 1991: 51-54; Treggiari 1981a, 1981b; Rawson 1974; and Evans Grubbs 1993.

wedding (*sponsalia*) is more than clear: but [furor] arising afterward does not invalidate the wedding (*sponsalia*).”⁴⁸ Paul, writing almost two centuries later, echoes Gaius: “Furor does not allow a marriage (*matrimonium*) to be contracted, because [the marriage] needs consent, but rightly it does not impede [a marriage once] contracted.”⁴⁹

The word *furiosus/a*, literally meaning “raging,” is used nigh interchangeably by jurists throughout the Digest with other terms referring to a person’s mental state: *amens* (“mindless,” “without a mind”) and *demens* (“out of one’s mind”).⁵⁰ Given the shared descriptive ground between *furiosus/a*, *amens*, and *demens*, the most faithful English translation to preserve most nuances of the word *furiosus* is “mad”.⁵¹

This is not to say that these terms all mean precisely the same thing. King, in his 2000 dissertation, “The *Cognitio* into Insanity,” paints a portrait of mental variation throughout Roman literature and law, and he suggests that “fine distinctions [...] do exist among the various terms for madness,” even though these are not reliably tracked by jurists.⁵² King finds that “the only distinction in the law was whether the madness was *perpetuo* or *cum intervallis*”. This had implications for the viability of a legal marriage.⁵³ Legal thinkers, according to King, were invested in identifying “true” *furiosi*, rather than fine distinctions between people believed to be mentally unwell. To this end, such thinkers relied on medical criteria because, without stable criteria, it would be easy for one party in a legal case to push forward the idea of the other party

⁴⁸ Dig. 23.1.8. Gaius: *Furor quin sponsalibus impedimento sit, plus quam manifestum est: sed postea interveniens sponsalia non infirmat.*

⁴⁹ Dig. 23.1.16.2. Paul: *Furor contrahi matrimonium non sinit, quia consensu opus est, sed recte contractum non impedit.*

⁵⁰ See Toohey 2013: 444 for an extensive list; King 2000: 18.

⁵¹ Toohey 2013: 444. I am aware that this word has had a long life as a slur against people diagnosed with mental illness, and it is not for me to reclaim it. Mad Studies and Mad Pride have been working to do so. I use it here for illustrative purposes only and will reproduce the term *furiosus* or *furiosa* for the remainder of the chapter.

⁵² King 2000: 18.

⁵³ See on p. 7, in the discussion about the maintenance of a marriage with someone who has *furor cum intervallis*.

being “unreasonable” or “irrational”. In what follows, I prioritize the terminological approach of the jurists as described by King; that is, I treat the relevant terms as possessing a loose resemblance to one another. Regardless of the distinctions among them outside of the legal sources, within the body of Roman legal texts, all these terms relate to the perceived functioning of a person’s control and understanding of themselves in their surroundings.

The requirement of the control and understanding thus described is implicitly essential for someone operating as an agent within a legal system predicated on knowing agreement. The attention in Roman legal sources to ensure *consensus ad idem* (“agreement upon the same thing”) between two contracting parties illustrates this.⁵⁴ It is clear elsewhere in the Digest that people who are *furiosi* are, when the *furor* is active, deemed to be devoid of reason: “the *furiosus*... cannot ratify,” “a *furiosus* has no will,” and “a *furiosus*... does not understand what he does.”⁵⁵ The level of legal responsibility of a *furiosus* (particularly for criminal action) is measured against that of a child (*infans*), a falling tile, and an animal. The last of these is elsewhere explicitly described as lacking sense and/or feeling (*sensu caret*).⁵⁶ Presumably, therefore, the legal restriction against *furiosi* marrying stems from the notion that the consent of the *furiosus* or the necessary *affectio maritalis* (intent to be married) could be unclear or suspect in the eyes of the people around them. That such individuals were believed to be unable to make their own decisions impeded the assessment of the all-important *affectio maritalis*.⁵⁷

⁵⁴ See Fiori 2013: 40- 41 for a brief overview of legal historical perceptions of the role of consent in Roman law. Fiori argues that contract law arose from agreement for actions defined as obligations, rather than for willing consent, and then developed into *consensus* as the idea of “will” in later periods of Roman jurisprudence.

⁵⁵ *Dig.* 3.3.2: *Furiosus... ratum habere non possit*; *Dig.* 15.70.40: *furiosi... nulla voluntas est*; and *Inst.* 3.19.8: *furiosus... non intelligat quid agit*.

⁵⁶ *Dig.* 9.2.5.2 for liability to pay damages; *Dig.* 9.1.1.3 for description of animal’s lack of sense; for a full discussion, see Toohey 2013: 449.

⁵⁷ It is interesting that there is no explicit restriction on the *prodigus* (the “spendthrift”). The *prodigus* is often mentioned in the same breath as a *furiosus* in discussions of the expectations of *curatores*, who are their stipulated guardians. Someone who is a *prodigus* is believed, as the *furiosus* is, to be less capable of rational decision-making with respect to their own best interest, but the danger for the *prodigus* is that he will spend too much of his own money. I examine this category especially in the fourth chapter of this dissertation, on the *paterfamilias*. The silence

The choice of a marriage match itself might encourage accusations of being *furiosus*. Several declamations (rhetorical exercises originally designed to train boys for debating real legal cases) suggest this. The genre of declamations began in the classroom, but then developed into a pastime for educated people at dinner parties, much like poetic recitation, and, over time, into an opportunity to display rhetorical prowess in more public social settings.⁵⁸ Aside from a couple of conspicuous exceptions, declamations are likely to be fictional, sometimes built around fictional laws, and they were only read, written, and spoken by a particular subset of the Roman population.⁵⁹ That said, fiction operates within certain expectations and framing assumptions.⁶⁰ Although we cannot assume that the world of the declamations represents reality, the declamations themselves may reveal general assumptions made by their audience.

Most declamations are full of the escapades of pirates, tyrants, wicked stepmothers, and blind family members, embroiled desperately in some scandal or crime or in some sticky issue involving equitable property distribution. Of interest here are concerned family members, friends, or neighbours who, in some declamations, challenge the validity of a person's reason, usually in the belief that the person is doing something against their own best interest. At times this choice is about betrothal and affairs of the heart more generally, making clear that families and communities could push to invalidate a marriage match by arguing that one of the parties is *demens/amens/furiosus*.⁶¹ For example, in Seneca the Elder's *Controversiae* 7.6, the *argumentum*

about this category is suggestive of a more broadly held belief that, whereas a *furiosus/a* is someone who is constitutionally incapable of marriage, a *prodigus* might not be.

⁵⁸ Bonner 1949: 39-40.

⁵⁹ One declamation believed to refer to a real case, for example, appears in Pseudo-Quintilian's *Declamationes Maiores* 3. This case describes a young soldier who has killed his tribune, a relative of Marius, because the tribune was trying to have sex with him (literally "trying to bring *stuprum* (sexual shame) against him" *stuprum sibi inferre conantem* 3, *titulus et argumentum*). Sussman 1987: 247, n.1.

⁶⁰ This is the root of a flourishing area of scholarship, namely exploring *controversiae* as cultural artefacts (as both the 2016 and 2017 conference volumes *Reading Roman Declamations*, edited by Dinter et al., explore -- for example, the contributions of Pingoud and Rolle [147-166], Connolly [191-208], and Bernstein [253-266] in the 2016 volume on Quintilian).

⁶¹ E.g., Sen. *Controv.* 2.3, 3.9, 6.7, 7.6; Ps.-Quint. *Declamationes Minores* 289.

(case) concerns a man accused of *dementia* (literally being “away from his mind”) because he rewarded an exceptional slave with his freeborn daughter’s hand in marriage. In another, 6.7, a man is accused of *dementia* because he gives his new wife to his lovesick adult son. Thus, while the legal sources represent *furiosi* as incapable of consent and therefore incapable of marriage, the declamations highlight the difficulties in ascribing such conditions to others.

Maintaining a Marriage with an Acquired Condition: *Furiosi*

In ideal circumstances, Romans wanted marriages to last. When a new condition emerged in one or both partners, whether because of an accident, illness, or other onset, the parties were expected to maintain the marriage. While one might assume that the marriage ought not continue because the all-important *affectio maritalis* might be absent or undetectable, the marriage remained viable under the law.

Indeed, the marriage should not only continue, but in some cases it was made more secure, depending on the severity of the *furor*. If the non-*furiosus* partner were to repudiate a partner who is only *furiosa* intermittently (*cum intervallis*), or whose *furor* is bearable by those around her, he is considered to be at fault for the end of the marriage.⁶² The gender in Latin reflects that the partner with *furor* is the woman, presumably because this legal distinction governs dowry: if the husband is at fault for the end of the marriage, he would have to pay back his wife’s dowry. If, on the other hand, the *furor* became so severe, so fierce (*ferox*) and harmful (*perniciosus*) that no hope of a cure remained, and if it was terrible (*terribilis*) for her attendants and other people around her, the husband could look to move on at no financial risk to himself.⁶³ If family and friends believed a non-*furiosus* husband was remaining married to a *furiosa* wife in

⁶² *Dig.* 24.3.22.7.

⁶³ *Ibid.*

order to squander her dowry, however, they had license to intervene and protect the financial interests of the wife.⁶⁴ This example suggests that dowry was the only real protection for a wife with *furor*.

Spadones and castrati

In Roman legal sources, mental illness was not the only source of jurists' trepidation or restriction in making marriage matches. The condition of a man's genitalia was also relevant.⁶⁵ *Spadones* and *castrati* are two different kinds of impotent men, and a distinction is sometimes made between them by jurists in the *Digest*. *Spado* is a capacious descriptor, including all men who cannot produce children, whereas *castrati* are men whose genitalia have been deliberately cut off (or possibly crushed).⁶⁶ The latter group is a subset of the former. Ulpian, a jurist from the late second and early third centuries CE, makes the following distinction:

“If a woman should marry an impotent man (*spado*), I adjudge it must be distinguished whether he is a castrated man (*castratus*) or not, so that, in the case of a *castratus*, you may say there is no dowry: for him who is not a *castratus*, there is both a dowry and an action for dowry, because there is legal marriage (*matrimonium*) [in this case].”⁶⁷

⁶⁴ *Dig.* 24.3.22.8-9: *Sin autem in saevissimo furore muliere constituta maritus dirimere quidem matrimonium calliditate non vult, spernit autem infelicitatem uxoris et non ad eam flectitur nullamque ei competentem curam inferre manifestissimus est, sed abutitur dotem...* “If, out of shrewdness, a husband does not wish to dissolve a marriage with a woman contracted in the most savage *furor*, but he spurns the misfortune of the wife and does not bend to her and he is most evident in bringing no competent care to her but is abusing the dowry.” In this case, the curator of the wife or her *cognati* (family relatives) can intervene and take the husband to court.

⁶⁵ It is interesting that women's genitalia do not receive the same attention, given the attention they receive in medical sources and the ways in which they are categorized and medicalized (Thumiger 2022).

⁶⁶ For greater detail on castration, methods of castration, and distinctions between men on the basis of their genitalia, see the next chapter. A *spado* is “someone incapable of penile erection” (Gardner 1998: 149, n. 16). Elsewhere (1998: 140), Gardner argues that Ulpian's definitions are slightly different at various *loci* in the *Digest*: at *Dig.* 28.2.6, *spadones* are permanently impotent men; and at *Dig.* 50.16.128, the term describes all men who are impotent, whether naturally so or by human intervention.

⁶⁷ *Dig.* 23.3.39.1: *Si spadoni mulier nupserit, distinguendum arbitror, castratus fuerit necne, ut in castrato dicas dotem non esse: in eo qui castratus non est, quia est matrimonium, et dos et dotis actio est.*

Without a legal marriage, there can be no dowry obligation, and therefore, it is possible that a marriage with a *castratus* was never judged to be legitimate.

Gardner does not agree that *castrati* are universally excluded from legitimate marriage. In a chapter entitled “Sexing a Roman,” she excavates categories of ambiguous maleness in the Digest: *spadones*, *castrati*, and androgynes.⁶⁸ Androgynes were people born with, or who later developed, sex characteristics held by Roman authors to be inconsistent with traditional sex categories (e.g., people with both a penis and breasts, *vel sim.*). Gardner asserts that the jurists are concerned about the man’s penis functioning in a particular way: “What concerned lawyers was the ways in which a dysfunctioning penis, or complete or partial removal of the genitals, might affect the legal capacity of impotent men and *castrati* in their gender role as males.”⁶⁹ In her view, *castrati* were not categorically barred from legal marriage, except when a *castratus* might attempt to circumvent the *lex Aelia Sentia*, which allowed slave owners to manumit enslaved women under the age of 30 if this were done for the express purpose of marrying them.⁷⁰ (That is, that a *castratus* man who owned an enslaved woman under 30 could not free her in order to marry her, because his ability to be married was considered illegitimate.) According to Gardner, because the *castratus* was unable to have penetrative sex, any such marriage was not deemed a “genuine physical union” by a Roman audience.⁷¹ If we take Gardner’s view, this entails that one of the fundamental components of a legal Roman marriage is a sexual

⁶⁸ Common ancient terms used here include *androgynes* and *hermaphroditi*. The latter term I only reproduce when it is part of a primary source or is referring to the god Hermaphroditus, as the history of the term’s English cognate excessively medicalizes intersex people. Graumann 2013 sees some parallels between ancient androgynes and modern intersex people but cautions against automatically reading these two categories of people as exactly the same because of the socially constructed (and therefore culturally contingent) nature of sex.

⁶⁹ Gardner 1998: 137.

⁷⁰ Gai., *Inst.* 1.19.

⁷¹ Gardner 1998: 144. The idea of a man as penetrator is everywhere in Roman discourse, and so Gardner’s assumption is in line with dominant Roman elite discourse. That said, scholarship is invested in giving attention to the men who are penetrated or who penetrate but are not deemed to be active sexual agents (e.g. Kamen and Levin-Richardson 2014; Williams 2014). Indeed, without a mainstream discourse about penetrative maleness, the concerns about erection would not have been so well attested, a subject explored by Hallett 2014.

relationship between the parties. In other words, anything else could be suspect as a legitimate marriage for a Roman community.

Maintaining a Marriage with an Acquired Condition: Infertility

It may come as a surprise to some readers that the “functioning penis” of Gardner’s formulation is about sexual, and not reproductive, function, especially in view of the fact that reproduction was one of the main motives for marriage according to many Roman authors: the ideal of a marriage undertaken *liberorum quaerundorum* or *procreandorum causa* – “for the sake of obtaining or creating legitimate descendants” – is pervasive throughout ancient literary and epigraphic sources.⁷² Yet the sterility of the *castratus* is clearly not at issue, because the *spado*, a similarly infertile person, is permitted to have a legitimate marriage.

Were matters different for women who were infertile? While infertility is not defined as a disability in our society today, it is arguable that infertility was a disabling condition for women in ancient Rome.⁷³ It is clear that permanent or long-term infertility could affect a woman’s ability to marry to such an extent that it might count as a disability in certain contexts.

First, and most importantly, women’s infertility could constitute reasonable grounds for dissolving a marriage. In Ulpian’s opinion on the *furiosa* wife seen above, the husband in the situation is advised to divorce a *furiosa* specifically if he wants to have children with someone

⁷² Treggiari 1991: 8 cites the phrase *liberorum quaerundorum causa* or *liberorum procreandorum causa* with a helpfully thorough footnote (n. 37). Treggiari explains that this phrase is more alluded to than quoted but may have appeared as a legal formulation in the *Lex Julia de maritandis ordinibus* (FIRA iii.178 p.36, and Isid. *De ecclesiasticis officiis* 2.10.10) and in dotal contracts (Aug., *Sermo* 51.13).

⁷³ This section of the chapter owes a profound debt to a seminar given by Flemming on January 16, 2019, entitled “Ancient Infertility: Gender, Responsibility, and Action,” hosted in the University of Michigan Dept. of Classical Studies (description available here: <https://lsa.umich.edu/ipcaa/news-events/all-events.detail.html/58766-14551073.html>). In the course of this seminar, she used Sen. *Controv.* 2.5 as a tool to examine different views on infertility in a Roman context and put its insights in dialogue with contemporary medical thinking. Her works on the “invention on infertility” in the Greek context (2013 and 2018) have been likewise indispensable.

else.⁷⁴ Outside of legal sources, historical and antiquarian writers of the last century BCE and first centuries CE report that the first Roman divorce, in 231 BCE, was initiated on the grounds of the wife's inability to give her husband children.⁷⁵ Even so, it is clear that divorce on these grounds was not an automatic response to the realization that a partner is infertile, especially if the marriage was otherwise successful. The first divorce, for all that it was a legitimate dissolution of marriage, was an unpopular decision: Dionysius of Halicarnassus describes how Spurius Carvilius, the husband in question, incurred the ire of the people for this action.⁷⁶ Aulus Gellius, a second-century CE Roman author, relates the same tale as Dionysius, and cites it as the beginning of the use of dowries for the protection of women.⁷⁷ Valerius Maximus, a first-century CE antiquarian, reports that Carvilius ought not to have divorced a loyal wife because of infertility.⁷⁸ Thus even as we see infertility as a possible reason for divorce, whether it was a good enough reason to dissolve a marriage was debated on a case-by-case basis.

A late republican example, surviving in stone, helps to reinforce this conclusion: the so-called *laudatio Turiae*, a eulogy from a devoted husband who praises the exemplary qualities of his deceased wife. This inscription, found in pieces throughout the city of Rome, describes in detail the life of the author's intrepid wife: how she pursued justice for her murdered parents, how she provided dowries for her female relatives, and how she championed his cause when he was in exile.⁷⁹ The writer also describes the moment in their marriage when they realized that she could not give him children:

⁷⁴ *Dig.* 24.3.22.7.

⁷⁵ Dion. Hal., *Ant. Rom.* 2.25.7; Gell. 4.3; Val. Max. 2.1.4.

⁷⁶ Dion. Hal., *Ant. Rom.* 2.25.7.

⁷⁷ Gell. 4.3.

⁷⁸ Val. Max. 2.1.4.

⁷⁹ E.g., *laudatio Turiae* 6a (hereafter abbreviated to *LT*). Osgood 2014: 65–71 puts the following episode in historical context.

“You [‘Turia’] despaired of your ability to have children and grieved my childlessness, worried that by remaining married to you I might set aside the hope of having children and that because of this I would be unhappy. So you spoke about divorce and that you would hand over the house, vacated, to the fertility of another; you did this with no other mindset than that, with our marital harmony (*concordia*) recognized, you yourself would seek out for me and arrange a wife worthy and suitable, and you would affirm that you would consider future children as if they were in common and as replacements of your own...⁸⁰

In answer to which offer the husband responds with dismay – both out of gratitude for the greatness of such a wife and in an interest to preserve their rare *concordia*. Despite his purported horror at the thought, he nevertheless appreciates her offer and praises how selfless it was for her to offer him the possibility of children with another woman.⁸¹

While we can read this inscription as proof of *concordia*’s superior worth relative to the value of having children, this conclusion does not preclude the possibility that infertility was disabling for women. The husband of “Turia” feels the need to justify his choice. He asserts the goodness and worthiness of his wife, the quality of their bond, and the uncertainty of having children with another woman. To him, his wife’s other merits “make up” for her infertility, and, had the husband not felt that she was an exemplary wife to him in other ways, he might have decided to try again with someone new.

⁸⁰ LT 31: ... *diffidens fecunditati tuae [et do]lens orbitate mea ne [tenen]do in matrimonio | te spem habendi liberos [dep]onerem atque eius caussa ess[em] infelix de divertio | elocuta es vocuamque [do]mum alterius fecunditati t[er]e tradituram non alia | mente nisi ut nota con[co]rdia nostra tu ipsa mihi di[gnam et aptam con] | dicionem quaereres p[ar]aresque ac futuros liberos t[er]e communes pro | que tuis habituram adf[irm]ares...*

⁸¹ LT 48.

The pressure from other members of the *familia* on a married couple to have children was a serious challenge. This can be seen in Pliny the Younger's *Letters*. In a series of missives written after his teenage wife's miscarriage, Pliny is keen to assert to her relatives that he and his wife will keep trying to have children. He reassures them that it was only through her youthful inexperience that she lost the child.⁸² His insistence staves off a potential diagnosis, in the eyes of the rest of the *familia*, that he and his wife make an infertile pair.

Indeed, infertility was sometimes perceived as an inherent bodily condition. Some women in Greek medical literature from the fifth century BCE onward, which supplied the foundation of Roman medicine, are described with the substantive *sterilis* or ἄφορος, "infertile," suggesting that this feature of their bodies came to characterize them.⁸³ Likewise, the *Curule Aedile's Edict* also discusses the nature of the condition. This document (explored in greater detail in the next chapter) is preserved in parts in the *Digest*. It was active as an edict in the early centuries CE, designed to protect the business interests of customers purchasing enslaved people. The edict held slave sellers responsible for declaring "hidden defects" at the time of purchase. For lack of a better description, it is best conceived of as a return policy on human beings. In the commentary of jurists on this text, the state of an enslaved woman's being *sterilis* is evaluated as to whether it counts as a *morbum* ("sickness"), which might entitle purchasers to qualify for a refund. According to Ulpian, a woman who is *sterilis* by nature is healthy (*sana*), whereas one who is *sterilis* because of a "physical flaw" (*vicio corporis*) is not.⁸⁴

⁸² Plin., *Ep.* 8.10-11.

⁸³ An entire Hippocratic treatise dealing with barrenness (*De Sterilitate*) describes circumstances in which women become completely infertile and remedies available for counteracting some of these conditions. For more detail on the nature of infertility in Greek medical literature, see Flemming 2013.

⁸⁴ *Dig.* 21.1.14.3. Ulpian. How they determine a "physical flaw" is not explained, but it could be a question of curability. The Hippocratic treatise on barrenness suggests physical flaws that could lead to sterility, including the shape and orientation of the uterus.

Infertility was not always perceived as a permanent condition. Flemming has used one of Seneca's declamations, *Controversiae* 2.5, to highlight the uncertainty, or at least the disagreement, about the nature of infertility in the first century CE, and the relative weight of the challenge it might have posed for a Roman couple.⁸⁵ The arguments used in this declamation confirm that infertility would not *per se* invalidate a marriage. The (undoubtedly fictional) case in question is that of a woman who is divorced because she did not provide her husband with children. The husband once plotted to kill a tyrant, and the tyrant attempted to torture the wife into revealing her husband's plans; she, however, withstood the torture without doing so, and the husband was able to fulfill his plan and kill the tyrant. Then, when the husband divorced the wife because of her inability to give him children, she sued him for ingratitude.⁸⁶

The opinions Seneca reports take, for the most part, the wife's side of the debate; they provide a rich variety of viewpoints about the nature of being unable to have children. One comment attributed to one speaker reads: "Wait, she is able to bear children; Fecundity does not answer to proposition and to a certain day; the nature of things is *sui iuris* and does not fit with human laws: sometimes it hastens and runs before our prayers, sometimes it is slow and delays. Wait, she will bear a child."⁸⁷ A similar proposal on the unpredictability of fertility is made by another speaker.⁸⁸ A question central to the debate is distilled as, "whether [the husband] ought to bear with the already certain infertility of so good a wife; or whether the infertility is even for certain."⁸⁹ These arguments, as Flemming points out, suggest that infertility was not believed to

⁸⁵ See n. 74 above.

⁸⁶ Sen., *Controv.* 2.5.

⁸⁷ Sen., *Controv.* 2.5.7: *Expecta, potest parere. non respondet ad propositum nec ad certam diem fecunditas. sui iuris rerum natura est nec ad leges humanas componitur; modo properat, modo vota praecurrit, modo lenta est et demoratur. expecta, pariet.*

⁸⁸ Sen., *Controv.* 2.5.8.

⁸⁹ Sen., *Controv.* 2.5.13: *an iam certam sterilitatem uxoris tam bonae ferre debuerit; an ne sterilis quidem pro certo sit.*

be permanent in every case. Later in the text, it is stated outright that, in a good-enough marriage, it is worth “dealing with” infertility.⁹⁰

In the context of marriage, being *sterilis* could indeed be disabling for women, although it did not necessarily annul a marriage in itself. It was disabling to different degrees, and could be mitigated by other factors, such as the wife’s *concordia* with her husband, and her particular qualities as an admirable or loyal wife.

Androgynes

A category of person who was not legally restricted in marriage, but was marginalized socially, was the androgyne. Following Gardner’s view, the legal stance on people categorized in this way reflects an anxiety about ambiguous maleness on the part of the jurists. In Roman legal texts and in Roman literature, any androgyne who was not excluded from society by expiation or expulsion was often pushed to live out life as either a man or a woman.

During the Republic, some people who were born with or who developed culturally inconsistent sex characteristics were treated as *prodigia* and were expiated.⁹¹ By “expiated,” I mean that those were discovered to fit this description were treated as negative signs from the gods and either drowned, exiled, or otherwise ritually “dealt with” to assuage the angry deities.

Diodorus Siculus, a writer from Sicily in the first century BCE, describes one expiation that

⁹⁰ Other interesting arguments arise in the declamation, revealing other possible perspectives on infertility and its potential causes. Aside from the causes of infertility that were intentional (that is, a way in which she might have been responsible for the infertility herself somehow) or situational (living in circumstances that make it undesirable or impossible to try to have children), some speakers describe how the tortures directly impacted her ability to have children. The only direct cause any speakers allude to is physical, because of the beating her belly (*ventris*). Indirect effects of the torture that would be permanent or long term included maiming her to the point of exhaustion so that she could not try to have children, or to the point of being so unattractive to her husband that he would not want to try. Respectively, Sen., *Controv.* 2.5.9; 2.5.1-2; 2.5.3; 2.5.4, 14; 2.5.7; 2.5.5, 6-7 (worn out, limbs mangled), 6 (*fac iam ne viro placeat matrix*).

⁹¹ The bulk of the evidence comes from Livy and Julius Obsequens. For a full discussion and collection of the sources, see MacBain 1982: esp. 126-135 (Appendix E).

involved burning the person alive. He asserts that “...some [believe] that these kinds of things that appear with dual natures are monstrosities (*τέρατα*), and, begotten rarely, are prophetic either of evils or of good things.”⁹² He condemns this as superstitious nonsense and describes such events happening at Naples, Athens, Rome, and many other places.⁹³

In the centuries following Diodorus Siculus, there was some change in attitude at Rome. Pliny the Elder observes a change in the treatment of androgynes over time: “There are also born those of both sexes whom we call *hermaphroditi*, once called *androgyni* and considered among portentous omens, but now [are considered to be] as if they are darlings (*deliciae*).”⁹⁴ *Deliciae* is a term often used of a slave owner’s “favourite,” an enslaved person they would likely have had sex with (even if a child).⁹⁵

Pliny’s assertion that these individuals were the target of fashionable fascination has some support in the art historical record.⁹⁶ Shortly after Pliny’s time, there was an efflorescence of a statue type that, from one angle, appears to be the erotic type of a sleeping woman, but from another angle reveals a penis and testicles not associated with that statue type.⁹⁷ Eight replications of the same statue type survive from the city of Rome and its surroundings. All are dated on the basis of stonework techniques to the early-to-mid second century CE.⁹⁸

⁹² Diod. *Bib. Hist.* 4.6.5: ἔνιοι δὲ τὰ τοιαῦτα γένη ταῖς φύσεσιν ἀποφαίνονται τέρατα ὑπάρχειν, καὶ γεννώμενα σπανίως προσημαντικὰ γίνεσθαι ποτὲ μὲν κακῶν ποτὲ δ’ ἀγαθῶν. The stories in Phlegon of Tralles’ *Mirabilia* which focus on *hermaphroditi* or *androgynes* (4-10) likewise highlight the portentous nature of their appearance – for example, in story 6, the emperor Claudius sets up an altar to Jupiter Capitolinus *Ἀλεξικάκος* (“Averter of Evil”).

⁹³ Diod. Sic. 32.12.

⁹⁴ Plin. *HN* 7.3: *Gignuntur et utriusque sexus quos hermaphroditos vocamus, olim androgynos vocatos et in prodigiis habitos, nunc vero in deliciis.*

⁹⁵ Laes 2003 provides a wide-ranging overview of the various meanings of *deliciae* and the roles of such figures in a household. He draws in part also from Hermann-Otto’s 1994 work on *vernae*, “house-born” slave children. See also Richlin 2014 for a detailed historiography on *deliciae* as sexual objects.

⁹⁶ Dench 2005: 280-292 writes a succinct summary of the development of an imperial court obsession with the collection of “human monsters,” a category which, for the ancient Romans, included androgynes. Please see the next chapter for a more detailed description of this phenomenon.

⁹⁷ For more on this statue type, often called *Sleeping Hermaphroditus*, see especially Trimble 2018 and Von Stackelberg 2014. Ajootian 1990: 276-277 [diss.] provides a list of replicas.

⁹⁸ Trimble 2018: 13.

There is no hint outside of legal sources that androgynes married *qua* androgynes, but their legal capacity to marry is not directly addressed. In the *Digest*, someone androgynous was considered whichever gender they seemed to be most. Ulpian writes, “One might ask: to what do we compare the *hermaphroditus*? I think their sex ought to be esteemed more as that which in them is more apparent.”⁹⁹ This neat and tidy legal classification allows those who seem to be more like a man to appoint posthumous heirs.¹⁰⁰ Such legal allowances partly obscure the socially fraught position of the androgyne, and also partly illuminate the effects of this position: until an androgyne became a man or a woman in the eyes of their communities, they might have been excluded socially from being viable marriage partners. In that sense, being an androgyne could be a disability in the context of marriage.

Greek stories from the early Roman empire provide a few case studies in which people are revealed to be androgynes in their teenage years, and they are then reintegrated into society as a single gender. In these tales, such re-integration often renders an existing marriage null and void, and always confirms the resultant gender of the story’s protagonist (that is, after they are discovered to be of dual or culturally ambiguous sex and after their genitalia are subsequently modified surgically to resemble those of one culturally-accepted sex). Diodorus Siculus includes such narratives in his *Bibliotheca Historica*. He tells the tale of Heraïs, born to a Macedonian man and Arabian woman, and who was married as a woman to a man named Samiades. After a year, however, a penis and testes emerged from Heraïs’ abdomen.¹⁰¹ The transformation renders Heraïs an ἐρμαφρόδιτος, and the marriage is void. Heraïs becomes the man Diophantus and goes

⁹⁹ *Dig.* 1.5.10: *Quaeritur: hermaphroditum cui comparamus? et magis puto eius sexus aestimandum, qui in eo praevalet.* The later jurist Paul’s view on whether a *hermaphroditus* can witness a will seems to agree, *Dig.* 22.5.15.1: *Hermaphroditus an adhiberi testamentum possit, qualitas sexus incalescentis ostendit:* “Whether a *hermaphroditus* can witness a will, the nature of their (sg.) developing sex shows.”

¹⁰⁰ Again, according to Ulpian: *Dig.* 28.2.6.2.

¹⁰¹ *Diod. Sic.* 32.10.

off to war as a soldier; Samiades kills himself because of the shame of having had sex “contrary to nature” with Diophantus when they¹⁰² were first married.¹⁰³ A similar story follows, in which an Epidaurian woman named Callo gets married and, when revealed to be a *hermaphroditus* in a fashion similar to Diophantus, Callo becomes a man, Callon. Callon must then account for having seen things as a priestess of Demeter that men are not permitted to see. They undergo a trial for impiety (ἀσεβεία).¹⁰⁴

Analogous stories appear in Phlegon of Tralles’ *Mirabilia*.¹⁰⁵ Phlegon was a freedman writing in Asia Minor in the age of Hadrian. His *Mirabilia* is hallmark paradoxography: tales replete not only with ghosts and giants, but also with human “curiosities” like women who give birth at the age of six or who produce many multiple births, and people who live for over a hundred years. Some of his stories, like those of Diodorus Siculus, describe people whose genitalia undergo a transformation and their temporary sexual ambiguity complicates their married state because of expectations around sex. For example, a well-to-do, 13-year-old girl from Antioch, who was about to be married, became an androgyne. Phlegon tells us that a penis and testes emerged from them, and they became a man and were brought to Rome as a curiosity.¹⁰⁶ Other stories follow a similar pattern in different locales: namely, the town of Mevania in Italy, Smyrna and Epidauros in Asia Minor, and Laodikeia in Syria.¹⁰⁷

Although legal sources do not expressly forbid androgynes from marrying, these tales illustrate that marital relations were not straightforward for them. What is more, the accounts of

¹⁰² That is, Diophantus when they were Heraïs.

¹⁰³ Diod. Sic. 32.10.

¹⁰⁴ *Ibid.*, 32.11. Such trials could end in death or exile – the most famous, of course, being the trial of Socrates.

¹⁰⁵ Phlegon, *Mirabilia* 4-10.

¹⁰⁶ Phlegon, *Mir.* 6.

¹⁰⁷ Phlegon, *Mir.* 7.1, 7.2, 8, and 9 respectively.

Diodorus and Phlegon are of people discovered to be androgynes in their teens. They say nothing of the marriage prospects of people who were thought to be so from birth.

Muti, surdi, and caeci

Conditions affecting a partner's ability to reason and those affecting their genitalia are the only bodily or mental variations directly addressed by jurists as negatively impacting the viability of marriage. The only other people with conditions discussed explicitly in the *Digest* in connection with marriage are *muti* (those who cannot speak), *surdi* (those who cannot hear and may also not speak), and *caeci* (those who are blind).¹⁰⁸ Paulus, a jurist from the early third century CE, tells us that these three categories of person are liable for dowry, because they can contract marriages.¹⁰⁹ This ought to give a reader pause: why would Paulus feel he must insist on their right to contract marriages?

One answer to this question might be that, because these categories of person were legally disabled elsewhere in the *Digest*, Paul felt he ought to clarify that legal disabilities did not apply to them in the context of marriage. *Caeci*, for example, could not represent another person before a magistrate,¹¹⁰ although they are understood to be able to make their own legal decisions. *Surdi* and *muti*, however, were believed to lack the requisite judgment (*iudicium*) needed to serve as a *iudex*, or juror.¹¹¹ Indeed, Ulpian specifies that these three categories of people can only administer their own possessions if they understand what is being done, which assumes that the idea that they could not was widespread.¹¹² While *muti*, *surdi*, and *caeci* were not excluded from

¹⁰⁸ Laes 2018: 86-7 and 123; Toohey 2016: 299.

¹⁰⁹ *Dig.* 23.3.73. pr.: *Mutus surdus caecus dotis nomine obligantur, quia et nuptias contrahere possunt.*

¹¹⁰ *Dig.* 3.1.1.5.

¹¹¹ *Dig.* 5.1.12.2, in which Paul explains that *surdi* and *muti* cannot be judges by nature (in contrast to enslaved people and women, who cannot be judges because of custom).

¹¹² *Dig.* 37.3.2. One wonders about the mechanisms used by such jurists to determine understanding in these cases, and how many *surdi* and *muti*, especially, for lack of common communicative tactics, were perceived as incapable

marriage legally on the basis of these conditions, their conditions appear to have been socially disabling. It is for this reason that the jurists need to address their circumstances specifically. We can imagine, therefore, situations in which someone who fits these descriptions might have struggled to have their legal ability to be married recognized in their community.

Cultural Attitudes and Conditions in the Selection of a Marriage Partner

This issue of the social (as opposed to legal) disability of those with variant physical and psychological conditions is difficult to trace in the ancient sources, but there is enough evidence to make clear that such conditions could cause problems.¹¹³ Treggiari, in her masterwork on Roman marriage, explores Roman elite authors' expectations about the merits of a prospective bride or groom. These criteria ranged from political advantages like birth, rank, wealth, and social connection (*adfinitas*) to personal qualities like appearance and behaviour.¹¹⁴

Suetonius hints at this constellation of criteria in a passage from his biography of the emperor Galba:

“[Galba’s] father was made consul and often conducted matters zealously, although he was short in body and also had a curved spine and had a middling facility in speaking. He

of full understanding. Laes 2018: 119 and 127-8 gathers scattered allusions to ways in which *surdi* and *muti* were able to communicate, including wooden tablets and gestures. The misperception about their intelligence, especially in the case of deaf people, was held to be the case long into the 20th century and was for some time bolstered by using results of IQ tests uncritically (Vernon 2005).

¹¹³ One need only consider recent testimonies of disabled people, whose marriageability is challenged by the perceptions of those around them. One such anecdote is preserved in a 1994 autobiographical sketch written by J. Y. Lim Kee, a man from Mauritius with a mobility impairment. Kim describes how even his own family believed he would somehow be less capable of marrying and fathering children. A similar situation is reported in Burkina Faso by anthropologist L. Bezzina (2020: 67-69) where disabled people tend to be treated as though they are not capable of maintaining a family. In the UK likewise: there was a documentary television series, running beyond an eleventh season as of 2020, that followed people with disabilities and other long-term conditions on blind dates with one another, entitled “The Undateables.” The title was intended by the creators as a deliberate challenge to a popular perception, but this may have been lost on some viewers as it was the subject of some controversy (“The Undateables? Disability Rights, but Channel 4 wrongs,” <https://www.theguardian.com/tv-and-radio/tvandradioblog/2012/apr/02/undateables-channel-4-disability-rights-wrongs>).

¹¹⁴ Treggiari 1991: 83-124, but esp. 100-107 for the interest in appearance and behaviour.

had for his wives Mummia Achaica, granddaughter of Catulus and great-granddaughter of L. Mummius who felled Corinth; then Livia Ocellina, very wealthy and beautiful. Despite her qualities [of wealth and beauty], [Galba's father] is believed to have been eagerly sought out by her because of his status. She sought him out rather more strenuously after he revealed, in secret and at her insistence, the defect of his body (*vitium corporis*). After taking his clothes off [he showed her his body], lest it seem as though he was taking advantage of her ignorance.”¹¹⁵

The fact that Galba *pater* gave his ardent wife-to-be a preview of what he looked like naked indicates that he anticipated that she would otherwise have felt cheated in her pursuit of a husband.¹¹⁶ Whether the events of this story are true is immaterial, as Suetonius' audience would have understood this exchange between Livia Ocellina and Galba's father: honesty about a prospective partner's bodily condition was desirable, and the condition itself could have a serious effect on the viability of the match.

A similar anxiety about “revealing” conditions also appears in Jewish Rabbinic texts attributed to the early centuries CE. Some of the communities that produced texts like the *Mishnah* and the *Bavli* lived under Roman rule. While these communities operated with different cultural norms and expectations, rabbinic texts can provide insight into the marriage ideals of people who lived within the ambit of the empire and from a perspective different from that of jurists in the *Digest*.

¹¹⁵ Suet., *Gal.* 3-4: ...*pater consulatu functus, quamquam brevi corpore, atque etiam gibber, modicaeque in dicendo facultatis, causas industrie actitavit. Vxoress habuit Mummiam Achaicam, neptem Catuli proneptemque L. Mummi, qui Corinthum excidit; item Liviam Ocellinam ditem admodum et pulchram, a qua tamen nobilitatis causa appetitus ultro existimatur, et aliquando enixius postquam subinde instanti vitium corporis secreto posita veste detexit, ne quasi ignaram fallere videretur*

¹¹⁶ Treggiari 1991: 95.

Belser, a scholar of Rabbinic studies and Disability studies, has investigated what these texts have to say about *ketubah* (the Jewish marriage contract), with a view to exploring the phenomenon of families “vetting” potential marriage partners. *Ketubah* functions in a way similar to, but not identical with, Roman dowry. It can serve as a legal protection for the woman if certain conditions of the marriage are not met, because it is an agreement that accords money for the bride’s protection that was to be returned on the dissolution of a marriage. Belser asserts that in the Jewish sources, the main issue surrounding disability in its relationship to the process of marriage selection is the question of deception, rather than disability itself.¹¹⁷ In her analysis, *ketubah* can take on the quality of a returns policy, as “A husband who has married a woman without prior knowledge of her disability has the right to declare his marriage a ‘purchase made in error’ and to dissolve the marriage without offering his erstwhile wife any compensation (*Mishnah Ketubot* 7:7–8).”

Belser suggests that there may have been strategies of “uncovering” conditions available to Jewish families with a loved one on the marriage market. A sister or mother of a prospective groom could more easily observe qualities of a bride-to-be’s body without contravening the expected purity-based separation of genders; for example, they could bathe together with the woman in question, and discover physical traits otherwise unknowable by prospective grooms.¹¹⁸

In the broader world under Roman rule, such tactics might have been likewise employed in communities who prioritized a separation of genders along binary lines – but, as we have seen with Galba pater, this reconnaissance could have been conducted by the prospective partners themselves, depending on the partners. There is no knowing how common such a private revelation might have been. Perhaps a parent of a prospective partner might also have disclosed

¹¹⁷ Belser 2016: 403.

¹¹⁸ Belser 2016: 419–423.

information about a condition. There is, in addition, the *consilium* as a potential resource, a domestic council of friends and kinfolk, who could have provided necessary intelligence about prospective partners in advance of a marriage match. Treggiari discusses the importance and likely involvement of a *consilium* in making decisions about marriage. Generally, these decisions are described in the context of ending a marriage in the case of adultery and divorce, but *consilia* also seem concerned about beginning them.¹¹⁹

One important difference between the Jewish texts and the Roman legal evidence is that there seems to be little to no consideration of bodily purity in the Roman approach to marriage.¹²⁰ In the case of Jewish practice, purity plays a prominent role, and a concern about blemishes (*mumim*) shapes the category of conditions that disable women in marriage. What was expected of brides in bodily form was like what was expected of priests, except that “a priest is responsible for keeping himself free of blemish only for the duration of his service at the altar, but a husband expects his wife to be without blemish at all times.” Furthermore, there are conditions that count as blemishes for a wife and not for a priest: sweating, bad breath, and a mole or other natural mark on the skin.¹²¹

For Roman ritual practices, concerns about purity and integrity of mind and body had an impact on priestly activities,¹²² but Roman marriage selection appears to have been free of these ritual restrictions, or at least preoccupied with other concerns. Extant sources suggest that

¹¹⁹ Treggiari 1991: 177 esp.

¹²⁰ Concerns about virginity, for example, seem not to have been primarily about a physical evaluation: see Caldwell 2014: 79-104. The idea of Roman virginity and the concept and role of the *devirginatio* requires further investigation.

¹²¹ Belser 2016: 107.

¹²² The extent to which this was the case is a source of some scholarly debate, beginning with Wissowa’s (1912: 421) assertion that priests could not have physical impairments because a mutilated body was not an integral or pure body. Vestals did have to be free from blemish if we take Gell. 1.12.3 at his word. Allély 2004:127-128 makes the argument that speech impediments would have been prohibitive because of the importance of speech to many rituals. Since Wissowa, however, some scholars, most notably Morgan 1974, have moved away from the idea that all priests, rather than the select groups specifically identified in the ancient sources, had to have bodily integrity in order to fulfill their obligations.

participants in a Rome-centred cultural *koine* certainly prioritized socially integrated individuals for marriage partners, but purity was not a necessary component.

Money and Marriage: The Role of Dowry in Disability and “Disabled Matching”

Rabbinic *ketubah*, as Belser has shown, is useful for exploring how disability might have affected marriageability and the perceived value of marriage partners in Jewish communities under the empire. Literary and legal evidence about Roman dowry can serve a similar purpose. Although classical Rabbinic texts on the one hand and the *Digest* on the other do not provide detailed descriptions of the actual experiences of women with dowries, one can look to modern comparative evidence to gain a sense of how dowry impacts questions of disability and the dynamics between partners in a marriage.

The passage of dowry from one family to another, often to guarantee a woman’s living expenses in her marriage, often commodifies the woman in question. She then possesses a certain value, determined by the people around her, and her protection or the lack thereof are directly linked with her economic “worth.” If she has little value materially in the eyes of an abusive partner, the abuser risks less if he maltreats her, and he might even induce his prospective in-laws to pay him more to “take her off their hands”. If the bride is valued highly, an abusive partner might have a greater economic incentive to restrain his behavior. A woman with a physical or mental condition that affects her “price” negatively will be more at risk for physical or emotional mistreatment at the hands of her new spouse or in-laws.¹²³

¹²³ Rao and Bloch 2002, as part of a Poverty and Human Resources development research group, use three case studies in present-day southern India to confirm statistically the ties between high incidence of domestic violence and smaller dowry amounts.

An ethnography conducted in a small community in rural China yields insights consistent with this view.¹²⁴ J. Yang, an anthropologist, visited a town in Guizhou province, in the southwest of China, and interviewed a number of disabled women. She details a concept she calls “disabled matching,” that she uses to describe patterns she observed in the field. It describes the phenomenon in which someone who is devalued by society on the basis of some characteristic is matched in marriage with someone who is likewise marginalized or who is lower status in some way (e.g., socially, economically).¹²⁵ For example, Yang interviewed a woman who believed that her husband would not have had a chance to marry at all, if it were not for her having to “settle” for him because of her disability: “If I had no problem with my feet, my husband could not marry me. He dare not go against my will and must follow what I arrange for him to do.”¹²⁶ The husband’s socio-economic status was not very high relative to hers, and thus his marriageability was much lower. Yang suggests that the woman’s elevated status compensated, to some extent, for the “problem” with her feet.

In some sense, however much the amount of a dowry is meant as a gesture, the idea that one “makes up for” disabling traits with a more attractive financial position is a calculation in dominant discourse. In India, for example, there is now a governmental program in some provinces and cities that rewards marriage between disabled and nondisabled people.¹²⁷ On the one hand, the government intervenes financially to promote interabled couples and eliminate stigma, and it mandates in some cases that these marriages be dowry-free. On the other hand, a financial incentive for marriage can be treated like dowry. Disability rights advocates have raised

¹²⁴ Yang 2017.

¹²⁵ Yang 2017: esp. 49-66.

¹²⁶ Yang 2017: 57-66.

¹²⁷ The incentive varies in amount and distributing body from region to region. For example, the governmental website of the province of Odisha links the following open-access document outlining the details of the incentive: <https://cdn.s3waas.gov.in/s3069d3bb002acd8d7dd095917f9efe4cb/uploads/2016/09/2018041713.pdf>.

concerns that the domestic abuse or abandonment of spouses might increase as unscrupulous nondisabled people, attracted by the financial benefit, marry disabled people without genuine care for their spouse.¹²⁸

There is some evidence for “disabled matching” in the ancient Mediterranean, too – or at least that such a concept would have been imaginable for an elite Roman audience. In a source much closer to ancient Rome than these modern comparanda, Herodotus reports that the Babylonians and the Eneti (from Illyria), have similar marriage practices. He asserts that these groups used a “marriage market” in a literal sense. On an assigned day, the community brought all marriageable women to market, and the men of the community (and sometimes rich visitors) bid on the women they found most desirable (i.e., those with the fewest socially disabling traits). The money generated from these purchases would become a compensatory dowry given to those men willing to marry the women with the most socially disabling conditions.¹²⁹ Herodotus describes the desirable women as the “well-formed” (εὖμορφοί), whereas those whose suitors receive “compensation” are ἄμορφος (literally “without a shape”, but also “misshapen”) and ἔμπηρος, which is more difficult to translate: it seems to denote meanings as varied as “maimed,” “blind,” or “with a mobility impairment.”¹³⁰ Thus we see a relationship, describable in terms of Yang’s concept of “disabled matching,” between socially disabling conditions, economic value, and marriageability.¹³¹ While Herodotus was of course not a Roman, and his

¹²⁸ E.g., Kumar’s blog post on the incentive in a 2018 blog on his personal website, WeCapable.com: <https://wecapable.com/marriage-incentive-marry-disabled-person-india/>.

¹²⁹ Herodotus 1.196. Many thanks to Anna Cornel for this reference.

¹³⁰ It is not a common word and appears only in the work of a few authors (Hdt. 1.167, 1.196; Dion. Hal., *Ant. Rom.* 1.23.3; Poll., *Onom.* 1.29, 2.61; Ael., *Fragmenta* 47; Hippoc., *Morb.* 1.1, 1.3; Erotianus, *Vocum Hippocraticarum collectio* 72). I argue briefly in my chapter on children that the implicit notion here is one of “incompletion”, or “imperfection”, rather than a direct meaning of “maiming” *vel sim.*

¹³¹ Rose 2003:45-46 analyses the same passage in Herodotus, along with a description of “Labda the Lame” (another woman in Herodotus’ *Histories*, Rose’s translation). She argues that these conditions are not disabling because they do not exclude the women in question from the dominant view of their ultimate *telos* of being married or having children. While I agree with her point that the examples illustrate the difference between our modern blanket term of

description of the marriage market takes an etic perspective, his account suggests that, in the Mediterranean by the time of the Roman Republic, such attitudes were at least imaginable.

The precise relationship between dowry and the perceived social value of a Roman woman as a wife is difficult to ascertain, but there are sufficient clues scattered in the literary record to indicate that the Romans did make a connection between the two. For example, Juvenal, writing in the late first and early second centuries CE, constructs a poetic persona who rails against “putting up with” a woman because her dowry is so desirable.

“But why is Caesennia the best [wife], by her husband’s testimony?” She gave him thousands. At that price, that guy calls her chaste, and he’s neither sickly because of the quivers of Venus and he’s not burning because of her torch: the torches burn him from there – the arrows come from the dowry. It bought her liberties. Openly she’s allowed to give out hints and writes back [to her lovers]: a wealthy woman’s a widow, who marries a money-loving man.”¹³²

Juvenal lampoons the man’s greed, but his point nevertheless communicates to us the very real possibility that a hefty dowry could sway a marriage proposal. This arrangement also upsets what Juvenal’s poetic persona thinks the balance of power ought to be: the man permits his wife to philander, presumably out of fear of losing the dowry. If such a woman were “worth” less in dowry, her husband would not be so indulgent of her activities.

Apuleius, a second-century CE writer from Madaurus in Numidia, provides another example. In his *Apologia*, a speech delivered in his own legal defense against accusations of

“disability” and the ancient circumstances, in which ability and disability were not encompassed conceptually in the same way, I disagree with her assertion that these conditions were not disabling in any way.

¹³² Juv. 6.136-141: *'optima sed quare Caesennia teste marito?' /bis quingena dedit. tanti uocat ille pudicam, | nec pharetris Veneris | macer est aut lampade feruet:| inde faces ardent, ueniunt a dote sagittae.| libertas emitur. coram licet innuat | atque rescribat: uidua est, locuples quae nupsit auaro.*

having bewitched his wife in order to get her dowry, he makes explicit the connection between dowry and other desirable qualities:¹³³

“A beautiful virgin, even if she might be extremely poor, nevertheless is abundantly endowed, since she brings to her husband a freshness of mind, a gratitude for her beauty, a beginning of her flowering.”¹³⁴

Whereas Juvenal’s satire suggests that a large dowry could excuse a woman’s sexual licentiousness, Apuleius asserts that beauty and a winning disposition can compensate for a small dowry.

It is not accidental that this discussion of value in marriage has focused on the position of women with socially disabling conditions. Although men could also be disabled in the context of marriage, and although legal disabilities are discussed with men in mind (e.g., *spadones* and *castrati*) and the main actors in many of the literary sources discussed in this chapter are men, women’s disabilities are most readily legible in literary sources about the context of marriage.

Marriage represented an arena in which being a woman was not in itself disabling: for some Romans, women were – quite contrary to being disabled in the context of marriage – especially built for it. Legally, women were defined by it, and they could be disabled by lacking it: the jurists Ulpian and Javolenus, respectively, suggest that girls attain the status of adult women only as soon as they are *viripotens*, or “capable of a man/husband,” and that women who are unmarried can be called the same thing as widows, because “they lack two-ness.”¹³⁵

¹³³ The terms of the legal case are laid out in Apul., *Apol.* 67. There is debate as to whether this defense is real or fictional, and, as Bradley 2012: 20 points out, such a thing is impossible to disprove.

¹³⁴ Apul., *Apol.* 92.6: *Virgo formosa etsi sit oppido pauper, tamen abunde dotata est; affert quippe ad maritum novum animi indolem, pulchritudinis gratiam, floris rudimentum.*

¹³⁵ *Dig.* 50.16.13: “*mulieris*” *appellatione etiam virgo viripotens continetur.*; *Dig.* 50.16.242.3: “*viduam*” *non solum eam, quae aliquando nupta fuisset, sed eam quoque mulierem, quae virum non habuisset, appellari ait labeo: quia vidua sic dicta est quasi vecors, vesanus, qui sine corde aut sanitate esset: similiter viduam dictam esse sine duitate.*

Remaining unmarried could, of course, present its own social, economic, and legal issues for men as it could for women, particularly following the Augustan legislation of the *Leges Juliae* and the *Lex Papia Poppaea*.¹³⁶ These laws gave men and women legal incentives to marry and have children: having three legitimate children increased a man's chances of higher political office and granted him increased access to inheritance, for example. Free women who gave birth to three children and freedwomen who gave birth to four could be heirs to large estates and free from the lifelong guardianship of a tutor.¹³⁷

Only women, however, seem to have been thought to suffer physically if they remained unmarried. In Apuleius' *Apologia*, for example, he explains that he married Pudentilla partly because she was ailing from lack of marriage.

“While she might have been able to endure the weariness of solitude, nevertheless she could not bear the sickness of her body. A woman chaste in a sacred way, for so many years of widowhood without guilt, without rumour, accustomed to living without a husband and wounded in her organs for a long time, often was nearly brought to death by pains rising up from the marred innards of her belly. Doctors agreed with midwives that her lack of marriage was the sought-after answer, that the evil was increasing day by day, [and] that the sickness was growing more serious; [they also agreed] that, provided that something of her youth remained, her health ought to be medicated with marriage.”¹³⁸

This argument, which could be tongue-in-cheek here, is in fact echoed by the *Gynecology* of Soranus, a Greek doctor who worked in Rome in the late first and early second centuries CE. In a

¹³⁶ For more on the *ius liberorum*, see Gai. *Inst.* 1.145, 194; Corbett 1930: 112; Treggiari 1991: 66-80.

¹³⁷ McGinn 2003: 73-78.

¹³⁸ Apul., *Apol.* 69: *Quippe ut solitudinis taedium perpeti posset, tamen aegritudine corporis ferre non poterat. Mulier sancte pudica, tot annis uiduitatis sine culpa, sine fabula, assuetudine coniugis torpens et diutino situ uiscerum saucia, uitiatas intimis uteri saepe ad extremum uitae discrimen doloribus abortis exanimabatur. Medici cum obstetricibus consentiebant penuria matrimonii morbum quaesitum, malum in dies augeri, aegritudinem ingrauescere; dum aetatis aliquid supersit, nubtiis ualitudinem medicandum.*

section entirely devoted to the question of “whether permanent virginity is healthful”, Soranus observes that widowed women have been known to suffer from grievous menstrual difficulties until they marry again: without sexual intercourse, they menstruate with difficulty and pain.¹³⁹ Thus, not only were women not disabled in the context of marriage as a rule, but they might even be deemed physically disabled without it.

Interabled Marriage: The Case of Domitius Tullus and His Wife

I have discussed conditions precluding legal Roman marriage, and conditions that, if they were to develop in such a marriage, would have created complications for the couple in question. If, however, a marriage were harmonious in the face of negative perceptions of bodily and mental conditions in one or both of the married partners, Roman authors were in favour of its maintenance. I conclude this chapter with a case study of two real Roman people, living in or near the city of Rome, who fulfill such a cultural expectation.

A Roman aristocrat named Domitius Tullus and his wife, a woman forever nameless to us,¹⁴⁰ shared a happy married life together. Much to the surprise of our source, the younger Pliny, they enjoyed being married. The reason for his surprise is that they were what could now be called an interabled couple. Domitius Tullus had a bodily condition that was believed by others (and to some degree by himself) to interfere with the expected features of a legitimate marriage; his wife did not. Pliny, who seems to have known them both personally, casts aspersions on the marital – and possibly sexual – life of the couple. Ultimately, however, he praises the effort of Domitius Tullus’ wife for her commitment to the marriage.

¹³⁹ Sor. *Gyn.* 1.30-31: *πολλὰ γοῦν διὰ μακρὰν χηρείαν στραγγῶς καὶ μετὰ πόνου καθαιρόμεναι γαμηθεῖσαι πάλιν ἐκαθάρθησαν ἀπαραποδίστως.* The section’s title in Greek is *Εἰ ὑγιεινὴ ἐστὶν ἡ διηνεκῆς παρθενία* “Whether continual virginity is healthy.” See Caldwell 2014: 95-6 for a discussion of *devirginatio*.

¹⁴⁰ Sherwin-White 1966: 468 argues that her name is deliberately omitted.

“How very praiseworthy his will is, which duty, fidelity, and reverence wrote – a will in which, at last, thanks were bequeathed to all [Domitius Tullus’] relations in proportion to their services [to him; and proper thanks] bequeathed also to his wife. She received the most idyllic villas, and she received a great sum of money - and she was the best wife and the most enduring. She deserved these things from her husband all the more, because of how much she had been rebuked when she married him. For a woman illustrious in birth, honest in habits and at a decline in age, a long-time widow and a one-time mother, she seemed to pursue matrimony with insufficient propriety, [matrimony] to an old man of wealth, so destroyed by sickness that he would be a likely source of *taedium*¹⁴¹ to a wife whom a young and healthy man had led in marriage. Because he was twisted and broken in all of his limbs, he would approach his great riches with only his eyes, and he would not even move in bed unless helped by others; and what’s more – shameful and pitiable to say! – he would offer his teeth to be rinsed and brushed [by others]. Often it was heard from him himself, when he would complain about the vicissitudes of his incapacity, that he licked the fingers of his own slaves every day. Nevertheless he was living and was willing to live, with his wife greatly supporting him, and she turned the guilt of an incomplete marriage into glory through perseverance.”¹⁴²

¹⁴¹ I have not translated *taedium* in the text here, because it has a variety of possible translations; “boredom,” “disgust,” and “weariness” are some of these, and difficult to reconcile in one word. See further discussion on p. 51.

¹⁴² Plin., *Ep.* 8.18.7-10: *Quo laudabilius testamentum est, quod pietas fides pudor scripsit, in quo denique omnibus affinitatibus pro cuiusque officio gratia relata est, relata et uxori. Accepit amoenissimas villas, accepit magnam pecuniam uxor optima et patientissima ac tanto melius de viro merita, quanto magis est reprehensa quod nupsit. Nam mulier natalibus clara, moribus proba, aetate declivis, diu vidua mater olim, parum decore secuta matrimonium videbatur divitis senis ita perdit morbo, ut esse taedio posset uxori, quam iuvenis sanusque duxisset. Quippe omnibus membris extortus et fractus, tantas opes solis oculis obibat, ac ne in lectulo quidem nisi ab aliis movebatur; quin etiam — foedum miserandumque dictu — dentes lavandos fricandosque praebebat. Auditum frequenter ex ipso, cum quereretur de contumeliis debilitatis suae, digitos se servorum suorum cotidie lingere. Vivebat tamen et vivere volebat, sustentante maxime uxore, quae culpam incohati matrimonii in gloriam perseverantia verterat.* Sherwin-White 1966: 468 does not venture to date this letter, but if we can usefully take Mommsen’s chronological dating of the books, as Sherwin-White asserts, then this letter would fall in the period of roughly 107-109 CE.

Sadly, we have no notion of what the married life of Domitius Tullus and his wife was actually like, save that Domitius Tullus was “supported” by his wife and that he lived (and “was willing to live”) beyond the expectations of those around him.

Pliny’s view is helpful for our understanding of how an interabled couple would be perceived by their community – even (and possibly especially) a wealthy, elite Roman one. One thing Pliny finds so perverse is the fact that Tullus’ autonomy and dignity are violated in the intimacy of his own bed. In describing his bodily condition, Pliny describes Tullus as needing to be moved by others when he is in or on his *lectulus*, or “little bed.” This is important because the word *lectulus* can describe a marital bed; it could be the case that Pliny is euphemistically alluding to intimacy between Domitius Tullus and his wife, suggesting that Tullus cannot have penetrative sexual intercourse with his wife.¹⁴³

It was a literary *topos* that the *lectulus* afforded a man intimacy between himself and his wife – an intimacy that ideally ought not be violated.¹⁴⁴ For example, the poet Martial, writing in the generation before Pliny, eulogizes the most blissful of marriages by describing the *lectulus* and the lamp as witnesses to the nightly “battles” of man and wife.¹⁴⁵ It is entirely possible that

¹⁴³ Early references to the use of the *lectulus* as a dining couch include Plaut., *Persa* 758-759, in the late third and early second centuries BCE, and Ter., *Ad.* 285 and 585, in the early second century BCE. The *lectulus* comes in later literature to have different valences: “dining couch,” “daybed,” or simply “bed”. It is a piece of furniture where people lie down to dine, to relax, to convalesce, and to die. See Plin., *HN* 28.14, and Plin., *Ep.* 2.17, 3.1, and 3.7.

¹⁴⁴ In the first *Major Declamation*, a forensic exercise attributed to Quintilian in which a son is accused of murdering his father, this sentiment is expressed outright, at Ps. Quintilian *Declamationes Maiores* 1.13: “Therefore I ask before everyone: where was the husband killed? In his own bedroom... so that murderer did not fear [waking] the wife? [I hear that he], about to kill, entered the private place of nuptials and the solitude of the marital bed,” (*Quaero igitur ante omnia: ubi occisus est maritus? In cubiculo suo... ita ille percussor non timuit uxorem? [Audio] secretum nuptiarum et matrimonialis lectuli solitudinem occisurum intrare.*).

¹⁴⁵ Mart. 10.38: “O fifteen soft conjugal years for you, Calenus, | Which with your Sulpicia the god indulged you and completed! | O every night and hour, which was reckoned | With precious stones of Indian shores! | O what battles, what fights on either side | The lucky bed and lamp saw, | Drunk with Nicerotian clouds! | You saw (them), O Calenus, for three lustral periods (fifteen years): | This age is calculated as everything for you | And you reckon only the days of (being a) husband. | From those (days) if Atropos would return even one light, | Requested for a long time by you, | You would prefer it, rather than four times Pylion old age.” *O molles tibi quindecim, Calene, | quos cum Sulpicia tua iugales | indulxit deus et peregit annos! | o nox omnis et hora, quae notata est | caris litoris Indici lapillis! | o quae proelia, quas utrimque pugnas | felix lectulus et lucerna vidit | nimbis ebria Nicerotianis! | vixisti tribus, o Calene, lustris: | aetas haec tibi tota computatur | et solos numeras dies mariti. | ex illis tibi si diu*

Pliny, in not understanding the possibilities of sexual intimacy between Tullus and his wife, imagines that they have no such private life, and consequently cannot possibly be enjoying a truly successful or legitimate marriage.

Pliny also declares that Domitius Tullus could be a source of *taedium* to a woman who knew what it was like to marry a young and healthy man. This implies what is explicitly said elsewhere, that Tullus is both old and sick. *Taedium* has a range of meanings in authors contemporaneous with Pliny: it describes items that induce weariness, loathing, disgust, boredom, or are objectionable on the basis of smell.¹⁴⁶ On the surface, Pliny may be describing the weariness he imagines is involved in the care Domitius Tullus' wife takes of him. Boredom, disgust, and weariness could all be barriers to sexual intimacy between the two partners.¹⁴⁷ In Pliny's view, how could their marriage be complete – and indeed, he asserts that it was precisely not, at least to begin with (“an incomplete marriage”) – if they did not have intercourse in the way he (and perhaps members of his audience) imagined?

The success of the marriage of Domitius Tullus and his wife was acknowledged by their social circle only at the end of his life, when people were at last suitably convinced that the wife was not only interested in his money. Although it is a partial and fleeting view, we have some insight into the marriage of this interabled couple and the challenges they faced in their social

rogatam | lucem redderet Atropos vel unam, | mallet quam Pyliam quater senectam. It is a common allusion in Latin poetry to equate sex with going into battle (see Murgatroyd 1975 for a full treatment of the development of this literary topos). Richlin 1992: esp. 128 and 131 argues that this is for a divorce, against earlier readings that this is a eulogy. Even if it is working with double meanings, the basic assumption being played upon (if not in earnest) – that the “battles” on the *lectulum* are related to conjugal happiness – remains the same.

¹⁴⁶ Especially his own uncle, Pliny the Elder. A few examples of his uses of the word: *HN* 2.63 (describing the weariness of life that the earth's poisons can save use from); 2.84 (describing foul water); 8.8 (the *taedium* of flies, to be swatted away); 10.4 (when eagles experience the *taedium* of feeding a chick, it is cast out of the nest); 15.8 (describing non-desirable wood smoke); 16.59 (describing the labour of grafting trees); 26.3 (describing the effects of a plague); 26.86 (describing removing the *taedium* of a disease from clothing); and 34.18 (describing Demetrius as weary of a siege). His nephew uses the term in *Plin., Ep.* 7.9.5, 1.8.11, 8.21.5, 4.9.11, 9.17.3, 3.7.2-3

¹⁴⁷ It is not beyond Pliny to write in double meanings, as in the letter about “boar-hunting” he sends to Tacitus, which arguably is describing writing rather than hunting (Edwards 2008).

context: specifically, lowered expectations about their marital felicity. The suspicion that his wife was after his money was built upon the assumption that she devalued Domitius Tullus as a person but married him nevertheless – because money “made up for” his disability.

This anecdote also illustrates how a social circle would evaluate the felicity or infelicity of a marriage match throughout the relationship. The informal nature of Roman marriage – needing no real ceremony to be legitimated – means that the maintenance of marriage over the long term was directly linked to intent, as it was perceived by the spouses themselves and their families.¹⁴⁸ Despite the opinions of those around them, however, Domitius Tullus and his wife persisted in maintaining their marriage, and they were eventually seen to have made their marriage a happy one. Thus, while negative attitudes toward disability could impact marriage both before and after a marriage began, a successful Roman marriage was ultimately a question of negotiation between partners and the community in which they lived.

Conclusion

The flexibility of the Roman marital structure – even for the narrow category of legal marriages – was enough to allow for the formation and maintenance (and flourishing) of marriages in which disability played a role. There certainly were preferences for marriage selection shaped by disabling attitudes, but there were also possibilities of successful marriages with many different disabilities.

¹⁴⁸ Despite the interest of families and communities in the character of a potential partner (see Treggiari 1991: 83-160), a robust idea of moral disability did not prevail in marriage. There are no legal stipulations related to moral disability in marriage, except perhaps the concept of barring certain professions from “marrying up” (*Dig.* 23.2.42.1, Modestinus). We shall see the idea of moral disability, exemplified most in the figure of the *luxoriosus* and the *prodigus*, explored more fully in Chapter Four.

Not all Roman marriages were felicitous or full of mutual care. There are enough issues to trouble us here: for example, the double-edged sword of dowry culture, and the fact that families and partners had to negotiate and strategize around the negative assumptions about physical and mental conditions, as in the case of Domitius Tullus and his wife. Indeed, it is more than probable that, in the context of marriage, other factors challenged people with the conditions hitherto described – rejection, abuse, and violence of various kinds – that are not attested in the sources but that nevertheless are likely to have existed. Modern issues in this respect should lead us to suspect that ancient situations may have been similar.¹⁴⁹ Even so, it is clear that Roman law and Roman society at large could accommodate a legal *familia* formed and maintained by people with bodily and mental conditions thought to be challenging to the success of legal marriage: partners and their *familiae* played important roles in legitimating those marriages.

¹⁴⁹ People with disabilities are more likely to be survivors of abuse than people without. In the World Health Report on Disability 2011: 59, the authors assert that “People with disabilities are at greater risk of violence than those without disabilities. In the United States violence against people with disabilities has been reported to be 4–10 times greater than that against people without disabilities.” Violence perpetrated by intimate partners is particularly prevalent across the globe.

Chapter Two

Utilitas in the Eye of the Beholder: Disability and elite evaluations of enslavement

εἶχέν τινα Ἐπαφρόδιτος σκυτέα, ὃν διὰ τὸ ἄχρηστον εἶναι ἐπώλησεν. εἶτα ἐκεῖνος κατὰ τινα δαίμονα ἀγορασθεὶς ὑπὸ τινος τῶν Καισαριανῶν τοῦ Καίσαρος σκυτεὺς ἐγένετο. εἶδες ἂν πῶς αὐτὸν ἐτίμα ὁ Ἐπαφρόδιτος· “τί πράσσει Φηλικίων ὁ ἀγαθός, φιλῶ σε;” εἶτα εἴ τις ἡμῶν ἐπύθετο “τί ποιεῖ αὐτός;” ἐλέγετο ὅτι “μετὰ Φηλικίωνος βουλευέται περὶ τινος.” οὐχὶ γὰρ πεπράκει αὐτὸν ὡς ἄχρηστον; τίς οὖν αὐτὸν ἄφνω φρόνιμον ἐποίησεν;

Epaphroditus [my former owner] used to own a particular leatherworker, whom he sold on account of his being useless [ἄχρηστον]. Then, that same man – by some divinity – was bought in the marketplace by someone from Caesar’s household and became the leatherworker of Caesar. You saw how Epaphroditus would honour him: “How is good Felicio doing, I pray you?” Then if someone inquired of us, “What is [Epaphroditus] doing?” it would be said that “He is taking counsel with Felicio about something.” Why, hadn’t he sold him off as “useless”? Then who made him a wise man all of a sudden?

Epictetus in Arr. *Epict. diss.* 1.19.19—22

Enslavement was a disability. Indeed, a discussion of enslavement *qua* disability and the implications thereof is worthy of independent exploration.¹⁵⁰ For the sake of brevity, and for the sake of continuity with the other chapters of this dissertation, I focus here on the relationship between slave owners and enslaved people at a critical decision point: namely, the point of sale. I explore the ideological framework within which slave-owning authors placed enslaved people in their households. There emerges a constellation of ideas about what disability might have meant to these authors in this context. Elite views run the gamut from the notion that otherness was a threat to the economic “worth” of an enslaved person in the view of a slave seller/buyer, to the

¹⁵⁰ That the status of “slave” represented an entirely other category of being and experiencing the world was already attested in ancient literature and legal discourse (as observed in Lenski 2016). An abiding and meaningful touchstone of scholarly work on slavery is Patterson’s 1982 observation that slavery, as a rule, represents an ontological death.

concept that otherness could be coveted as luxury, commodity, or curiosity. Ultimately, while it is true that any enslaved person in the Roman Empire was already in a precarious position, a person who was both enslaved and otherized in these ways was made even more so by such ideological commitments of slave owners, no matter how high or low the price they attributed to the enslaved person.

I begin this chapter by pointing to the assumptions implicit in different authors' attempts to categorize enslaved people according to their bodies and behaviours. First, I show that legal sources and some literary sources employ a loose idea of "usefulness" to slave sellers and slave buyers as a basis for determining the economic worth of enslaved people. The authors of these texts reify bodily, mental, and moral conditions, with a view to establishing legal grounds for economic devaluation. Even as they do so, they incidentally reveal the imperfections and difficulties inherent in their attempts to categorize.

I then illustrate that the literary and art historical record presents a different economic evaluation of people categorized as other. Literary authors and material culture alike attest to an efflorescence of enthusiasm, among the wealthy and well-to-do in especially the first two centuries CE, for owning people that they othered – and, indeed, people whose bodies and behaviours would have defied the narrow ideal of "usefulness" set out by other sources. There is, therefore, a gulf between these sources that suggests competing elite visions of the relationship between slavery, othered people, and the elite "use" of enslaved people.

I end this chapter with the case study of Clesippus, a real historical person whose story is mentioned in Pliny the Elder, to highlight how the objectification of Clesippus by his mistress as a curiosity made him subject to the whim of her personal preferences, philosophies, and means. Further, I draw out how Pliny makes Clesippus the vengeful hero in a story of Pliny's own framing, vilifying the appetites of wealthy mistresses as rabid and shameful.

First, however, an essential caveat: these views and constructions cannot represent the embodied experiences of enslaved people. What I give shape to in this chapter is merely the basis upon which elite slave owners might have structured their interactions in enacting enslavement, or what it looked like for owners to own enslaved people that they likewise disabled in a way that intersected with the inherent disability of slavery.¹⁵¹

Limitations at Law

Bodies are by nature unruly, especially when placed within any regulatory frame. When viewed through modern medical texts, for example, the body or parts of it regularly misbehave, break, break down, impede desires, challenge expectations. In the interests of a Roman elite slave owner, enslaved people were imagined as human tools in a way that brings such sentiments to the fore.¹⁵² This is clear to see in a text known as the curule aedile's edict. The categories of bodily and mental conditions explored by the edict illustrate the concepts of "usefulness" that the curule aediles imagined slave sellers and buyers could agree upon as desirable. Jurists and authors comment on this edict and elaborate on these conditions with greater specificity, thus exposing both the difficulties that inhered in such an exercise and a major priority for slave sellers and buyers: control over the enslaved person, both in respect of their health and in respect of their obedience to the owner.¹⁵³

¹⁵¹ Methodological choices for exploring ancient slavery could include, for example, critical fabulation, on the model of modern historian S. Hartman, especially in her chapter "The Dead Book" from *Lose Your Mother* 2007. Indeed Moss 2021 uses Hartman's approach to enslaved labour in text production.

¹⁵² I find compelling the work of Lewis 2013, which illustrates that the origin of the phrase "talking tools" begins in scholarship on Roman slavery as a loose reading of Varro. Lewis' conclusion is that, rather than referring to enslaved people as a class as "talking tools," Varro is referring to all agricultural workers as such, whether they are enslaved or free. The idea of the enslaved person as a tool, however, appears elsewhere in ancient discussions of the nature of slavery. For Aristotle, for example, enslaved people are "ensouled tools" (*EN* 8.11.6, 1161b4) or "ensouled possessions" (*Pol.* 1.2.4—5, 1253b33), or indeed a usable extension of the master's body (*Pol.* 1.2.20, 1255b11, explored in Heath 2008: 266).

¹⁵³ Giannella 2014 [diss.].

The curule aedile's edict was created to protect the interests of slave sellers and buyers in their purchases of enslaved people and sought to divide enslaved people into those who were deemed "worthy" of full price, and those who, by dint of some feature of their body or behaviour, were not. The curule aediles were public magistrates charged with overseeing commercial activity at Rome, and their edict is preserved mostly through quotation by various authors and discussion in book 21 of the *Digest* of Justinian, a sixth-century CE compendium of earlier Roman jurists' opinions. The original version of the edict was probably composed in the mid-to-late republic (in the second or first century BCE) and ossified under Hadrian in the second century CE. The *Digest* preserves sufficient fragments to allow us to reconstruct it in large part.¹⁵⁴ Put crudely, the edict functioned as a returns policy for human beings, protecting the buyer of enslaved people from slave sellers who might cheat them by selling them human property with "hidden" conditions.¹⁵⁵

If an enslaved person were classified as healthy, they would be deemed worth full price; if there were "hidden" conditions affecting that person, the slave seller might have to give the buyer a partial refund (*quanti minoris*) and let them keep the enslaved person, or the seller may

¹⁵⁴ For this reconstruction, see Lenel 1927: 554-568 and *FIRA ii*²: no. 66. The bibliography on the curule aedile's edict is extensive. Jakab 1997:97-152 and Cloud 2007 are two recent, important explorations.

¹⁵⁵ There is ample evidence that potential buyers in the ancient context distrusted slave sellers. The jurist Ulpian himself mentions the untrustworthy reputation of slave sellers on the whole and the tricks of the sellers generally (*fallaciis venditorum*, *Dig.* 21.1.37). Bodel 2005 argues that the untrustworthy slave trader was disdained for precisely his reputed greed (rather than for any humanitarian reason), and that part of the job of the *mangones*, those who prepared enslaved people for sale, would have involved deceptive tactics. This resonates with the phenomenon of slave sale in Roman comedy of the late third century BCE: in Plautus' *Persa*, a freeborn woman is sold on false pretense in order to entrap another character. As the false enslaved woman toys with the prospective buyer, the slippery qualities of the slave seller – and the woman, too – are on full display in half-truths and convenient omissions. See Stewart 2012: 37-47 for an in-depth discussion. Also, Martial's *Ep.* 8.13 expresses comic distress at being cheated in a slave sale. The very existence of the curule aedile's edict's reinforces this point: if Roman slave buyers trusted slave sellers and suspected no concealment, there would have been no need for such a detailed document. D. Boster relates the common belief, in a nineteenth-century American context, that some dealers would conceal "defects" in a person for sale: plucking grey hairs and shaving beards to look younger, concealing shiny scars (read by prospective buyers as signs of obstreperous behavior) by covering them in grease, and other, similar tactics (Boster 2013: 74-94).

have to take the enslaved person back and give a full refund (*redhibitio*, reversal of sale or rescission).¹⁵⁶ The comments on the edict preserved in the *Digest* illustrate an effort on the part of the curule aediles, the jurists, and the emperor to create a relatively clear and medicalized standard of “usefulness” by which slave sellers and buyers could abide throughout the empire.¹⁵⁷ Although the edict would have extended to cover the sale of all enslaved people, its rhetoric of usefulness appears to have been tailored to the purchase of people for specific tasks.

One of the most obvious operative elements in the edict is the division of conditions between two categories: *vitia* and *morbi*, “defects” and “diseases,” respectively. Each condition described in the edict is classified legally as one or the other (despite occasional blurring of the distinction, as we will see). Some diseases perceived as minor, such as inflammation and sores, were insufficient to demand a refund nor a discount.¹⁵⁸ Any disease deemed serious, such as a severe tonsil issue,¹⁵⁹ entitled the buyer to send the enslaved person (and any accessories that accompanied them) back in a straightforward reversal of the sale contract.

Deconstructing jurists’ ideas about *vitium* vs. *morbus* has proven challenging to modern scholars, and this hints at the difficulties the jurists themselves might have had.¹⁶⁰ According to Ulpian, citing the earlier jurist Sabinus, a *morbus* is “a condition of someone’s body that is against nature (*contra naturam*), which makes the use of [this body] weaker/worse for the purpose for which nature gave us health of this body: this moreover happens in the whole body

¹⁵⁶ I gloss *redhibitio* and *quanti minoris* actions here as “refund” and “discount” respectively, to clarify further and to highlight the extent to which the edict treats humans as objects. *Quanti minoris* is more detailed than “discount”, as it imagines that an enslaved person’s economic worth was directly proportional to an imagined whole body: by “how much less” the person was than what was advertised, by that amount the purchaser would be compensated.

¹⁵⁷ Whether, where, and to what extent these regulations were observed throughout the empire is unknowable.

¹⁵⁸ An old wound or a slight fever (*Dig.* 21.1.1.8); a minor infection of the eyes, tooth, or ear, or a barely noticeable sore (*Dig.* 21.1.6). Cels., *Med.* 4.5 describes some of these minor inflammations, including something we might identify with the common cold.

¹⁵⁹ *Dig.* 21.1.14.8 on the swellings of the throat, called ἀντιάδας.

¹⁶⁰ Gourevitch 2013: 220 and Lanza 2004 posit that *morbi* meant a condition interfering with the “usefulness” of an enslaved person, and *vitia* did not.

for some, for others in part...”¹⁶¹ In addition, in the next section of the *Digest*, he asserts that “any defect or disease that impedes the use and service (*usum ministeriumque*) of a[n enslaved] person (*hominis*) will give grounds for rescission.”¹⁶² Paul, writing in the late second and early third centuries CE, attempts to clarify the distinction with an illustrative Greek analogy: “And however much difference exists between these *vitia*, which the Greeks call *κακοθήθεια* (bad disposition), and between *πάθος* (suffering) or *νόσος* (sickness) or *ἀρρωστία* (weakness), that much is the difference between such *vitia* and *morbis* (disease), by which someone is rendered less apt for use.”¹⁶³ In other words, *vitia* is to *morbis* as “bad disposition” is to “suffering,” “sickness,” or “weakness.”

Given the close association of *κακοθήθεια* with *κακός* (“bad,” “weak,” but also “wicked” and “cowardly”), there seems to be a moral component distinguishing *vitium* and *morbis*, too. Based on this, we might also translate *vitium* as “character flaw” or enduring condition, rather than a temporary state. Such an understanding draws further support from Aulus Gellius, an antiquarian writing in the second century CE and our other main source for reconstructing the aedile’s edict: he relates that a *morbis* might be temporary, whereas a *vitium* is lasting.¹⁶⁴ A “bad disposition” could be reflective of character – with moral elements and a sense of permanence.¹⁶⁵

¹⁶¹ *Dig.* 21.1.1.7: *Sed sciendum est morbum apud Sabinum sic definitum esse habitum cuiusque corporis contra naturam, qui usum eius ad id facit deteriolem, cuius causa natura nobis eius corporis sanitatem dedit: id autem alias in toto corpore, alias in parte accidere.* Ulpian’s definition of what counts as a *morbis* may have been informed by medical ideas current at the time. His argument that Nature creates our body parts for specific purposes is in keeping with a tenet of Galenic medical thought. Indeed, an entire extant text attributed to Galen is dedicated to precisely this point, called *On the Usefulness of Parts of the Body*.

¹⁶² *Dig.* 21.1.1.8: *Proinde si quid tale fuerit vitii sive morbi, quod usum ministeriumque hominis impediatur, id dabit redhibitioni locum, dummodo meminerimus non utique quodlibet quam levissimum efficere, ut morbosus vitiosusve habeatur.*

¹⁶³ *Dig.* 21.1.5. (Paul, *ad Sab.* 11): *Et quantum interest inter haec vitia quae Graeci kakoῦtheian dicunt, interque pathos aut noson aut arrōstian, tantum inter talia vitia et eum morbum, ex quo quis minus aptus usui sit, differt.*

¹⁶⁴ Gell., *NA* 4.2.

¹⁶⁵ Cloud 2007 relates how confused this is in Gellius in particular. A further complication of the *vitium-morbis* distinction is the fact that *vitium* can refer to a mistake in religious rituals.

Despite efforts on the part of jurists to restrict liable conditions to conditions in the body (*vitia corporis*), the edict also extends to conditions of the spirit (*vitia animi*). This is the first slippage in their project of categorization. It also underscores how disabled slavery included physical, mental, and moral bases for elite slave owners: slave sellers and buyers could not simply trade in humans reduced to bodies but embodied human beings with inseparably implicated bodies and spirits. For example, conditions mentioned as *vitia animi* (“mental flaws”), which did not necessarily “count” for refund but were nevertheless conditions of interest to slave buyers and sellers, included habits as varied as gambling, drinking, religious fanaticism, and looking at paintings too much.

Broad concern for issues centred in the body include *vitia* or *morbi* in speech, vision, sexual and reproductive capacity for men and women, visible differences in limbs, skin “afflictions” and “growths”, and recurring conditions. The curule aediles’ edict attempts to take in hand a breathtaking range of conditions. Important conclusions we can draw from this are (1) that slave buyers and sellers were invested in this question of what “counted” as conditions in themselves, and what would “count” for devaluation in economic terms, and (2) that it was not easy to create such distinctions. What jurists agree upon in framing slave buyers’ and sellers’ choices is a reduction to “usefulness”.

In fact, task-based labour is explicitly distinguished elsewhere in the *Digest* from other means of “use”. Ulpian writes in the case of evaluating the services of enslaved people for legal action that

... if the enslaved person is younger than five years or is *debilis* (debilitated) or some other thing on account of which there can be no tasks completed for the owner, let there be no valuation. Likewise no valuation of pleasure or of affection

will be made as in the case where an owner prizes him or counts him among his *deliciae* (*in deliciis*).¹⁶⁶

The fact that Ulpian needs to state this, to make this distinction, hints at the messiness inherent in evaluating human beings for sale.

The aedile's edict of course tells us only one part of the tale: the edict expressly attended only to the problem of "hidden" conditions (i.e., those understood as conditions which would not have been readily visible to a Roman slave buyer). Such a fact highlights for us deep anxieties on the part of slave buyers and sellers to intuit these "hidden" features, to make the most of their purchase.¹⁶⁷ In her 2014 dissertation, Giannella illustrates, for example, the inability for the slave owner to know the mind of the enslaved person. This leaves owners anxious to control them legally as far as they are able, despite their understanding that the mind of an enslaved person was always beyond the reach of the master.¹⁶⁸

Indeed, the curule aedile's edict has three other main limitations. One, although we have a reconstruction, we have no extant copy of the edict itself. Two, the edict only governs one way that owners acquired enslaved people as property, in which a slave buyer had some power of selection. Other methods of acquisition of enslaved people that were not mentioned include inheritance and reproduction within the household.¹⁶⁹ The law has nothing to say, for example, on the treatment of *vernae*, enslaved persons born into a household. Three, and most crucially, the conditions liable for *redhibitio* or *quanti minoris* are created for the protection of the buyer

¹⁶⁶ *Dig.* 7.7.6.1: *Si minor annis quinque vel debilis servus sit vel quis alius, cuius nulla opera esse apud dominum potuit, nulla aestimatio fiet. 2. Item voluptatis vel affectionis aestimatio non habebitur, veluti si dilexerit eum dominus aut in deliciis habuerit.* See p. 34 for a brief explanation of the phenomenon of *deliciae*.

¹⁶⁷ Such a drive to make the invisible visible is possibly also the motivation for the surge in physiognomic texts in the height of the Empire (e.g., Polemo in the second century CE), especially considering their later use by Arabic translators who used them for analysis of enslaved people during purchase (Swain 2007).

¹⁶⁸ Giannella 2014 [diss.] also explores Stoic attitudes toward freedom in the mind, sharing some of the ideas of, among others, the freedman and philosopher Epictetus.

¹⁶⁹ Seneca, for example, disdains his wife's "inherited burden" (*onus hereditatum*), the professional fool (*fatua*) Harpastē. See below, p. 68.

and the control of the seller. We know nothing about the agency of the enslaved person in the sale, but any slave sale would have been a complex interaction between slave seller, slave buyer, possibly middlemen, possibly doctors, and the enslaved people themselves. The edict provides no insight into how enslaved people themselves would interact with these expectations.¹⁷⁰

Jurists undermine the agency of enslaved people not only in the context of sale, but also when they write about the penalties for changing an enslaved person's body or mind "for the worse." This phenomenon, *servum/servam deteriorem facere*, applied when someone did something to an enslaved person, whether in body or in spirit, that deteriorated his or her value.¹⁷¹ An entire section of the *Digest* (11.3) is devoted precisely to this matter, focusing on behaviours that undercut the owner's exercise of control.

He also makes [an enslaved person] worse, who persuades the enslaved person to cause an injury or theft, or to run away, to agitate another man's enslaved person, to entangle the *peculium*,¹⁷² or to become a lover or one given over to error or wicked arts, to be excessively interested in spectacles, or to be rebellious; or if he persuade with words or with reward an enslaved person acting on his owner's behalf to take on or falsify the accounts of the owner or even to confuse the account commissioned to him.¹⁷³

Paul adds: "Or makes [the enslaved person] extravagant or stubborn; or who persuades him or her to endure *stuprum* (sexual violation)."¹⁷⁴ The capaciousness of the designation "worse" (*deterior*) means that this set of legal opinions imagines the depreciation as a physical or mental

¹⁷⁰ Boster 2013, working with material from a nineteenth-century American slavery context, uses autobiographical material of people who escaped slavery to discuss the psychology of the auction block for enslaved people with disabilities. Boster makes clear that, while a disability could lower a person's market value, acting too nondisabled could, perversely, make the buyer suspicious. Sometimes an enslaved person might choose to feign a disability, whether to lower their own market value on purpose in the hopes of earning freedom faster, or to reverse a sale (2013: 87-91). In view of these pressures and motivations, Boster argues that enslaved people tried to use "what was given" to the best end they could.

¹⁷¹ The law specifies *servus alienus* and *serva aliena*.

¹⁷² An enslaved person's allowance.

¹⁷³ *Dig.* 11.3.1.5: *Is quoque deteriorem facit, qui servo persuadet, ut iniuriam faceret vel furtum vel fugeret vel alienum servum ut sollicitaret vel ut peculium intricaret, aut amator existeret vel erro vel malis artibus esset deditus vel in spectaculis nimius vel seditiosus: vel si actori suasit verbis sive pretio, ut rationes dominicas intercideret adulteraret vel etiam ut rationem sibi commissam turbaret.*

¹⁷⁴ *Dig.* 11.3.2: *Vel luxuriosum vel contumacem fecit: quive ut stuprum pateretur persuadet.*

effect, but ultimately also as a moral depreciation.¹⁷⁵ Indeed, an owner could sue for damages incurred by illicit sexual activity, by physical harm, or by encouragement of bad behaviour. To this end, slave owners had access to the *lex Aquilia*, a law designed to punish those who caused damage to the property of someone else, whether that property was enslaved people, animals, and inanimate objects; alternatively, slave owners could use the action on *iniuria* (injury or insult) to remedy the offense to the owner as a person (and not the enslaved person themselves). In a system of disability delineated by “usefulness” (read: control by the owner), any impediment to the master’s control counted as a disability. This entails that a strictly moral disability was possible. It might not have been grounds for a refund, but it had the potential to operate as a disabling frame in slave owners’ ideas about enslaved people they owned.

If an owner whipped, tattooed, or branded an enslaved person for running away or being disobedient, the owner marked the enslaved person’s “bad behaviour” indelibly on their bodies.¹⁷⁶ Those who were condemned to work in the mines or who had tried to run away would have been tattooed, sometimes even on their faces.¹⁷⁷ Plautus’ *Aulularia* features an enslaved cook who insults his colleague for being “of three letters” (*trium litterarum*), implying that he has been tattooed or branded as a thief (*fur*).¹⁷⁸ Petronius’ *Satyricon* features an episode in which characters disguise themselves as runaway slaves by drawing letters on their faces in ink.¹⁷⁹

¹⁷⁵ Perry 2015: 57-58. This is asserted explicitly by Ulpian (*Dig.* 21.1.25.6).

¹⁷⁶ Boster 2013: 48-48, 84 cites a similar phenomenon in the nineteenth-century American context, of reading scars as indicators of poor character. For more detail on the topic of marked enslaved bodies in Greece and Rome, and specifically such bodies as “inscribed”, see Kamen 2010. Most importantly for the moral significance of these marks, Kamen also describes the possible avenues of disguising such marks or attempting to remove them (103—108). See Jones 1987 on the preference in the Roman context of tattooing over branding (as branding had hitherto been assumed to be as popular as tattooing); Gustafson 1997 on tattooing as punishment; and Mommsen 1899:949-51 on the tattooing of people who were condemned *ad metalla* specifically. This did not hold true in all parts of the empire: Artemidorus, author of a dream manual in the second century CE, provides a caveat about the symbolism of tattoos in dreams on this theme. He says a dream interpreter must pay attention to the specificity of “ethnic” traditions, as he points out that Thracian children are tattooed if they are well born (Artem. 1.8.1-2).

¹⁷⁷ Mommsen 1899: 949-51; Garnsey 1970: 132-136; Millar 1984: 137-143.

¹⁷⁸ Plaut. *Aul.* 325-326; Kamen 2010: 102; Jones 1987: 153.

¹⁷⁹ Petron., *Sat.* 103, 105.

Eventually the Emperor Constantine intervened in 316 CE, objecting to the tattooing of the face on the ground that the face was divinely made,¹⁸⁰ but he did not rule against tattooing elsewhere.¹⁸¹ Because of the punitive nature of the modification, enslaved people would be stigmatized forever afterward.¹⁸² Those who were tattooed in this way were understood to be a subclass of enslaved person: if they ever were freed, they were considered to be on a level with *peregrini dediticii*, or prisoners of war.¹⁸³ Although there are no details of what this position entailed, it was a position of civic subjugation: such individuals would be forever barred from even the limited status other freedmen obtained.

This idea of health as a balance of various aspects of the body is reflected in the curule aedile's edict as well, showing a cross-pollination of medical and legal discourse. For example, according to the law, if someone's mouth naturally smells bad¹⁸⁴ or if they are a naturally sterile woman (*sterilis*),¹⁸⁵ there is no issue and these conditions are not beyond the expected norm. It is only if their breath smells or they cannot produce children because of a bodily flaw (*ex corpore vitio*) that these conditions are unhealthy and liable for *redhibitio*. Although the jurists do not specify in the relevant passages what is meant by *vitium*, the edict assumes an understanding: the parties involved – seller, buyer, and possibly a physician – wanted to come to an agreement about what was a disease and what was a natural condition.¹⁸⁶

¹⁸⁰ *Cod. Theod.* 9.40.2 = *Cod. Just.* 9.47.17.

¹⁸¹ Gustafson 1997. It is possible that slave collars became preferred by slave owners after this because they would have been readily “legible” but not permanently etched or burned into the enslaved person's face.

¹⁸² Gustafson 1997:87, “...it was the permanent mark, not the crime itself, that was decisive.”

¹⁸³ In the *Lex Aelia Sentia* of 4 CE, according to Gai. *Inst.* 1.13-15.

¹⁸⁴ *D.* 21.1.6.12.

¹⁸⁵ *D.* 21.1.6.14.

¹⁸⁶ Although outside the temporal scope of this study, consultation of a doctor for the condition of slaves is attested by Claudianus' description in *Eutropium* 1.35-6: *nudatus quotiens, medicum dum consulit emptor, ne qua per occultum lateat iactura dolorem!* (“How many times stripped naked, while the buyer consults the doctor, lest any detriment hide through a secret trickery!”). He is besmirching the reputation of Eutropius, who was a eunuch and became a powerful player in the imperial politics of the eastern half of the empire.

In the Greco-Roman imagination, “health” was as nebulous a concept as it is for modern Anglophone audiences across the globe, and just as political.¹⁸⁷ To put matters simply, ancient medical writers communicated that the body could be unhealthy in myriad ways, and they presented health as a matter of balance. To be truly healthy in Aristotelian medical discourse, for example, one must have neither an excess nor a dearth of moisture and heat in the body;¹⁸⁸ for the same state in Hippocratic medicine, one’s health needed careful management, as it was subject to shifts in humours, climate, diet, and exercise.¹⁸⁹ Depending on the medical writer, such systems of balance could be understood to be specific to each person. For example, in a Galenic treatise *de Bono Habitu*, or “On Good Condition,” the author cites the work of Hippocrates as support for his own view that different “normals” were recognized for different people.¹⁹⁰ Geographical and environmental determinism was a strong component in the definition of different “normals”: of course, the most normal of the normal for these authors was their very own unmarked imperial centre, giving rise to racial distinctions between people in the further reaches of the empire.¹⁹¹

Classed as a Prize

In poems, histories, letters, and art historical sources, the exoticization of othered bodies and minds is on display. For enslaved people in the households of the wealthy and fashionable,

¹⁸⁷ For example, as Holmes 2018: 76 puts it while writing about the nature of the body in Greek medicine, “... the difficult relationship of the Hippocratic body to fluids, which are seen as both life-sustaining and susceptible to disequilibrium, thereby put[...] even the everyday life of the body at constant risk of tipping towards disease. By conceptualising the inner landscape in terms of labile fluids, the Hippocratic writers imply that bodies need physicians to control and regulate them.”

¹⁸⁸ As communicated throughout the Pseudo-Aristotelian *Problemata Physica*, especially book 1. The first two sections, for example, ask and answer why excesses of temperature and moisture produce disease.

¹⁸⁹ Jouanna 2004 [2012]: 338.

¹⁹⁰ *Bon. Habit.* esp. 751-2.

¹⁹¹ *Aer.* esp. 12-24. For an exploration of how the edges of empire created a space for blurring distinctions not only of ethnicity but also of humanity and animality, see Bosak-Schroeder 2019.

there was a greater variety of roles to fill than on a rural estate or in a more modest home: in addition to the work of keeping an aristocratic home running, they could serve as aesthetic and/or sexual objects, status symbols, and possibly even living, apotropaic curiosities.¹⁹² (The closest historical analogy for people kept because of their differences as toys, pets, or sexual amusements may be the “freak shows” of the 19th century in Europe and North America.¹⁹³) Slavery of this kind was an index of the wealth of a household and so will not have been found in every or even most homes in Rome. Indeed, certain occupations for enslaved and free people were met with disapprobation by elite moralists: because the wealthy could indulge in the conspicuous consumption of maintaining enslaved people in their home for reasons other than economic or domestic productivity, moralists could make accusations of excessive and luxurious living. For instance, Columella, a wealthy landowner of the first century CE from Roman Spain, strongly condemns the use of cooks, hairdressers, and entertainers, pointing out that the *res publica* would fare better without such frivolity.¹⁹⁴

Indeed, elites living in and around Rome had strong opinions, one way or the other, about the ownership and viewing of “monstrous” bodies or being entertained by “fools”— some clearly holding enslaved people as a point of fashion, and others worried about the moral effect of such a practice, viewing such collection as beneath their dignity. This contentious issue produces a lot of sound and fury in our extant sources.

So lively was the trade in human beings with readily manifest differences that a specific market existed for the sale of people labeled as *monstra*, *τέρατα*, *portenta* or *prodigia* (among

¹⁹² Trentin 2011; Gladhill 2012. For comprehensive explorations of occupations of enslaved people in domestic settings, see especially Joshel 1992; Treggiari 1975a and 1975b.

¹⁹³ I am not the first to make this claim. See Dench 2005: 286. For a moving and cogent analysis of “where enslavement and enfreakment meet,” see Samuels 2011. The topic of “enfreakment,” a coinage of Hevey 1992 and used in Garland-Thomson’s 1996 edited volume, is a prominent subject in Disability Studies today.

¹⁹⁴ Columella, *Rust.* pr. 5-6.

other names). The τεράτων ἀγορά at Rome, literally the “market of monsters,” was a popular enough phenomenon that Plutarch, in the second century CE, chastises the moral bankruptcy of someone who desires to gawk at people there with no calves, “weasel arms”, “ostrich heads” and extra eyes, instead of the “beautiful” people for sale in a slave market elsewhere.¹⁹⁵ Stoic distaste for owning people with unique traits is not directly humanitarian in motivation: their abiding distaste for owning enslaved disabled people spoke just as much to an anxiety about personal harm to themselves and their own reputations, as to a humane sympathy for the enslaved person.

Pliny the Younger, whom we met in the last chapter, considers the entertainment of a *morio* (“fool”) to be beneath his refined taste: he commiserates with someone who was complaining about the entertainment at a dinner party. His interlocutor writes that entertainers (*cinaedi*, *scurrones*, and *moriones*) went around the tables to delight the guests, and Pliny’s response is one of sympathy: “Because in no way does it delight me as a novel or charming thing, if some tender delight is offered by a boy toy (*cinaedus*), something saucy by a jester (*scurra*), or something stupid by a *morio*.”¹⁹⁶ He encourages his friend, however, to put up with “those *prodigia* (for so you call them)”. A *prodigium* (pl., *prodigia*) was a phenomenon deemed to fall outside of the natural order. The force here of the word has all the venom and disdain of the modern English word “freak.” While *prodigium* at one stage meant something ritually significant,¹⁹⁷ it comes (in the second century, at least) to have the character of a jibe. In Pliny’s view, it is beneficial for a man to suffer such entertainments, even if they are not to his taste:

¹⁹⁵ Plut., *Mor.* 520c: τὴν τῶν τεράτων ἀγορὰν. What Plutarch means with these descriptions is not entirely clear, so for lack of better translation I present as close a translation of the Greek as possible.

¹⁹⁶ Plin., *Ep.* 9.17.2-3: *Quia nequaquam me ut inexpectatum festivumve delectat, si quid molle a cinaedo, petulans a scurra, stultum a morione profertur... Quam multi, cum lector aut lyristes aut comoedus inductus est, calceos poscunt aut non minore taedio recubant, quam tu ista — sic enim appellas — prodigia perpessus es!*

¹⁹⁷ As we explored in Chapter One, these were phenomena interpreted to be “outside the natural order” that were taken as signs of divine displeasure and that required ritual expiation (as investigated in MacBain 1982).

when it comes time for him to host his friends, he can expect that they will have to put up with his entertainments in turn.

Sometime before this, in the mid-first century CE, the Stoic philosopher Seneca the Younger likewise considered the luxurious tastes of the wealthy set at Rome beneath his dignity. He owned an enslaved woman named Harpastē and he identified her as a “fool” in both a professional and personal sense (*fatua*). To him, she was an encumbrance, an “inherited burden” (*onus hereditatis*) from his wife’s family, a person he did not buy himself. More than this, he viewed her as an impediment to his self-image as a moral philosopher. He makes clear that, while her job as an entertainer is to make his guests laugh, he views her as a kind of *prodigium*. He writes in one of his moral letters,

You know Harpaste, my wife’s *fatua*, has remained in my house, an inherited burden. For I am myself most turned off by those *prodigiis*; if I ever want to be delighted by a *fatuus*, I don’t have to look far: I laugh at myself. This *fatua* all of a sudden stopped seeing. I’m telling you an unbelievable story, but it’s true: she does not know that she is blind; often she asks her *paedagogus* [attendant (usually for a child)] to move her [to a different spot]. She says that the house is dark. Let it be clear to you that what we laugh at in her happens to all of us; no one understands that he is avaricious, no one that he is libidinous. Nevertheless blind people seek a leader, whereas we wander without a leader ...¹⁹⁸

Harpaste serves the moral turn of the letter: Seneca uses her for amusement, imagining that his audience will find it funny that she has stopped seeing and “does not know” it – but he still does not consider her of real use to him. His perspective on Harpastē is not unrelated to his philosophical commitment as a Stoic.¹⁹⁹

¹⁹⁸ Sen. Ep. 50. 2-4: *Harpasten, uxoris meae fatuam, scis hereditarium onus in domo mea remansisse. Ipse enim aversissimus ab istis prodigiis sum; si quando fatuo delectari volo, non est mihi longe quaerendus: me rideo. Haec fatua subito desiit videre. Incredibilem rem tibi narro, sed veram: nescit esse se caecam; subinde paedagogum suum rogat ut migret, ait domum tenebricosam esse. Hoc quod in illa ridemus omnibus nobis accidere liqueat tibi: nemo se avarum esse intellegit, nemo cupidum. Caeci tamen ducem quaerunt, nos sine duce.*

¹⁹⁹ In keeping with Cloud 2007, who argues that Stoicism had a profound influence on the discussion of *vitia animi* in the curule aedile’s edict. Indeed, the Stoic values of eschewing luxury and elevating rationality as superior to all seem fundamental.

At the core of much elite disapprobation of other elites owning *prodigia* is perhaps a fear of luxury and tyranny. Historical accounts use stories of enslaved people in the imperial household as representations of a given emperor's reprehensible character, as mirrors of his disreputable qualities. The logic of these stories is that "monstrous" emperors put their inner, moral deficiencies on display by collecting, possessing, and flaunting enslaved people for the delectation of their guests.²⁰⁰ For example, the second-century C.E. emperor Commodus reportedly jokingly served two living *gibberi* (people with curved spines) on platters, drenched in mustard, to his guests, and then rewarded the *gibberi* for their participation in his little "joke".²⁰¹ This is reported in the *Historia Augusta* as part of a litany of Commodus's dangerous amusements, all involving humiliation and maiming. Perhaps some kind of sick joke or wordplay long since forgotten is implied in serving *gibberi* with mustard. Such a comparison with food compromises the humanity of the *gibberi*, but the episode is ultimately meant to underscore Commodus' inhumanity – the prospect of cannibalism would have been deeply horrifying to a Roman audience.²⁰² Commodus's other amusements include horrific acts: slicing open a fat man's belly to spill his guts; putting out a man's eye or chopping off one foot, and then calling him "one-eyed" or "one-footed"; and mixing human feces with expensive dishes to offend his guests. These behaviours represent an extreme, of course, and the stories serve the author's vilifying purpose. Yet they were nevertheless features of Roman elite imagination.

²⁰⁰ Gladhill 2012.

²⁰¹ SHA, *Comm.* 11.1: *duos gibbos retortos in lance argentea sibi sinapi perfusos exhibuit eosdemque statim promovit ac ditavit.* Trentin 2011: 203.

²⁰² Accusations of cannibalism were implemented in dehumanizing caricatures of other societies (e.g., Juvenal's fifteenth satire about Egyptians, or the assumption by many Romans that Christians were cannibals, and possibly cannibalizing infants). See McGowan 1994. These accusations often went hand-in-hand with accusations of human sacrifice (Rives 1995: 67), a likewise deeply disturbing phenomenon for Roman authors – despite the prevalence of ritual murder not defined as human sacrifice (Schultz 2010).

The exploitation of *deliciae*, of the people who would be “kept” like Commodus’s *gibberi*, was likely not unusual. It is now a commonplace in scholarship on ancient Roman slavery that sexual exploitation of enslaved people – no matter their formal role in a *familia* – was ubiquitous in ancient Rome.²⁰³ Literary sources are particularly obsessed with such action by mistresses, as exemplified by Martial’s poem to the probably-fictional Cinna and his wife Marulla (6.39):

“Cinna, you are made a father from Marulla seven times over – but not of freeborn children: for not a one of them is your son, nor the son of your friend or neighbour; but, conceived on low beds and floor mats, they show off their mother’s intrigues with their heads. This one who walks along as a *Maurus* (“Moor”) with curly hair confesses that he is the offspring of the cook, Santra; but that one with a flat nose, with swollen lips is the very image of Pannychus, the wrestler. Who does not know that the third is from the baker, whoever recognizes the bleary [child] and sees Dama? The fourth with the countenance of a *cinaedus* (enslaved boy kept explicitly for sex) with a white face was born from your bed-mate Lygdus. Penetrate your son, if you want: it’s not taboo. But this one with the sharp head and long ears, ears that move just like a donkey’s, who denies he’s the child of the fool, Cyrtia? Two sisters, one black and this one red, are from Crotus the flute-player and the slave manager Carpus. You would already have the full troupe of Niobids, if Coresus and Dindymus hadn’t been eunuchs.”²⁰⁴

The insult is double: Cinna is a cuckold and his wife is so promiscuous that she will sleep with many partners and have children with enslaved people.

The literary motif of mistresses sexualizing the othered, enslaved people in their households satirizes the loose morality of women, and of wealthy, luxuriating women. Such a trope obfuscates what was likely a similar phenomenon in male owners. As I shall explore

²⁰³ Bradley 1994, esp. 28 and 49.

²⁰⁴ Mart. *Epigr.* 6.39: *Pater ex Marulla, Cinna, factus es septem / non liberorum: namque nec tuus quisquam / nec est amici filiusue uicini, | sed in grabatis tegetibusque concepti | materna produnt capitibus suis furta, | Hic qui retorto crine Maurus incedit | subolem fatetur esse se coci Santrae; | at ille sima nare, turgidis labris | ipsa est imago Pannychi palaestritae. | Pistoris esse tertium quis ignorat, | quicumque lippum nouit et uidet Damam? | Quartus cinaeda fronte, candido uoltu | ex concubino natus est tibi Lygdo: | percide, si uis, filium: nefas non est. | Hunc uero acuto capite et auribus longis, | quae sic mouentur ut solent asellorum, | quis morionis filium negat Cyrtae? | Duae sorores, illa nigra et haec rufa, | Croti choraulae uilicique sunt Carpi. | Iam Niobidarum grex tibi foret plenus | si spado Coresus Dindymusque non esset.*

further in a few pages, there was a long-running trade in eunuchs who were desired for their unique features and openly sexualized. One example is the Emperor Domitian's eunuch, Earinus, the subject of the emperor's fancy and much poetic inspiration.²⁰⁵ In *Silvae* 3.4.69-78, the poet Statius even describes the process of castration in lofty terms, having earlier portrayed Earinus as a Ganymede-like figure, whisked away from Pergamum by Venus herself, and praising him as more beautiful than any other beloved boy in myth.

Also on display in the Martial poem is an impulse on the part of slave owners to “collect” enslaved people, reproducing a voracious empire that gathered and consumed curiosities at its centre.²⁰⁶ The enslaved household of Cinna and Marulla is characterized by different colours and shapes of body – the black, the white, the red, the sharp head, the flat nose, the large lips – and the *natio* or geographic and ethnic origin of one enslaved person is explicitly named, the *Maurus*. Even the existence of the *τεράτων ἀγορά* I mentioned earlier suggests that Rome was a kind of collection point, a draw for slave traders who trafficked in enslaved people whose differences could be spectacularized. Second-century CE philosopher Epictetus, in a tirade about hair and appearance, argues that any woman who does not conform to a hairless aesthetic ought to be exhibited like a *τέραξ* at Rome.²⁰⁷ Similarly, it is a trope of the otherized bodies in Phlegon of Tralles' *Mirabilia* that they are invited to Rome or are taken to Rome when they are turned into a spectacle.²⁰⁸

²⁰⁵ Stat. *Silv.* 3.4 and Mart. *Epigr.* 9.5, 9.7, 9.11-13, 9.36.

²⁰⁶ This is not exclusive to bodies the Roman elite classified as *monstra vel sim*. Bosak-Schroeder 2019 provides a thorough analysis of the various elements (human/animal) gathered by the emperors and their adherents. Belser 2018: esp. 60–76 presents a thorough analysis of views of Roman conquerors, but from rabbinic sources of the destruction of the Temple as expressed in the Bavli, rather than from the styluses of those invested in their empire. She highlights the view of the Roman conquerors as violently covetous – not merely covetous of Jewish gold, but also covetous of beautiful Jewish bodies.

²⁰⁷ Arr., *Epict. diss.* 3.1.27. On Rome as the centre for this kind of acquisition, see also Dench 2005: 286.

²⁰⁸ This is observable in the case of the “living herm”, a person without arms and legs, and some of the androgynes I mentioned in Chapter One.

The *nationes* or geographic/ethnic origins of enslaved people certainly also played a role in elite evaluations of enslaved people as valuable or not. *Nationes* are explicitly mentioned in the curule aediles' edict, and Ulpian supplies the reason why:

They who sell animate property (*mancipia*) ought to announce the *natio* (origin) of whatever is for sale: for most of the time the *natio* of a slave either induces or deters a buyer: therefore our knowing the *natio* makes a difference; for it is even presumed that certain slaves are good, because they are from a *natio* that is not shameful (*non infamata*), that certain slaves seem bad, because they are from that *natio*, which is more shameful (*infamis*).²⁰⁹

What geographic or ethnic origins count as shameful or not shameful are not explored in the *Digest*, but they likely varied from location to location and from buyer to buyer. There is some evidence in other sources for distinctions of this kind: Soranus in his *Gynaecology*, for example, recommends that by *natio* a wet nurse should be Greek.²¹⁰ Other associations with specific *nationes* attested elsewhere in literature included a preference for Greeks and Greek-Egyptians, and a preference or distaste for Mauri and Syrians, depending on the source.²¹¹ Thus ethnicity plays a role in the categorization of enslaved people, and specifically in the definition of their moral character.

This imperial urge to gather othered bodies at a Roman centre is illustrated also in art historical evidence. As I discussed in the previous chapter, in the high imperial period, for instance, there was an efflorescence of a statue type featuring a sleeping androgyne in and around Rome in the high empire.²¹² Caution is necessary: it is difficult to determine if such

²⁰⁹ *Dig.* 21.1.31.21 (Ulpian): *Qui mancipia vendunt, nationem cuiusque in venditione pronuntiare debent: plerumque enim natio servi aut provocat aut deterret emptorem: idcirco interest nostra scire nationem: praesumptum etenim est quosdam servos bonos esse, quia natione sunt non infamata, quosdam malos videri, quia ea natione sunt, quae magis infamis est. quod si de natione ita pronuntiatum non erit, iudicium emptori omnibusque ad quos ea res pertinebit dabitur, per quod emptor redhibet mancipium.*

²¹⁰ Sor., *Gyn.* 2.19. For further exploration of the figure of the wet nurse, see Bradley 1991: 13-36, 1987: 201-229; Joshel 1986.

²¹¹ Richlin 2014: 362 and 370 n. 28 points out these as expressed in desires for young boys as *deliciae*, reported variously by Suetonius, Juvenal, and Martial.

²¹² See p. 34 for a fuller discussion of this phenomenon.

artefacts depicted enslaved people or free (or, indeed, people Roman elites conceived of as real), and, further, how these artefacts were viewed. For my purposes, however, it is useful to point up these “fashionable” items as indicators of general trends in taste among the well-to-do, who could afford to commission elaborate artworks for their homes and gardens. Which bodies they chose to own in bronze, marble, or other material could be reflective of broader trends of fashion in enslavement: if a villa owner was willing to pay for a life size marble statue of a sleeping person with a culturally othered body, it stands to reason they might pay a great deal to purchase a real, live, enslaved person who exhibited similar physical characteristics.²¹³

Desire on the part of wealthy slave owners to own unusual bodies or minds need not have been exclusively sexual: it may have been apotropaic or for amusement. It is not easy to argue with certainty about elite views of the apotropaic power of othered bodies, but there is enough to hint at this idea. The mytho-historical figure of Aesop, as presented in the *Life of Aesop*, can leverage this supernatural quality as an asset when he is on sale at the slave market.²¹⁴

Throughout the text, Aesop’s detractors regularly describe him as a “portentous” phenomenon (e.g. προσημαῖνος).²¹⁵ When Aesop is first sold from his life in a rural area to a travelling slave

²¹³ An echo is related in Richlin 2014: esp. 358-362 about the desire among elite men to collect little boys as *deliciae*, including the role of statuary for this end in literary sources.

²¹⁴ I follow the methodology of Hopkins 1993 [2010: 110-135], who used this text as an exploration of Roman slavery. See also Lefkowitz 2008 for a cogent account of both the textual “badness” of its manuscript tradition and the ways in which “badness” becomes a useful literary tool. Although Lefkowitz does not put it in the following terms, Mitchell and Snyder’s 2001 concept of “narrative prosthesis” would be useful here. This date of this text is the subject of some controversy, but certainly would have circulated in the period of my interest (see Hanson 1998 for an excellent overview of the issue).

²¹⁵ Examples of Aesop’s portentousness begin with his very first description (*Vita G 1*): Ὁ πάντα βιωφελέστατος Αἴσωπος, ὁ λογοποιός, τῆ μὲν τύχῃ ἦν δοῦλος, τῷ δὲ γένει Φρυγῆς τῆς Φρυγίας· κακοπινῆς τὸ ἰδεσθαι, εἰς ὑπηρεσίαν σαπρός, προγᾶστωρ, προκέφαλος, σιμός, σόρδος, μέλας, κολοβός, βλαισός, γαλιάγκων, στρεβλός, μυστάκων, προσημαῖνον ἀμάρτημα. πρὸς τοῦτοις ἐλάττωμα μείζον εἶχε τῆς ἀμορφίας τὴν ἀφωνίαν· ἦν δὲ καὶ νωδὸς καὶ οὐδὲν ἠδύνατο λαλεῖν. “The most useful man in all aspects of life, the fable-maker Aesop, was a slave by fate, and a Phrygian of Phrygia by birth; loathsome to behold, rotten for service, potbellied, with a jutting-forward head, flat-nosed, hunchbacked, dark-skinned, truncated, crooked, “weasel-armed”, twisted, with thick lips, a portentous flaw. In addition to these things he had, as a worse disadvantage than this misshapeness, a voicelessness; for he was toothless and was not able to speak.” An additional example, not covered in the passage explored here, is when the Samians encounter him for the first time and demand an interpreter to interpret him as a portent (*Vita G 87*).

trader, he convinces the slave trader to buy him because of the fear he can cause with his appearance: he argues that he can make the trader's undisciplined boys behave because they will be afraid of the "loathsome sight of him."²¹⁶ Although it is not explicitly stated as such in the text, it is strongly implied that the fear Aesop's appearance will incur in the boys will be a partly supernatural fear.

Associations of othered bodies and apotropaic qualities is manifest explicitly in a mosaic from a second-century CE Roman villa from Jekmegeh near Antioch.²¹⁷ In the mosaic, a man of short stature appears with a representation of the *oculus malus* (see Fig. below). The caption "καὶ σὺ," meaning "And you," floats above, suggesting that the viewer receive the fortune they mete out to others.

Lefkowitz 2008: 73 also draws attention to the supernatural connotations in characters calling Aesop a kind of refuse associated with expiation.

²¹⁶ *Vita G* 15.

²¹⁷ Masségia 2015: 295; also featured in Trentin 2015:54-59 as the only extant mosaic of this iconography.



Mosaic from the vestibule of a 2nd-century CE Roman villa at Jekmejh near Antioch. It depicts someone of short stature holding two sticks or an aulos and pointing their back and their super-humanly large phallus back toward a large eye. The eye is drawing to itself a dog, a bird, a scorpion, a centipede, a large cat, a sword, and a trident. The phrase “καὶ σὺ” floats above the figure’s head. The figure appears to be wearing a mask.

Such an explanation – of a desire on the part of elite authors to harness an inchoate supernatural force attributed to othered bodies – may help to explain the popularity of miniature figurines that depict people with distinctive physical characteristics. Specifically, these characteristics are consonant with literary descriptions of *nanoi*, *pumiliones*, Pygmies (all different categories of dwarf²¹⁸), and *gibbi* (people with spinal curvature).²¹⁹ The miniatures also include people with exaggerated features not suggestive of a particular identity (e.g., large noses,

²¹⁸ I say “dwarf” here rather than Little Person, because these names appear to have represented a particular social role or occupation in imperial court culture associated with a physical appearance, rather than a personal identity. See Dasen 2013.

²¹⁹ These figurines are sometimes also called “grotesques” in the literature.

large ears, large lips, sloping foreheads, etc. – similar to those features lampooned in Martial’s poem to Cinna quoted above). The temporal and geographic distribution of these objects is much more diffuse than the rather tightly circumscribed provenances and dating of the statue type of the sleeping nude, making it difficult to trace a particular “fashion”.²²⁰ Scholars have posited for these items a range of functions, extending from the apotropaic to the erotic, to provoking shock or laughter, but there is little evidence to push us in any specific interpretative direction about the potential effect on Roman audiences.²²¹ The association with apotropaic symbols is suggested by the possibility of hanging these miniatures on walls or in doorways to ward off the *oculus malus* (“Evil Eye”) in some way. Perhaps slave owners wealthy enough to own a human being as a luxury item might choose a person with a partly apotropaic function.²²²

Modification for Commodification

Although it is possible that *deliciae* and others who became luxury objects led more materially comfortable lives than enslaved people serving in other roles, and that perhaps some of them even felt empowered by their unique positions,²²³ nevertheless they could only be as comfortable, protected, esteemed, or valued as their owner was inclined or financially able to make them. Unfortunately, there was also great harm possible to enslaved people as a result of

²²⁰ They have been found scattered across Asia Minor, Egypt, and Greece, but the provenance of many of them has proven difficult to trace; possibly because these objects are so small, many have passed through more than a few hands. Insofar as they can be dated, they cluster in the Hellenistic period and early Rome, petering out in the High Empire. See Mitchell 2013.

²²¹ E.g., Mitchell 2013. As scholars, we ought to be sensitive to the implications of the assumptions we make: assuming for example that the sleeping nude statue type is “funny” or a “joke” (which some interpretations both scholarly and popular suggested) is not a carefully considered analysis of the statue and ignores its aesthetic resonances with specifically erotic statue types.

²²² For evidence of an individual dealing with the ramifications of having an “Evil Eye” in the view of his neighbours, see *P.Mich. VI* 423–424, analyzed in Bryen and Wypustek 2009.

²²³ One piece of evidence that could suggest a sense of pride is a funerary epitaph for a man identified as a *pumilio* (“dwarf”) of Messalina, thought to be the Empress Messalina, wife of Nero (from Rome; *CIL VI.9842*). In a future project, it would be useful to think through such examples using the theoretical work of Jammaers and Ybema 2022, who explore the idea of “oddity as commodity” in Other-defying identity work.

this luxury trade in unique features. The increased monetary worth of unusual bodies and minds entailed perverse incentives in the Roman slave market. People who did not by nature have a body characterized as unusual were sometimes deliberately (and painfully) made unique by profit-hungry slave owners.

Seneca the Elder's *Controversiae* 10.4 presents a case in which a man takes in abandoned children and deliberately maims them so that they will earn more for him as beggars (*mendici*). Declamations like the *Controversiae* are part of a particular rhetorical genre that grew out of educational exercises for young Roman boys, in which speakers debate the moral rightness of a legal case or decision. By Seneca's day, they were also respectable entertainment of learned adults. The speakers of these sets of paired speeches imagine in vivid terms the different mutilations the man effects on these children: broken limbs, plucked-out eyes, appendages smashed or cut off. The details of the case may be fictional, but such physical mutilation for economic gain sounds sadly plausible.²²⁴

An extremely profitable bodily modification was the castration of boys. Different methods and degrees of castration had important ramifications for the worth of the enslaved person.²²⁵ Byzantine accounts suggest that excision of the testes rather than a complete removal of the penis was more popular, as the latter was an especially hazardous procedure.²²⁶ A

²²⁴ Even in the present day, such perverse incentives obtain: disabled children are often exploited as beggars, as forced labour, or in sex slavery ("2016 Trafficking in Persons Report," U.S. Department of State, 2016: 22). Nondisabled children are deliberately disabled because children "earn" substantially more if they have certain visible differences, e.g., in limbs or eyes. In fact, a scene in the movie *Slumdog Millionaire* launched a heated debate in India: some authority figures argued that the scene – which featured a boy being blinded in order to earn more as a beggar in Mumbai – is not representative of conditions in Mumbai's slums, whereas other public figures argue that it is ("Slumdog Millionaire" Tells of Horrific Life for Kids," *NPR* 19 February 2009).

²²⁵ According to Pliny the Elder, the urine of a eunuch was believed by some to have aphrodisiac qualities (Plin., *HN* 24.42), but a eunuch was probably more often prized more as a *deliciae*.

²²⁶ Paul of Aegina, *Epitome Med.* 6.68. An earlier author, Claudianus, wrote a defamatory poem about Eutropius, a eunuch who rose to the office of consul in 399, imagining his castration in vivid terms at *In Eutropium* 45-54: *Cunabula prima cruentis / debita suppliciiis; rapitur castrandus ab ipso / ubere; suscipiunt matris post viscera poenae / advolat Armenius certo mucrone recisos / edoctus mollire mares damnoque nefandum / aucturus pretium; fecundum corporis imbrem / sedibus exhaurit geminis unoque sub ictu / eripit officium patris nomenque mariti.*

preponderance of those who were castrated by force in the early Empire likely would have been young boys who were then sold as luxury items.²²⁷ So, even the more dangerous form of castration would not necessarily be inherently undesirable for the slave owner: on account of the eunuch's rarity, castration could yield high financial return to the slave seller.²²⁸ First, in the early empire, the danger of the operation would mean that only so many boys would survive; then, as castration began to be outsourced to more distant reaches of the empire, the eunuch would have been viewed increasingly as a luxury import.²²⁹ Although the emperors Domitian and Hadrian banned castration,²³⁰ trade in "foreign" eunuchs were still alive and well for many years.²³¹

Ulpian, a jurist writing in the third century CE, establishes that an individual would be able to sue another party for insult if the second party had castrated his enslaved boy without permission. Ulpian is clear, however, that such a suit could not be pursued through the *Lex Aquilia*, a third-century BCE law that established rules for compensation for people who have been injured or whose property (live and inanimate) has been injured or damaged. The reason for this is that the *lex Aquilia* only pertained to cases of decreased value, whereas the boy castrated

ambiguus vitae iacuit, penitusque supremum / in cerebrum secti traxerunt frigora nervi, "His first cradles were owed to bloody supplications; he is snatched from the very womb to be castrated; after the birth from his mother, punishments take him. The Armenian flies in with a certain sword-point, [a man] well educated to soften cut men and by injury to increase an unspeakable price; he drains out the fertile flood/fire of the body from its twin seats and under one stroke rips away the office of father and the name of husband. He lies there ambiguous of life, and deep inside into the furthest part of his brain the cut sinews drag feverish chills,"

²²⁷ Guyot 1980 avers (17, n.5) that early castration, that is castration before the onset of puberty, was typical for slaves in antiquity. Lucian's *Eunuchos* bears this out (8).

²²⁸ Guyot 1980: 28-32 devotes an entire section to this subject.

²²⁹ Explicit connections between the idea of luxury and eunuchs are found in Ter. *Eun.* 169 and Plin. *HN* 7.128. See Strassfeld 2022: esp. 33-40 not only for the argument that this characterization of foreignness comes out of imperial projects but also for the suggestion that we ought to consider seriously a hitherto-underappreciated possibility: namely, that sometimes castration might have been desired, and was not universally a fearful, violent thing. I am here, however, considering the situations in which castration was not consensual and was forced upon enslaved bodies.

²³⁰ Watson 1987: 122-123. Hadrian includes circumcision in his advisement about castration.

²³¹ Tougher 2008: 26.

against the will of his owner was worth more as a result of the procedure.²³² The owner of a slave boy castrated against his (the owner's) will could not sue for damages because there was no economic damage. This is vividly illustrated by a Justinianic legal code from the sixth century CE that provides a premium on enslaved eunuchs of up to three times the rate attached to other enslaved people.²³³

Much less well attested in the literary record, and of unknown prevalence in reality, is another bodily modification that could have been valuable: artificial stunting. People with short stature were sought after, and, if one source is to be believed, there were ways for a person's growth to be forcibly stunted. In a first-century CE work called *On the Sublime*, the author – traditionally thought to have been Longinus, a writer of the third century CE²³⁴ – uses γλωπτόκομα (“caskets” or “cages”) as a metaphor for restrictions that stunt the growth of the soul. By the author's explanation, the reader can infer that these were caskets deliberately designed to stunt the growth of children put inside.

In the same way, therefore, if,” he says, “<what> I hear is true, the casket, in which the people of short stature, the ones called *nanoi* (“dwarfs”²³⁵), are grown, not only inhibits the development of those trapped inside but also crushes [them] on account of the bond wrapped around their bodies, just in the same way someone might show that all slavery, even if it is the most just, is a casket of the soul and common prison.²³⁶

²³² *Dig.* 9.2.27.28: *Et si puerum quis castraverit et pretiosorem fecerit, Vivianus scribit cessare aquiliam, sed iniuriarum erit agendum aut ex edicto aedilium aut in quadruplum*, “Also if someone has castrated a boy and made him more expensive, Vivianus writes that the *Lex Aquilia* does not apply, but there will be an action of *iniuria* or the aedile's edict for a quadruple sum.”

²³³ *Cod. Just.* 6.43.3.1 and 7.7.1.5. Salway 2010: 10-11 discusses the prices of eunuchs in the light of this Justinianic code but also in the context of the price edict of Diocletian.

²³⁴ There are problems with dating the text. See Heath 2012: 11.

²³⁵ The work of Dasen (esp. 1994) explores the position of the *nanus* and *pumilio* in detail, particularly their depictions in mosaics and miniatures.

²³⁶ Longinus, *On the Sublime* 1.44.5: ὡσπερ οὖν, εἴ γε” φησί “τοῦτο πιστόν ἐστιν <ὁ> ἀκούω, τὰ γλωπτόκομα, ἐν οἷς οἱ πυγμαῖοι, καλούμενοι δὲ νᾶνοι, τρέφονται, οὐ μόνον κωλύει τῶν ἐγκεκλεσμένων τὰς αὐξήσεις ἀλλὰ καὶ συναραιοῖ διὰ τὸν περικείμενον τοῖς σώμασι δεσμόν, οὕτως ἅπασαν δουλείαν, κἂν ἦ δικαιοσύνη, ψυχῆς γλωπτόκομον καὶ κοινὸν ἂν τις ἀποφῆναιτο δεσμοτήριον.

This is the only ready evidence for caskets or γλωττόκομα used in this way.²³⁷ Even so, it attests to the plausibility, in Longinus' mind at least, that such tactics could be used to deliberately modify another person's body.²³⁸

Case Study of Clesippus

I hope to have sketched the Roman elite preoccupations with collection, modification, and control, that placed othered enslaved bodies in precarity. Here, I shall try to trace how this elite ideology plays a role in the case study of a man, Clesippus, who was enslaved and disabled in the slave market, who then went on to live his life first as a sexualized luxury object and then as a freedman.

Wedged in amid the elder Pliny's explanations of candelabra styles in his *Natural History*, is this tiny glimpse into Clesippus' life:

... one is not ashamed to purchase [a specific style of luxury candelabrum manufactured at Aegina and Tarantum] at the price of the yearly pay of military tribunes, although the name itself clearly comes from²³⁹ the light of [cheap] wax candles. The free accessory of one such candelabrum was Clesippus the fuller,²⁴⁰ a person with a curved spine (*gibber*) and a man also otherwise foul in appearance besides, with Gegania purchasing it [i.e., the candelabrum and Clesippus] for 50,000 sesterces. When this same woman was showing off her purchases at a dinner party, [Clesippus] was stripped naked to be an object of mockery and was received into [Gegania's] bed because of [her] shameless lust. Soon after he [was received] into her will. As a very rich man he worshipped that candelabrum in place of the gods and attached this tale to the Corinthian [candelabra style], after good morals had been satisfied nevertheless by a noble tomb – so that over all the

²³⁷ Other appearances of the term include Gal., *Methodus Medendi* 6.443K (an encasement of the leg for correcting fractures) and Hero of Alexandria, in *Dioptra* 37, as the model for a chest, in which a system of cogs would be placed to lift heavy objects with less human input.

²³⁸ I would observe here, too, that the metaphor describing the stunting effect of slavery also underscores the Roman idea that there is nothing inherent in a body or a mind that lends it to enslavement, but that the impact of slavery resulted in a fundamentally different way of being in the world.

²³⁹ Lit. "is clear [as being] established by"

²⁴⁰ See discussion on the social position of fullers on p. 81.

earth through this [tomb] the eternal memory of the shameful Gegania would endure.²⁴¹

Pliny's description of Clesippus' rise from being a fuller with spinal curvature, thrown in as a "bargain buy" with this luxury candelabrum, to a freedman who inherited his mistress's wealth, is meant to repulse the audience, to make Gegania's "shameless" lust alien, incomprehensible, and therefore all the more worthy of shame. To begin, Clesippus was a fuller, who to elite Roman sensibilities would be the lowest of the low. Fullers occupied a social place with undertakers and tanners who likewise handled elements considered unclean.²⁴² It is possible that Clesippus spent his days ankle deep in the stale urine of strangers, sweating away in the heat of the Mediterranean climate and stomping textiles in the great vat to clean them or set dyes into them.

Pliny also identifies Clesippus as a *gibber*. Did this mean that his spinal curvature was obvious to anyone who glanced at him? If not, and if his condition could count as a "hidden" condition, the curule aedile's edict would not apply to him. One second-century jurist, Gaius, reportedly recommended for the edict that people who were *gibberosi* (very like, but not necessarily the same as, *gibberi*) were not technically viable for rescission or refund, because they were not technically diseased.²⁴³ That said, the very fact that Gaius has to make this classification signals that people with spinal curvature of any degree were regarded as undesirable enough that slave buyers might want recompense. To add to this picture, Pliny also

²⁴¹ Plin., *NH* 34.6: *nec pudet tribunorum militarium salariis emere, cum ipsum nomen a candelarum lumine inpositum appareat. accessio candelabri talis fuit Theonis iussu praeconis Clesippus fullo gibber et praeterea et alio foedus aspectu, emente id Gegania HS L. eadem ostentante in convivio empta ludibrii causa nudatus atque inpudentia libidinis receptus in torum, mox in testamentum, praedives numinum vice illud candelabrum coluit et hanc Corinthiis fabulam adiecit, vindicatis tamen moribus nobili sepulchro, per quod aeterna supra terras Geganiae dedecoris memoria duraret.*

²⁴² Bond 2016: 97-125.

²⁴³ *Dig.* 21.1.3. Gaius, 1 *ad ed. aedil. curul.*

writes that Clesippus was not merely a fuller and a *gibber*, but also that he was unappealing in appearance more generally (*foedus aspectu*).

In the next step of the story, when Gegania has brought Clesippus home, she strips Clesippus naked for the amusement of her friends, showing off the body of a human being she now owned alongside the much more valued candelabrum. Pliny provides Gegania's inner reasoning for doing this to him: "for mockery/amusement" (*ludibrii causa*). For Pliny, this exhibition was clearly a source of shame. Was it a source of shame because Clesippus was a human being subjected to inhumane exploitation? Or was it a source of shame because Gegania was vainly flaunting her wealth – in particular, the purchase of a luxury candelabrum Pliny saw no need for? Clesippus simultaneously occupies the conceptual categories of both human and property. Perhaps Pliny's sense of shame was incurred by considerations at both levels.

If Pliny's telling of the narrative from dining room to bedroom was short, his telling of bedroom to Clesippus's inclusion in Gegania's will is even shorter. Clesippus, after everything he has endured, becomes fabulously wealthy in the wake of Gegania's death. He even begins to worship the candelabrum like a god. It is unclear what this means, or even indeed whether Pliny is relating this fact in earnest. Perhaps Pliny exaggerates the role the candelabrum played in Clesippus's freed life. If he is in earnest, it is entirely possible that the candelabrum might have adorned an altar in Clesippus's home, taking a place among his personal ritual devotions. The candelabrum was with him, a constant and instrumental companion from the slave market to the end of his tale.

In Pliny's view, the infamous association of the scandalous mistress with her absurdly-priced candelabrum will live on for all time. But whose shame is it for the reader? Pliny gives shame to Gegania, but he also gives some, too, to Clesippus -- he inscribes shame in servitude

and spinal curvature and sexual exploitation. He frames Clesippus's body as disgusting to heighten Gegania's shame. In doing so, he casts Clesippus into the position of an abject object.

There does exist a noble tomb ascribed to a certain Clesippus Geganius of the late first century BCE. Scholars are inclined to believe it is the selfsame man as our fuller-to-freedman.²⁴⁴ The inscription is of exceptional quality, finely cut, which suggests strongly that Clesippus did very well for himself financially.²⁴⁵ The size of the support, the limestone in which the words were carved, would likely have cost a pretty penny, too. Clesippus might have chosen the inscription himself:

*Clesipus Geganius / mag(ister) Capi[t](olinus), mag(ister) Luperc(or)um, viat(or)
tribunicius).*²⁴⁶

Clesippus Geganius, leader of the Capitolini, leader of the Luperci, tribunician messenger.

Even if Clesippus is something of a "success story", as Pliny and the inscription (if it attests to the same individual) paint him, Pliny's version of this "success story" is not preserved on the tomb. Assuming that Clesippus of the tomb and Clesippus of the Pliny story are indeed one and the same person, perhaps we can read the shame of Clesippus's story into the silence of the inscription.

What lingers uneasily when we consider the tale and the tomb in context is the precarity in which Roman society placed Clesippus's body. The trajectory of his life was dependent on so many variables. He happened to be purchased by Gegania. Gegania, in a way that I think is emotionally fraught for us, happened to lift him out of the condition of enslavement upon her

²⁴⁴ Bodel 1989: 225-6.

²⁴⁵ Many thanks to Celia E. Schultz for this observation. Bodel 1989: 227 infers from Clesippus' career that he was an ambitious social climber.

²⁴⁶ *CIL* I².1004 = *ILS* 1924 = *ILLRP* 696.

death. Did the real Clesippus, contrary to Pliny's tale, spare Gegania the kind of judgment Pliny casts at them both, a judgment that flattened their stories and made their true lives unknowable? Perhaps he also honoured Gegania for making him wealthy upon her death. After all, he did not immortalize the supposedly shameful story in stone,²⁴⁷ even though Pliny tells us that he immortalized it in other ways, by associating it with the candelabrum style. If the inscription and tale describe the same man, all that remains of Pliny's account in the inscription is Gegania's name: as part of the standard process of manumission, the name of Clesippus's former mistress was made part of his freed name for all time.

Or was the story of Clesippus truly the tale of sweet revenge for the real Clesippus, as Pliny cast it? Perhaps it was the view of Clesippus himself that, after enduring exploitations and insults, he had triumphed in the end, in freedom and in wealth. The silence of his tomb on this point might suggest such a view.

Precarity of Living Enslaved and Disabled

Clearly there were instances in which having an otherized body could bring an enslaved person some degree of support within the *familia*, but it is worth underscoring that such instances are unusual (hence Pliny's attention to Clesippus) and that most people at the intersection of slavery and disability found themselves living in a state of dangerous precarity. It was lucky for Clesippus that Gegania left an inheritance for him. If she had not, he would have been unable to benefit financially from her affection for him. As a *deliciae*, one's economic worth was open for debate; a dependency upon the whims and preferences of a single person or a single household

²⁴⁷ In fact, he gives no indication that he was ever enslaved, despite the large numbers of freedmen who self-identified in their funerary inscriptions (on freedmen's identities in inscriptions, see Taylor 1961).

could be hazardous. As far as I am aware, the expense of an enslaved person as a luxury item was not protected by Roman law.

In the legal framework I have sketched in this chapter, the enslaved person's "use" for slave owners was central. Such a perspective on enslaved people, as animate objects intended for set functions, had deep history at Rome already by the early empire in literary sources as well. In such a system, an enslaved person could find themselves at the mercy of slave owners' ideas of "uselessness". The notoriously ascetic Cato the Elder, in the late second century B.C.E., recommends in his agricultural treatise *De Agri Cultura* that the enslaved overseer of an estate, the *vilicus*, ought to sell old and sick enslaved people and any other "superfluous things" (*siquid aliut supersit*).²⁴⁸ In the *Life of Aesop*, Aesop's original owner suggests to Aesop's overseer that Aesop should be killed if no one wants to buy him, and Aesop only survives this threat because he is able to strategize in making the slave trader see the usefulness of his otherness.²⁴⁹

Several sources report that, during the reign of the Emperor Claudius, slave owners were abandoning sick enslaved people on the Tiber Island or murdering them, presumably so that they did not have to care for them or treat their illnesses.²⁵⁰ Claudius ordered in 47 CE that all those abandoned on the island were to be made free and were released from any obligation to their former owners. He also declared that all owners who killed such enslaved people would be charged with murder, a move that reinforced the enslaved person's position somewhere between being considered fully property (as before when their deaths had not counted as murder) and fully human.

²⁴⁸ Cato, *Agr.* 2.7: *Auctionem uti faciat: vendat oleum, si pretium habeat, vinum, frumentum quod supersit vendat; boves vetulos, armenta delicula, oves deliculas, lanam, pelles, plostrum vetus, ferramenta vetera, servum senem, servum morbosum, et siquid aliut supersit, vendat. Patrem familias vendacem, non emacem esse oportet.*

²⁴⁹ *Life of Aesop Vita G 11 and Vita G 15* respectively.

²⁵⁰ Suet., *Claud.* 25.2; Dio Cass. 61.29.7; *Dig.* 40.8.2 (Modestinus). Major 1994 reviews the scholarly debate on whether the edict was created out of humanitarian motivations, with a desire to expand the role of the *princeps*, and/or designed to preserve public order.

Such horrors of abuse, abandonment, and murder that Claudius attempted to curb lay outside of legislation and official record and so were not often documented. But they were likely an endemic problem in a slave-owning society. Comparanda with other, more recent slave societies can shed some light on the resonances between ideas of usefulness, uselessness, and abuse on the part of the slave master or owner, and therefore the kinds of precarity enslaved persons with disabilities might have faced. For example, D. Boster in a history of nineteenth-century American slavery illustrates the degree to which enslaved people with disabilities lived with the risk of death, dislocation, and abandonment in that context. I realize that the temporal, geographic, and cultural gulfs between the first centuries CE in the Mediterranean and the nineteenth century CE in North America are vast. Between Rome's Empire and nineteenth-century America, the idea of mental illness became more strongly medicalized by slave owners; systems of medicine changed substantially *tout court*; the roles of enslaved people were differently defined; and the concept of disability had already begun to solidify as a discrete category of identity. Furthermore, whereas a system of racial hierarchy was foundational to, and justificatory of, American slavery, racialized othering was a regular feature of Roman slavery that could be instrumental within it, but that was not a necessary component. Even so, there are enough similarities to encourage a limited comparative approach.

Boster's reading of American slave masters' plantation record books and diaries, but also the perspectives of formerly enslaved people themselves, relates the intimate connection between masters' expectations for the enslaved person's body, economic value, and risks of abuse, abandonment, and murder. For example, Boster describes one narrative of a man with disabilities whose master attempted to murder him when his estimated financial worth had waned.²⁵¹ Boster

²⁵¹ Boster 2013: 32, citing Child [and Clarke] *The Anti-Slavery Standard*, 27 October 1842.

shares, too, how, despite a characterization of “uselessness,” people with disabilities would be set to strenuous tasks.²⁵² In other instances, enslavers would sometimes send enslaved people with disabilities out to live in an isolated part of a property, expected to fend for themselves or die.²⁵³

While Boster warns that many of the stories of enslaved people with disabilities in the modern context were filtered, whether through a proslavery or antislavery lens, or unconsciously or consciously by an interviewer or scribe, this is a much more vivid picture than we are able to obtain from Roman sources.²⁵⁴ Stories such as these suggest by analogy the dismal treatment that slaves in Rome might have expected – the undocumented history that likely lies behind Claudius’s proclamation and Clesippus’s rise from rags to riches.

Conclusion

I argue that there existed a narrow definition of disability operative in the context of a Roman slave sale — a vain attempt on the part of elite authors to draw a line around the concept of “usefulness”. This distinction existed only in the relationship constructed from enslaver to enslaved, in the elite imagination, defined as it was by fears of loss of control over the enslaved person and reinforced as it was by an urge to avoid seeming “luxurious”. It might not seem groundbreaking to observe such a dynamic, but it should strike the reader as historically significant that, outside of an enslaved-enslaver relationship, phenomena we might label disability are conceived of and approached very differently from how they are in other relationships we examine in this dissertation. Even in the limited context of the *familia*, this

²⁵² Boster 2013: 55.

²⁵³ Boster 2013: 65.

²⁵⁴ See Boster 2013: 13-14 for a detailed discussion of the challenges of her primary source material.

functionalist definition only represents elite views of enslavement, and not of other relationships in the idealized household. Elite authors are less willing to categorize and label *free* bodies in such stark terms.²⁵⁵

A distinction of “useful/useless” fails itself at times: the anecdotes attested in this chapter illustrate the difficulties such a binary entails, that the ways in which elite authors and slave owners conceived of a standard of “usefulness” for the enslaved people in their households was entirely idiosyncratic.

Epilogue for Epictetus

I want to end with a few words on the epigraph of Epictetus that begins this chapter. I chose the epigraph for two important reasons. First, it highlights succinctly the grey area of “usefulness” and the importance of a slave owner’s desires and perceptions in that definition. It also underscores the role of pure luck in slave sale, with Epictetus’ invocation of “some deity” as responsible for Felicio’s purchase into a more advantageous position.

Second, I wanted Epictetus’ words to play a role somewhere in this chapter, because Epictetus’ legacy as early as the fourth century CE presents him as an important second-century CE Stoic philosopher and as a formerly enslaved and disabled man.²⁵⁶ Unfortunately, even though he became known for his status and bodily condition in this way, it is no simple task to “use” the case study of Epictetus in this chapter. The questions I am asking are specifically about elite ideals of household construction (so, about the acquisition of enslaved people from an elite perspective), and while these certainly influence elements of Epictetus’ philosophy, they do not

²⁵⁵As in *Dig.* 9.3.7. Gaius, *Provincial Edict*, book 6: *cicatricium autem aut deformitatis nulla fit aestimatio, quia liberum corpus nullam recipit aestimationem*. “Let there be no valuation of a scar or of a deformity, however, because the body of free persons receives no valuation.”

²⁵⁶I am very grateful to Celia Schultz and Ruth Caston for their recommendations to investigate his story.

do so in so clear-cut a way that he can provide an illustrative case study – nor would I be content to simply tack him onto some other argument.

Macrobius shares an epigram to represent Epictetus, and this leaves his legacy in no uncertain terms: “An (acquired) slave (Epictetus) I was,²⁵⁷ -- and I was thoroughly afflicted of body, and I was an Iros in poverty, and dear to the gods.”²⁵⁸ This poem reduces his legacy to four essential points: he was enslaved, disabled, poor, and pious and fortunate in his relationship with the gods. Macrobius tells us Epictetus wrote this himself, but modern scholars tend to disbelieve this for a variety of reasons.²⁵⁹ We might contrast this poem to Clesippus’ choice for his own funereal representation, a tomb that reinforces a silence about his body. We might contrast it, too, with Epictetus’ own relationship to his body: while he self-identifies as *χωλός* (having a mobility impairment) from time to time throughout his text, he tells his students repeatedly to efface the importance of the body, that the body does not matter. To make Epictetus’ body matter against his will deserves a project of greater length and greater delicacy than a chapter’s epilogue can afford.

²⁵⁷ *Epikthtos* means acquired, a fact of which I’m sure the original author was aware.

²⁵⁸ Macrobius *Sat.* 1.11.45: Δοῦλος Ἐπίκτητος γενόμεν καὶ σῶμ’ ἀνάπηρος καὶ πενίην Ἴρος καὶ φίλος ἀθανάτοις. “Iros” is another name for the beggar Armaeus in the *Odyssey*, featured in Book 18, so the author of the poem likens his economic situation to that of the archetypical beggar.

²⁵⁹ Oldfather 1925: vii.

Chapter Three

Preliminary Sketches on Disabilities of Roman Childhood

Num quis tam iniquam censuram inter suos agit, ut sanum filium quam aegrum magis diligat, procerumve et excelsum quam brevem aut modicum? Fetus suos non distinguunt ferae et se in alimentum pariter omnium sternunt; aves ex aequo partiuntur cibos.

Surely someone would not render so unfair a reckoning among his own [offspring], that he care more assiduously for a healthy son than a sick one, or a tall and lofty one than a short or moderate one? Wild animals do not distinguish among their offspring, and they stretch themselves out for the nourishment of them all equally; birds share their foods fairly.

Seneca, *Ep.* 66

How does one study disability in the case of Roman children? It is often assumed, especially among the broader public, that Roman normative attitudes toward people with disabilities are most obvious and straightforward in their treatment of children, and that this treatment was uniformly cruel: at best, harsh, and at worst, murderous.²⁶⁰ This chapter complicates such a picture. I do not deny that the exposure and infanticide of children with disabilities happened in an ancient Roman context. Indeed, it did. What I suggest in this chapter

²⁶⁰ Indeed, one person's comment to me, verbatim, was, "I thought the Romans just 'threw away' disabled children." Similarly, the picture presented on a Minnesota government website's history of developmental disabilities is entirely grim: "In Rome, children with disabilities were treated as objects of scorn. Children who were blind, deaf, [etc.] were publicly persecuted and reported to have been thrown in the Tiber river by their parents. Some children born with disabilities were mutilated to increase their value as beggars. Other children born with disabilities were left in the woods to die, their feet bound together to discourage anyone passing by from adopting them. In the military city of Sparta, the abandonment of "deformed and sickly" infants was a legal requirement." <https://mn.gov/mnddc/parallels/one/3.html>. Also, although not strictly about children, but about the attitudes toward disability in general, see the surprise in a BBC podcast interview on Greg Jenner's *You're Dead to Me* history series, "Disability in the Ancient World," with Jane Draycott, expert on disability in antiquity (especially prostheses) and Rosie Jones, a comedian with cerebral palsy. Draycott highlights some of the complexities of disability in an ancient context, and Jones is delighted to learn about disabled lives in antiquity: "... this whole episode brought me so much joy because we got to recognise that it was hard for disabled people, but we still have stories of disabled people succeeding and thriving as they do in 2021!" Transcription of episode available at https://downloads.bbc.co.uk/radio4/YDTM/BBC_YDTM_Ancient_Disability.pdf.

is, first, that the story of Roman childhood and disability is larger than the question of infanticide and, second, that even by using Roman elite authors' imaginings of childhood to define disability, we can make a clearer effort to understand the dynamics of disability in Roman childhood.²⁶¹

First, I illustrate how Roman authors across genres—medical, legal, and more broadly literary, with some attention to epigraphic sources – constructed childhood itself. The concept of social construction, with which we have been working since the Introduction, is especially salient for this chapter, as the very concept of childhood itself is likewise culturally constructed. The answers to such questions as “what/who counts as a child?” or “how does a child look and behave?” are shaped by one’s cultural context. In a North American Anglophone urban context in 2022, for example, we might think of a fourteen-year-old, for example, as a child, and we expect them to do and not to do certain things befitting that age. Yet three hundred years ago in the same location, such expectations of behaviour were vastly different: a fourteen-year-old might not have been considered a child at all.

Following a sketch of how Roman authors across genres conceive of children *tout court*, I turn to the topic where many discussions of Roman disability begin (and quite a few end): the exposure and infanticide of children after birth. I interrogate the source material about exposure and the evaluations that parents, midwives, and caregivers might make, so that I can nuance what I call “the Roman mirage” and consider what the sources about exposure of this kind suggest for our definitions of Roman disability.

²⁶¹ Scholarly accounts also recognize the complexity – indeed, impossibility – of answering the frequency question, i.e., how often parents exposed their children or killed them, and strive to complicate this point. See e.g., Laes 2013: 129; Evans Grubbs 2013: 87-88; Dasen 2009: 201 n. 11; Scott 2001; Safford and Safford 1996: 3-5; Edwards 1996; Boswell 1988: 106.

Then, I consider the conditions that seem to bother elite authors the most, and so arguably would have been most disabling for freeborn, elite children: in most children of this status and class, but in boys especially, conditions that would impact speaking and walking were perceived as most disabling. I close the chapter with a close reading of our most detailed elite account of a disabled childhood – that of the emperor Claudius – with a view to illustrating how disability is constructed in his case, teasing out the entangled strains of marginalization and accommodation that appear in Suetonius’ account.

Of all the roles in the *familia* I cover in this dissertation, childhood has received the most targeted scholarly attention.²⁶² Sickness in Roman children, a concept related to disability in Roman children, has also been of interest in recent decades.²⁶³ I contend that disability in childhood has been undertheorized and that we ought to consider disability as a relational, context-dependent category of historical analysis.²⁶⁴ With such an approach, it becomes clear that children – even the children born free to wealthy or high-status *familiae* who, for reasons of source availability, are the focus of this chapter – were inherently disabled: across genres, their bodies and behaviours are regularly rendered both special and distinct from, and also inferior to (weaker than, dependent upon, subject to), those of adults.

Much current scholarship has already argued that Roman authors recognized childhood as a distinct phenomenon.²⁶⁵ There was also a strong sense throughout medical and literary sources that children were, in general, a sickly and injury prone lot.²⁶⁶ Such views might be familiar to a modern readership, especially because our own ideas in an Anglophone North

²⁶² Laes 2013; Laes and Mustakallio 2011 for a later context (Late Antiquity and Middle Ages).

²⁶³ E.g., Bradley 2005, Dean-Jones 2013.

²⁶⁴ Laes 2013 is a useful starting point, but I approach the topic here in greater detail, with greater attention to context, and I aim to treat the category of childhood disability as much more constructed than given.

²⁶⁵ E.g., Carroll 2018; Rawson 2003; George 2000; Laes 2011. Such scholars often push against the arguments of Ariès 1965.

²⁶⁶ See Graumann 2016, e.g., for a clinical perspective on children’s accidents in antiquity.

American context of what sort of person is a child tend to accord with Roman ideas (about freeborn children, at least).²⁶⁷ Because of their unique conceptual character in the views of elite authors, as I shall make clear, children form their own category of being in the Roman imagination. Thus, we must consider the parental and societal expectations operative in parent-child relationships to determine precisely both what characterized the normate among children and how certain children were further disabled by associated expectations of the *familia*.

In writing this chapter, I came to realize that the topic of disability in childhood at Rome could easily be a monograph unto itself.²⁶⁸ Thus the range of issues addressed below is necessarily partial. I likewise must be selective in the evidence I use, especially because adult views on disability and childhood are abundant throughout history.²⁶⁹ For this reason, I focus on textual evidence rather than evidence in the material record. This is not to suggest that the material culture or the palaeopathology of disabled childhood is inaccessible or unworthy of interest. Rather it is a reflection of my position that these questions deserve their own investigations. Indeed, scholars have done much already to explore the material culture of children's lives in ancient Rome. Children's toys, footwear, grave goods, and the funerary commemoration of children, for example, have received scholarly attention, and such materials

²⁶⁷ Except the sexualization of children, on which see Richlin 2014.

²⁶⁸ Areas for further exploration include the idea of rhetoric and education as disabling, examining how the framework of rhetorical instruction prioritized and otherized certain abilities in students. Also, the disabled childhoods of girls are underexplored in this chapter, but much work could be done to build on the groundwork of Caldwell 2014 on girlhood more generally. I would be especially interested in thinking through concepts of virginity and health, and how *cultus*, what we could roughly translate as "cultivation" or "refinement" of their comportment of themselves in the world, was crucial to their socialization.

²⁶⁹ As shown, for example, in Safford and Safford 1996. Childhood represents a uniquely important life stage for the history of disability. First, the reality that some disabilities make death in childhood and adolescence more likely necessarily means that conversations about people living with those disabilities focus on childhood experiences: there happen to be more children living with those disabilities than those who become adults. See Skitteral 2013 for a conversation about death and how one of the most important movements needed now is a means of discussing death directly with young disabled kids. The grief of a child's peer group, from Skitteral's experience, is underestimated by non-disabled parents, caregivers, and educators.

can yield much insight into the actual lives of disabled children.²⁷⁰ I mean this chapter to function as a complement to such studies, filling the gap of a context-sensitive literary approach to disability in childhood.

Childhood as distinct age stage in the life course

What was a Roman child? The answer to this question varies across genres. A medical definition of children from a Galenic treatise declares:

Moreover, with respect to all other functions, it is completely clear that children are lacking relative to those who are in their prime (ἀκμαζόντων). For they do not walk nor run nor lift, nor on the whole do anything of the practical functions similarly, but also, they say the perceptions and understandings in those in their prime have come to the peak of excellence. On the whole, the one [the child] is a still-unfinished living thing, and [the other, the adult] is one already finished. And in those completed [people], they say, it is reasonable that both the most practical and the most powerful of the elements predominate.²⁷¹

In his view, then, children are incomplete adults, who would only achieve their *telos* upon becoming adults.

Galen also says in this same text that, in terms of the scheme of moisture and temperature mentioned in Chapter Two, childhood can be at once hot and wet but also a time of εὐκρασία

²⁷⁰ On toys: e.g., Harlow 2013; Dolansky 2012 and 2020. For footwear, Greene 2014. For funerary commemoration, e.g., George 2000 and especially Huskinson 1996, a landmark text on sarcophagi. For an excellent example of how to pursue palaeopathology with a view to “seeing” disability in ancient remains, see Southwell-Wright 2014. The danger in examining skeletal remains in isolation is that one can be entrapped by the confines of retrospective diagnosis: without consideration of culturally inflected choices (e.g., burial placement, grave goods, prostheses buried with the deceased), a researcher misses elements that are vital to the understanding of disability in historical perspective and we simply identify the pathological phenomena evidenced in the bone. For Southwell-Wright, the exceptional burial placements of infants with physical differences, and any unusual amounts or kinds of grave goods in association with those bodies, serve as indices of otherness and offer, therefore, more reliable assessments of whether a child might have been disabled by their community.

²⁷¹ Galen, *On Temperaments* 585K: κατὰ μέντοι τὰς ἄλλας ἀπάσας ἐνεργείας καὶ πάνυ σαφῶς ἀπολείπεσθαι τοὺς παῖδας τῶν ἀκμαζόντων. οὐτε γὰρ βαδίζειν οὐτε θεῖν οὐτε βαστάζειν οὐθ’ ὅλως οὐδὲν τῶν πρακτικῶν ἐνεργειῶν ὁμοίως ἐπιτελεῖν, ἀλλὰ καὶ τὰς αἰσθήσεις καὶ τὰς νοήσεις ἐν τοῖς ἀκμάζουσι φασιν εἰς ἄκρον ἤκειν ἀρετῆς. ὅλως δὲ τὸ μὲν ἀτελὲς ἔτι, τὸ δ’ ἤδη τέλειον εἶναι ζῶον. ἐν δὲ τοῖς τελείοις εὐλογόν φασι τὸ πρακτικώτατον τε καὶ ἀρχικώτατον τῶν στοιχείων ἐπικρατεῖν.

(*eukrasia*), or good humoral balance.²⁷² So, while childhood is an othered time for the body and behaviour, because it is not the same as adulthood, it nevertheless is recognized to have its own internal normative logic. In other words, it was possible to be a healthy child even though, if the same conditions were to obtain in an adult's body, the adult would be out of balance and unhealthy.

Similarly, Galen otherizes infants and children further through an analogy of ethnicity, placing them on a geographical and ethnic continuum. He attributes "German" hair to infants, "Ethiopian" hair to adults, and to youths and children the kind of hair common in the "eukratic lands" (i.e., the middling lands, relative to his own perspective).²⁷³ This raced conception sees balance and good condition as ethnically and geographically determined, and it places the best-balanced hair somewhere between the Germans in the north and the Ethiopians in the south. Thus children and youth are other than adults, certainly, but they also possess qualities very like the authors' ideas of "best" condition.

Long before the time of Galen, medical thinkers had come to distinguish a different baseline for health in children. Dean-Jones has suggested convincingly that Hippocrates is a pediatric doctor, or at least a thinker who identifies children's health as an entirely separate category.²⁷⁴ In Hippocrates' *The Nature of the Child* – the very existence of which attests to a conceptual category for children separate from adults – the particulars of these differences are articulated: hairlessness, moisture, temperature, and the size of passages or vessels within the body.²⁷⁵ The author also delineates the moisture and temperature of the stages of life so that a

²⁷² Galen, *On Temperaments* 591K begins a discussion about determining *εὐκράσια*, and how one ought to treat the balance on a body-by-body basis.

²⁷³ Galen, *On Temperaments* 598K.

²⁷⁴ Dean-Jones 2013.

²⁷⁵ This topic, especially as relates to its impact on the development of eunuchs, is taken up also in the Hippocratic treatise *Generation*, Littré 7.472. Galen in *On Temperaments* 619K likewise explores this.

regimen of healthy living can be tailored correctly. Children are moist and warm, young men are dry and warm, and a man in the prime of his life is dry and cold until he becomes old and moist and cold.²⁷⁶

Because of the fundamentally different quality of children's bodies, children are prescribed different treatments and regimen. Galen, for example, suggests different prescriptions for different ages: that wine intake be moderated according to age because wine creates heat and, because young men already have too much heat and old men not enough, old men should have more wine than young. When young men drink wine, “[it] both overheats their boiling and violently stirring nature and causes it to go too far into unmeasured and violent movements.”²⁷⁷ Galen also recommends, in his *Exercise with a Small Ball*, that old people and children benefit from such gentle exercise as working with a small ball, as “it is possible indeed that we need [the gentlest exercise] on account of age, either not yet being able to bear strong labours or no longer being able [to do so].”²⁷⁸ Other authors in a variety of genres follow a similar idea. Pliny the Elder, in his *Natural History*, describes different doses of remedies appropriate for children.²⁷⁹ Celsus, in his treatise *On Medicine*, likewise highlights dangers particular to childhood health

²⁷⁶ Hippocrates, *Regimen* I 33. Likewise the prescriptions for dealing with trauma or other conditions are particular to children (Hippocrates, *Wounds in the Head* 18; *On Fractures* 4; *On Joints* 33). Although there are also disagreements about this, according to Galen, *On Temperaments* 583K.

²⁷⁷ *Soul's Traits*, 810K: ἡ μὲν γὰρ τῶν μειρακίων θερμὴ καὶ πολὺαιμος, ἡ δὲ τῶν γερόντων ὀλίγαίμος τε καὶ ψυχρὰ καὶ διὰ τοῦτο γ' αὐτῶν τοῖς μὲν γέρονσιν ὠφέλιμος οἴνου πόσις εἰς συμμετρίαν θερμασίας ἐπανάγουσα τὴν ἐκ τῆς ἡλικίας ψυχρότητα, τοῖς δ' αὐξανομένοις ἐναντιωτάτη· ζέουσαν γὰρ αὐτῶν τὴν φύσιν καὶ σφοδρῶς κινουμένην ὑπερθερμαίνει τε καὶ εἰς ἀμέτρον καὶ σφοδρῶς ἐκβαίνει κινήσεις.

²⁷⁸ *Exercise with a Small Ball*, 907—908K: ἔστι γὰρ ὅτε καὶ τοῦτου δεόμεθα διὰ τὴν ἡλικίαν ἢ μηδέπω φέρειν ἰσχυροὺς πόνους ἢ μηκέτι δυνάμενοι καὶ κάματον ἐπανεῖναι βουλευθέντες ἢ ἐκ νόσων ἀνακομιζόμενοι.

²⁷⁹ E.g., at *HN* 21.130, 25.61, 27.87, 29.63, 30.76; cf. Cato, *Agr.* 127, 66.7, although at 156 a treatment with cabbage is to be the same, regardless of age. For Pliny the Elder, children's hair, teeth, and urine are also ritually and medically special and useful (*HN* 22.65, 28.65).

and the progress of diseases in children and young people as different from in adults.²⁸⁰ He states expressly that “... In general children ought not to be treated like adults.”²⁸¹

Roman writers believed that humans had physical seasons. In the case of Greek medicine, and its developments in the Roman Empire, each stage of seven years from the time of birth defined a normative physical and behavioural development arc: the scheme carries over also into literary descriptions of the life course.²⁸² These “seasons” have several names and vary in their descriptions, but a general picture sees the first three cycles of seven years as infancy and early childhood (*infantia*); childhood proper (*pueritia*); and youth (*adulescentia*).²⁸³

The first cycle of seven years did not begin until after birth, and the average time for gestation was not agreed upon by ancient authors. According to medical sources, seven months’ and nine months’ gestation were meant to produce the healthiest babies, whereas the so-called “eight months’ child” was often maligned as born at an “improper” time. It was believed that babies born in this month were liable to be born with a mobility or visual impairment and might not survive at all; indeed that the healthiest babies were the ones who were furthest away in time from the stress of the eighth month (i.e. early seven-monthers and late nine-monthers).²⁸⁴

²⁸⁰ Celsus, *Med.* 2.12, 2.7, 2.10, 1.2, 4.24. In a similar passage at 2.10.2, he delineates the differences between adults and children and praises the hands of women and children as especially suited to providing massaging treatment to others, presumably adult men.

²⁸¹ Celsus, *Med.* 3.7.1: *Et ex toto non sic pueri ut viri curari debent.*

²⁸² See Hippoc., *Fleshes* 19 (610-614) for seven-day cycle. Diod. Sic. 10.9.5 also relates that the Pythagoreans associated the seasons of the year with each “season” of a man’s life: childhood as spring, older childhood/youth as summer, adulthood as autumn, and old age as winter.

²⁸³ A phase of development I could have included but is only cited in the Roman context after the first century CE, is the *bimulus* or *bimus* child – describing a toddler (literally the two-year child). To have a particular word for this very specific age suggests an entirely distinct phase of development in the Roman imagination. The rest of the seasons vary according to sources, but include young adulthood (*iuventia*), full maturity (the *constans* and “median age,” *media aetas*) and old age (*senectus*). See Kosior 2016 for an articulation of how these stages vary author by author.

²⁸⁴ For a translation, commentary, and introduction to the Hippocratic treatise on the *Eight Months’ Child*, see Goldstein 2001. Aristotle believes that seven-month children are liable to have “imperfections”, rather than eight-month babies (*Gen. an.* 775a). Pliny, *HN* 11.158 (59) believes seven-month children are likely to be born without apertures for ears and nose. For Hippocratic authors, however, seven, ten, or eleven calendar months were perfectly viable for carrying a healthy baby to term. For legal purposes, the *Twelve Tables* established that babies could be

Once a child was born and had their first bath, a ritually significant and well attested event in Roman art,²⁸⁵ they would be accepted (or not) into the *familia*. Within a set number of days, the child would then be officially integrated into the household with a *dies lustricus*. Plutarch tells us in *Roman Questions* that Romans name boys when they are nine days old and girls when they are eight days old.²⁸⁶ He believes it is because the female grows faster, and that the seventh day is dangerous – if one is to lose a baby, it likely will be on the seventh day.

The first forty days were also believed, from Hippocrates onward, to be particularly dangerous; environmental changes around the baby could play an important role in endangering them.²⁸⁷ One such change occurs because children are now out of the womb and “instead of being surrounded by flesh and humours, warm and wet and familiar, children wear such things as even men do” (i.e., things that are relatively dry and cold).²⁸⁸ Another source of danger is simply being out of season: children who do not develop according to the cycle of seven are to be considered sick.²⁸⁹

born legitimately within ten months’ gestation (as counted inclusively by Romans), but eleven months was right out (Gellius 3.16.12; *Dig.* 38.16.3.9-11 [Ulpian]).

²⁸⁵ On the “first bath” in iconography, see Huskinson 1996: 10-12, 111.

²⁸⁶ Plut., *Quaest. Rom.* 102 (288 C).

²⁸⁷ Arist., *Hist. an.* 587b.6-9 cites the first forty days as a time during which babies neither laugh nor weep while awake. Celsus *Med.* 2.1.5.20 agrees with the Hippocratic worry about the time around the first forty days and adds that additional dangers to children come at the seventh month and then the seventh year and then at puberty.

²⁸⁸ Hippoc. *Eight Months Child* 12: ἀντὶ γὰρ τοῦ σαρκὶ καὶ χυμοῖς ἠμφιέσθαι γλιεροῖς τε καὶ ὑγροῖς καὶ συγγενέσι, τοιαῦτα ἀμφιέννυνται τὰ παῖδια οἷά περ οἱ ἄνδρες.

²⁸⁹ In these earliest stages of life, children are most often compared with plants: in Hippoc., *Nat. puer.* 514-5, in Plut., *Quaest. Rom.* 102 before the umbilical cord has fallen off, and in Arist., *Gen. an.* 1.18 (722a) on inheritance of traits. Sen. *Ep.* 124.8 also compares children to plants, suggesting that their capacity to comprehend what is good is on a level with trees and non-speaking animals: they comprehend goodness to the same (limited) extent. Seneca is, however, convinced that children have the capacity to transform into youths who can comprehend goodness because of their capacity for reason (*Ep.* 118.14).

After the first cycle of seven years, teeth begin to fall out and grow in.²⁹⁰ In literary sources, losing teeth can be a signal of both youth and old age.²⁹¹ Also, according to a Hippocratic treatise,

... [a person] grows [into a complete human] after they become absolutely distinct; and they become absolutely distinct especially from the time of seven years to fourteen years, and in this time the largest of the teeth grow and all the rest of them, after the ones fall out which came to be from the nourishment in the womb.²⁹²

The state of being a child was fleeting and had its own coherent internal logic sensible to adult observers. There was something recognizably different and distinctive about children and youth in the view of, and in contrast to, adult members of society.

Conceptions of the life course differ only slightly in legal sources, especially the *Digest*. Three main stages of development emerge, centering on some expectations: (1) physical effects of puberty as a sign of maturity; (2) the idea of a developing sense of reason, and (3) the idea of children growing into people who can, unaided, make decisions of advantage to themselves. Legally defined developmental stages can be roughly broken down into *infantes*, defined as children until the age of seven (at least in later periods of the empire); *impubes*, who are prepubescent, a period thought to end at the age of twelve for girls and around fourteen for boys;²⁹³ and *minores*, people (specifically, men) who have reached puberty but are not yet old

²⁹⁰ Hippoc. *Eight Months' Child* 9, *Fleshes* 12.

²⁹¹ Sen., *Ep.* 12.3 makes an ironic joke playing to the idea of losing teeth as both characteristic of children and old men. When he sees his former *deliciae* Felicio, whom he loved when he and Felicio were both young, he is shocked to see that Felicio is an old man – but he posits that it is possible that time has turned back and Felicio is a boy again because he is losing teeth.

²⁹² Hippoc. *Fleshes* 13: δὲ μάλιστα γίνεται ἀπὸ ἑπταετέος μέχρι τεσσαρεσκαίδεκαετέος, καὶ ἐν τούτῳ τῷ χρόνῳ οἱ τε μέγιστοι τῶν ὀδόντων φύονται καὶ ἄλλοι πάντες, ἐπὶν ἐκπέσωσιν οἱ ἐγένοντο ἀπὸ τροφῆς τῆς ἐν τῇ μήτρῃ.

²⁹³ Male puberty was the subject of controversy among jurists, as it seems that one claim – that it was determined by sexual maturity – necessitated physical inspections. Relevant loci are: Gai. *Inst.* 1.196 and Ulp. *Ep.* 11.28. Such physical inspections were later abolished out of a concern for boys' modesty, in 529 CE (*Cod. Inst.* 5.60.3). See Frier and McGinn 2004: 23-24; Leesen 2010: 46-57.

enough to make decisions in their own interests. This last stage ends around twenty-five years of age, although twenty is a benchmark for maturity in some cases.

In considering the legal definitions of children, any explicit definitions of what a child was were more preoccupied with what a child was not: i.e., the ages or stages at which children were no longer children.²⁹⁴ For the purposes of the law, the crucial question was when human beings could be of an age to protect their own interests (materially especially, but not exclusively) and no longer needed a *tutor*.²⁹⁵ *Tutores* and *curatores*, roughly drawn, are similar to (but not quite the same as) guardians and conservators in American usage – they are adults appointed to protect the interests of their wards, specifically to prevent the ward from making any decisions of detriment to their (financial) welfare.²⁹⁶ Without the ratification of a *tutor* or *curator*, a child was not trusted to act in their own interests.

Images of the Child

So, what behaviours and characteristics did authors – especially literary authors – associate with a child’s immaturity, especially with those first two cycles of seven years? In other words, what expectations did ancient authors have of children? Images of the child abound in ancient literature that muddy the distinctions between real children/childhood and idealistic representations of them as symbols.²⁹⁷ These images often focus on the unique character of children at an age when they are expected to learn to walk and talk (i.e., in that first cycle of

²⁹⁴ That said, McGinn 2013 provides the compelling argument that the welfare of children *qua impuberes* is a focus of policymakers in the late Republic and especially so after Augustus.

²⁹⁵ *Dig.* 26.1.1.1 (Paul) on the need for young people to have *tutores*.

²⁹⁶ For a succinct overview of guardianship types (*tutores* and *curatores*), see du Plessis 2010:139-51.

²⁹⁷ On children as literary shorthand for prosperity and joy see, for example, Plin., *Ep.* 4.15.3. Children are among the things a man must pray for as the head of a household, too, according to Cato, *Agr.* 134.2 and 139. Sen., *Ep.* 59.2 and 74.22 speak to the commonplace that dutiful children and children being born are great joys and adds a Stoic underpinning that one ought to remember that these things can easily be taken away.

seven). The abundant representations of children are varied: authors do not create a single collective image of the child but celebrate a myriad of children's qualities, some of which also appear in medical texts.

I begin with a legal conception of children. The most instrumental, and one that might strike readers as familiar in modern legal contexts, is the idea that children are sometimes spared full responsibility in a crime because they do not know what it is they are doing. Children are believed to be thoughtless about the impact of their actions. This is a mitigating factor in judicial decisions as early as the *Twelve Tables* (Rome's now-lost earliest collection of laws, dated to the mid-fifth century BCE) where, a later text tells us, an important question centred on the child's capacity to distinguish right from wrong (elsewhere called *doli capax*, or capacity of wrongdoing; see *Dig.* 9.2.5.2 Ulpian). If caught in the act of theft, children (specifically *impuberes*) were only flogged, rather than flogged and thrown from the Tarpeian Rock, which was the prescribed punishment for enslaved people guilty of the same crime (Table 8.14,²⁹⁸ Gell., *NA* 11.18.8); in Table 8.9, there is a similar provision for children (again *impuberes*) who pasture on or secretly cut the crops of someone else (Plin., *HN* 18.3.12). On a similar principle, Seneca in a moral treatise, creates with an illustrative vignette the distinction between real insults and the things that children do: if a child hits their parent in the face, or if an infant tears their mother's hair or drools on her, these are not insults.²⁹⁹ Children are unaware, and they should not draw ire or punishment from adults who are harmed.

A certain lack of awareness, or thoughtlessness, generally characterizes children in much of extant writing from Rome's classical period. Horace, for example, provides an idyllic picture of the poet as a young child, carelessly falling asleep in the wilderness but being shielded from

²⁹⁸ The text consulted for the Twelve Tables in this paragraph is as it appears in Bruns.

²⁹⁹ Sen., *Constant.* 11.2.

danger by pigeons.³⁰⁰ Plutarch, in a move familiar throughout literature, compares children to uneducated adults. According to a fragment preserved in the fifth-century C.E. Stobaeus' *Anthology*, Plutarch wrote, "'Do not [give] a meat-knife to a child,' the proverb says; and I would say: 'Do not [give] money to a child and do not [give] power to an uneducated man.'"³⁰¹ The implication is that children and uneducated adults can do harm when they have any measure of power that requires responsibility and knowledge beyond what they do have.

Plutarch writes along similar lines about the foolishness of children fearing doctors and teachers: these are the agents of their betterment.³⁰² These ideas that children do not know what is in their own interest and that children are thoughtless come together in a longstanding literary trope: that of giving medicine to a child by deceit. First extant in Lucretius' poem, and later cited in Seneca's *Suasoriae*, the image suggests that, in order to induce a child to drink their medicine, one must coat the rim of the cup in honey; this trope is used as a metaphor for a reader ingesting learning through pleasant means.³⁰³ Children are elsewhere deceived, which again reflects a gullibility and thoughtlessness of this kind: Aelian states that children have to be deceived with knucklebones, whereas men are deceived by oaths.³⁰⁴

Children are also not trusted to make decisions in their own interest due to an inherent changeability of mood. In a passage on the petulance of young children, for example, Horace writes: "You are outstretching your hand with fruits to an angry boy, he refuses; [you say] 'Take them, pup;' he turns them down; if you were not to give them, he would wish for them."³⁰⁵ He

³⁰⁰ Hor., *Carm.* 3.4.9-20.

³⁰¹ Stob. 3.31.46, p. 749 Hense, referring to the title, "A woman, too, should be educated": Πλουτάρχου ἐκ τοῦ ὅτι καὶ γυναῖκα παιδευτέον: "Μὴ παιδὶ μάχαιραν," ἢ παροιμία φησὶν· ἐγὼ δὲ φαίην ἄν· "μὴ παιδὶ πλοῦτον μηδὲ ἀνδρὶ ἀπαιδευτῷ δυναστείαν."

³⁰² Plut., *Bruta animalia ratione uti* 986D.

³⁰³ Lucr., 1.936-8 (4.11-25); Sen., *Suas.* 6.16; Plin., *HN* 27.49 describes a presumably real practice of putting a bitter medicine into a dried fig for children.

³⁰⁴ Ael., *VH* 7.12.

³⁰⁵ Hor., *Sat.* 2.3.258-9.

writes also of how children who now can walk and talk (an important development in the Roman imagination, as I shall later illustrate) and who come in and out of passions, form a part of any given audience of a poet.³⁰⁶ Pliny the Younger also finds young children fickle, as he compares sports fans to children for their changing support for different teams: they do so as easily as changing the colour of dress.³⁰⁷

Children's rivalrous nature also lends them to playfulness. It has already been observed by Dixon that some "characteristically childish features" included "prattling speech, little bodies, impulsiveness, and a love of play."³⁰⁸ Play is a fundamental component of childhood imagery in literary sources and Roman adult imagination. Artemidorus relates that dreaming of "childish" games is a sure sign of rivalries to come.³⁰⁹

Children are presented also *qua* children in their ubiquitous interactions with toys and pets, in terms of both playing with them and developing an attachment to them.³¹⁰ An illustrative episode in parent-child interaction, representing elements of the child as an affectionate and emotional figure who is attached to the living things among her *deliciis*,³¹¹ is that of Cicero's story about the daughter of Lucius Aemilius Paulus. Her name is Tertia (literally "third"), suggesting that she had two older sisters.

Lucius Paulus again was consul, when it had fallen to his lot that he wage war with the king Perses. On that very same day he returned to his home at evening, kissing his little daughter Tertia, who then was only just a little girl (*parva*), and he turned his attention to the fact that she was a little sad. "What is it," he said, "my Tertia? Why are you sad?"

³⁰⁶ Hor., *Ars P.* 153-178.

³⁰⁷ *Ep.* 9.6. He also views children as finding joy in the repetition of the races. Enjoying something over and over to that degree is a child's entertainment.

³⁰⁸ Dixon 1992:102.

³⁰⁹ γυμνάσια παιδικὰ, Artem. 1.55. Ael., *VH* 1.24 also writes about Heracles and Lepreus who fall victim to a "youthful love of rivalry" (φιλονεικία... νεανική), the end of which is the death of Lepreus.

³¹⁰ Ael., *VH* 13.46 describes a little boy who raises a pet snake that later saves his life. Many art historical examples of children also present them with doves, geese, dogs, and lizards, as Sorabella 2007 makes clear.

³¹¹ As Plutarch puts it, in describing the same episode (*Aem. Paul.* 10.6-7).

“My father,” she said, “Persa has died.” Then he embraced the girl more closely and said, “I accept the omen, my daughter.” For her little puppy by that name was dead.³¹²

In this vignette of a father’s homecoming, we see the littleness of the child insisted upon (another feature of children – the very smallness of their bodies), her physical affection with her father, and her sincere attachment to her little dog.

Physical affection was a constant expectation for small children, and especially in the form of kisses (*oscula*) to the adults in their lives. Artemidorus suggests in his dream manual that dreaming of lips foretells something relating to children, wives, and relatives because these members of the *familia* greet the *paterfamilias* with a kiss (1.29). Lucretius describes one of the joys of life as coming home to children running for one's first kiss (3.894-6); Augustus mourned the loss of one of Germanicus' children by having a statue made of him, which Augustus could kiss each time he entered his bedroom (Suet., *Calig.* 7).

Writers of all periods and genres of the Roman Empire also agree upon the malleability and tenderness of children and youth in both body and behaviour. Adjectives like *tener* (“soft”) are often attributed to young bodies in general, as for example Ovid describes a boy who drinks with a *tenero ore* (tender lips).³¹³ In Apuleius’ *Metamorphoses*, a baker beats an adulterer he caught with his wife, but cites the interloper’s softness and tenderness as an indication of his flouting the natural order of time: “And you,” he said, “so soft and slight and still a boy (*puer*), with lovers cheated by the blossom of your age, do you seek out women and freeborn women, too,

³¹² Cic., *Div.* 1.103: *L. Paulus consul iterum, cum ei bellum ut cum rege Perse gereret obtigisset, ut ea ipsa die domum ad vesperum rediit, filiolum suam Tertiam, quae tum erat admodum parva, osculans animadvertit tristiculam. "Quid est," inquit, "mea Tertia? quid tristis es?" "Mi pater," inquit, "Persa periit." Tum ille artius puellam complexus: 'Accipio,' inquit, "mea filia, omen." Erat autem mortuus catellus eo nomine.*

³¹³ *Am.* 3.10.21-22.

and break up marriages convened by law, and out of time (*intempestivum*) claim the name of adulterer for yourself?”³¹⁴

For medical authors and literary authors alike, this softness is a point of danger – while a child might be malleable in a good way, allowing for shaping into a proper adult, the child might also be susceptible to manipulative forces for the worse. The Hippocratic author in *Prorrhetic* 2.43 elaborates the diseases one ought to catch and treat in childhood, for example, lest they become ingrained and especially dangerous in adulthood.³¹⁵ A favourite topic for literary authors is the dangers of impressionable youth in the face of vice. For example, in Horace’s *Ars Poetica*, the poet describes the age of adolescence as “a wax form to be bent into vice (*vitium*).”³¹⁶

Plutarch’s entire treatise *On the Education of Children* turns on his worries about children developing properly so that they might have “sound character” when they grow up (1). This begins with conception – Plutarch urges that fathers beget offspring legitimately (2). He believes that innate character and education must come together to make morally excellent people. Plutarch has reservations about mothers resorting to wet-nurses for their children; but if they must, then they should choose Greek nurses (5). He believes this is essential for preventing “deformity of character”, analogizing this to the practice of swaddling children to mould their limbs into the right shape so that they grow “without deformity”:

For just as it is necessary from the birth of children to bind the limbs of the body straight away, so that they will grow straight and not twisted or turned out to the sides, this same fashion from the beginning is proper to regulate the habits of children.³¹⁷

³¹⁴ Apul., *Met.* 9.28: “*Tu autem,*” inquit “*tam mollis ac tener et admodum puer, defraudatis amatoribus aetatis tuae flore, mulieres appetis atque eas liberas, et conubia lege sociata corrumpis, et intempestivum tibi nomen adulteri vindicas?*”

³¹⁵ Hippoc. *Prorrhetic* 2.43.

³¹⁶ Hor. *Ars P.* 163: *cereus in vitium flecti*

³¹⁷ Plut. *De liberis educandis* 3E: ὥσπερ γὰρ τὰ μέλη τοῦ σώματος εὐθὺς ἀπὸ γενέσεως πλάττειν τῶν τέκνων ἀναγκαῖόν ἐστιν, ἵνα ταῦτ’ ὀρθὰ καὶ ἀστραβῆ φύηται, τὸν αὐτὸν τρόπον ἐξ ἀρχῆς τὰ τῶν τέκνων ἦθη ρυθμίζειν προσήκει.

His advice on choosing appropriate enslaved companions for young boys is likewise detailed enough to illustrate his anxieties on that score (5-7). Plutarch is not alone in his worries.³¹⁸

One feature of good character that Romans could and did expect of children of any age was *pietas* toward their parents. *Pietas* is a challenging concept to translate, but roughly corresponds to “duty” and “devotion.” In Roman authors’ worldview, one owed *pietas* to the gods, to the state, and to one’s *familia*. One could show *pietas* through various concrete acts, such as taking parental advice, making decisions to the benefit of one’s parents, taking care of one’s parents, *vel sim*. It was also not a one-way street: *pietas* was also due to children from their parents.³¹⁹ Seneca makes *pietas* one of the most important features of children, as he says he thinks a dead child is better than an undutiful one.³²⁰ In epitaphs set up by Roman parents for their children, the deceased are very often presented as *pius*.³²¹ As I explored in my 2015 Master’s thesis on ideals and expectations of daughters through the life course, children’s sense of *pietas* was expected to develop in their relationship with their parents as the children and their ability to undertake dutiful action grew.³²²

While the tropes that I have explored here do not dwell specifically on sick children or children who are treated as different from others on the basis of bodies and behaviours, the very

³¹⁸ As we saw in the case of slavery, when authors cast judgment on the relationships of women. In the case of women’s relationships to enslaved people, it was to use enslaved bodies as narrative prosthesis in order to lampoon women’s voracious luxurious habits, especially their sexual appetite and unscrupulousness. In the case of disability and children, as Laes 2013: 129 points out, the sources suggest that it was normal to ascribe blame for issues in the development of children to women, especially those in a caregiver role. One such example occurs in Sor., *Gyn.*2.43-44, in which Soranus attributes issues in childhood leg development with nurses who are insufficiently attentive (unlike Greek nurses) and mentions how most people are liable to accuse women of having too much sex or of getting drunk before having sex as a reason for their child’s legs developing differently.

³¹⁹ Hence disagreements about inheritance in wills – indeed, one could make a *querela inofficiosi testamenti*, a legal “complaint about an undutiful will,” Evans Grubbs 2011: 385-387. For more on this, see Champlin 1991.

³²⁰ Sen., *Ep.* 74.23-24.

³²¹ Sigismund Nielsen 1997 is an epigraphic study of epithets of children that analyzes the relationships of dedicants and decedents, considering whether the frequencies of usage suggest anything about the meanings of different epithets.

³²² Lamond 2015.

presentation of expectations about what children are implies that children are framed differently from adults. These expectations and assumptions together form a normative baseline of expectations, the construction of children's bodies and behaviours in the Roman imagination.

Exposure, Infanticide, and "The Roman Mirage"

There is a long-lived vein in the scholarship that asserts that the ancients did care for their children.³²³ Artemidorus, the writer of a dream manual in the second century CE, likens children to parts of the parent's own body: "children are referred to as our entrails, like intestines."³²⁴ Indeed, Artemidorus identifies numerous body parts that could signify, in dreams, worries about one's children. At 1.26, for example, he compares children to eyes, "because [eyes] are desired and also the guides and leaders of the body, just as even children are for their parents when the latter becomes old".³²⁵ So, too, can one's lips (1.29) or head (1.35) indicate similar concerns. Among the organs, children are signified by three different sets, in addition to the intestines: the liver, stomach, and kidneys (1.44.3).

Disability sometimes complicates such a claim of parental/caregiver care, especially in certain cultures and time periods, as ableist attitudes can diminish or distort parental and societal investment (both emotionally and materially) in children with disabilities relative to nondisabled children.³²⁶ In the historical record for ancient Greece, Sneed takes the stance that, while some

³²³ A perspective persuasively and most famously set out by Golden 1988.

³²⁴ Artem. 1.44.1: καὶ γὰρ οἱ παῖδες σπλάγχνα λέγονται ὡς ἐντόσθια, καὶ ὥσπερ οἴκῳ κτήματα, οὕτω τὰ σπλάγχνα ταῖς λαγόνιν ἐγκείται.

³²⁵ Artem. 1.26: εὐόκασι γὰρ οἱ ὀφθαλμοὶ παισίν, ὅτι καὶ ποθεινοὶ εἰσι καὶ τοῦ σώματος ὁδηγοὶ καὶ ἠγεμόνες, ὥσπερ καὶ οἱ παῖδες ἐν γήρῳ γενομένων τῶν γονέων.

³²⁶ Including our own time. Consider the number of children murdered by those who are meant to be their caregivers (for information on the Disabled Day of Mourning, March 1, see: <https://disability-memorial.org>). Also, although this is a noisy signal because of the various forces at work in motivating adoption (including the myriad motivations and compulsions for biological parents to put their children into a foster/adoption system), the proportion of children with disabilities across the world available for adoption is disproportionately large relative to the incidence of disabling conditions in the total population (Kreider and Cohen 2009; for an argument connecting this issue in the

children were indeed exposed or killed because of their disabilities, it is nevertheless also the case that we cannot know the rate at which this happened. Sneed maintains that scholars should emphasize instead the degree to which parents did care for their disabled children.³²⁷ To paraphrase her argument: there was no coherent eugenicist programme in ancient Greece, although ableism and proto-eugenic ideas could influence parents' choices in raising children. I carry this argument over into the Roman context, as I agree that the picture of exposure – and of disability in Rome in general – deserves complication. Like Sneed, I certainly do not deny that such attitudes were operative in Roman antiquity. At the same time, however, I underscore that disability was not the only (nor even the chief) consideration in the exposure or direct killing of children.

The “Roman mirage” is an illusion best described by the following phrase from a history of Deaf education: “The Greeks and Romans encouraged infanticide to remove children who were mentally or physically unable to contribute to a strong citizen state.”³²⁸ Assertions like this characterize the entirety of Roman and Greek cultures as homogenously engaged in a eugenicist project. The resultant picture – of a straightforwardly eugenic, highly militarized society – shares features with the “Spartan mirage”, which is both an historiographical phenomenon and a methodological issue. “The Spartan mirage” refers to the ancient imaginary, most prominently articulated by Plutarch, of what life was like in ancient Sparta. It is an imaginary that has obscured the modern understanding of Spartan culture, and in itself suggests an utterly strange

case of China specifically to a global demand problem, see Raffety 2019). Anecdotally, there are two relatively recent and controversial cases of parents engaging surrogacy services but (outwardly at least) seeming to “give up” the child because of the child’s disabilities (one in Ukraine: <https://www.theguardian.com/australia-news/2021/jul/27/us-couple-withdraws-legal-action-against-abc-over-claim-they-abandoned-surrogate-child-with-a-disability>; one in Thailand: <https://www.abc.net.au/news/2016-04-14/baby-gammy-twin-must-remain-with-family-wa-court-rules/7326196>).

³²⁷ Sneed 2021.

³²⁸ Lang 2010: 8.

and violent society that exposed infants who “did not fit” in a fighting state.³²⁹ By invoking the existence of an equivalent “Roman mirage,” I am not suggesting that our source material for Rome is as skewed or as scarce as that for Sparta. I am, however, focusing here on evidence that shows this violent aspect of Roman society is not the whole, or even the most important part, of the picture. It is not a new argument to say that the Romans cared about sick or disabled children,³³⁰ but the idea persists in some arenas (especially in the broader public) that they, as a violent society, did not. It is worth laying out reasons why the Roman mirage ought to be interrogated.

Conversations about disability in childhood in the Roman context would be incomplete without mention of the most obvious historical instance in which children were explicitly disabled in our extant sources: children who were ritually murdered³³¹ as ill omens. It is true that Romans killed infants that they described as *monstrum* “monster”, *ostentum* “portent”, or *prodigium* “freak of nature” – all technical religious terms that denote a happening contrary to nature that could indicate divine displeasure and require expiation.³³² It was not only exceptional births that were ritually expiated, but a whole host of unusual happenings. Phenomena as varied as raining blood, stones falling from the sky, talking cattle and chickens, mules with five feet, lightning striking important statues, and people giving birth to unexpected offspring like snakes would motivate Roman ritual authorities and the Senate to act, in order to appease the gods and

³²⁹ Plut., *Lyc.* 16. The passage claims that a council examined the children for fitness at birth, and if they were ἀγεννῆς καὶ ἄμορφον (“not well born” and “formless”), they would be cast into a chasm. There were tests of bathing babies in wine to expose sickly ones and bolster healthy ones. The idea of the Spartan mirage comes from Ollier 1933. See also Hodkinson and Morris 2012: viii-x.

³³⁰ See n. 262 above for relevant bibliography.

³³¹ Murdered is my phrasing; the usual term is “expiated.” See Schultz 2010 for the distinction between ritual murder and the more specific case of human sacrifice.

³³² See MacBain 1982: 82-106, Appendix A for an index of all such instances in extant sources.

ward off disaster.³³³ The rituals prescribed to expiate such occurrences varied just as much as the *prodigia*: actions on behalf of the Roman people could include putting together elaborate ceremonies with groups of youths, ritual burning of various omens, and casting living beings into bodies of water.³³⁴

Rawson suggests, on the point about children in ancient Rome, that “the law did differentiate between degrees of deformity and disability and implied that those infants not actually ‘some kind of monster of prodigy’ might be reared.”³³⁵ So, where was that line? What was a *monstrum* to our Roman authors? The line is certainly not clear. The phenomena that received these labels in the prodigy lists³³⁶ were primarily physical, such as differences in limb number or genitalia.³³⁷ One child was born “without the opening of the private parts through which liquid is sent out.”³³⁸ Sometimes the child is reported as dying or already dead, as in the case of a girl born “double,” i.e., with two heads, four hands, and four feet, or a boy whose intestines were open to the air.³³⁹ In the expiations that are recorded, children identified by the records as *androgynes* are especially badly treated. On sixteen occasions, accounts report that such children are drowned (or otherwise “carried to the sea”) – even when they are ‘discovered’

³³³ E.g., Livy 39.46.5; 56.6 for raining blood; Livy 38.36.4 for rain of stones; a talking chicken at Plin. *NH* 10.50; a mule with five feet in Julius Obsequens 28; the statue of Horatius being struck by lightning at Gell., *NA* 4.5.1; and a woman who gives birth to a snake at Plin., *NH* 7.34. Not all unusual births were frightening portents: if Livy’s and Suetonius’ accounts are to be trusted, having one’s head wreathed in fire as a baby (Livy 1.39, about Servius Tullius), or being born with a birthmark in the shape of a constellation (Suet., *Aug.* 80), could also be taken as signs of greatness to come.

³³⁴ E.g., ceremonial youths: Livy 37.3.1-6; burning of various prodigies, Livy 36.37.2-6, Obsequens 25, 26; throwing living beings into bodies of water, Plin. *NH* 7.34, Obsequens 36.

³³⁵ Rawson 2003: 116. See also *Dig.* 1.5.14, Paul and 50.16.135, Ulpian.

³³⁶ We do not have the prodigy lists themselves extant, but several authors – especially Livy – preserve extensive mentions.

³³⁷ Some examples: limb difference: children with four hands and four feet, Obsequens 14; genitalia difference: a child born as what we might identify as intersex in the sources, Livy 39.22.2-5, Obsequens 3. The expiations of such children receive focused attention in an additional appendix of MacBain 1982: 127-135.

³³⁸ Obsequens 53: ... *sine foramine naturae qua humor emittitur*...

³³⁹ Girl born “double,” Obsequens 51; boy whose intestines were open to the air: Obsequens 40.

to be *androgynes* long after birth, at the ages of eight, ten, and even sixteen.³⁴⁰ The ritual actions taken in response to most of the children reported are not always recorded. Perhaps a child who was not violently expiated or deported could live out the rest of their lives virtually unscathed? Perhaps if the children who were not killed or exiled were simply taken home when the ceremony was through, the lists would say something to that effect. (That said, the authors do take note when the ritual authorities decide to take in and nurture talking cows instead of sacrifice them during an expiation.³⁴¹)

While it is impossible to know the rate at which children would be born with conditions that would render them beyond the normate for parents or communities in a way that was ritually significant, it seems that these situations are truly exceptional. The fact that these births could hinder the proceeding of ordinary business at Rome is testament to their relative rarity.³⁴² What is more, we ought to take to heart MacBain's argument that these phenomena were politically charged: the reassurance provided by ritual responses to exceptional happenings (births and otherwise) could be politically useful.³⁴³ Perhaps in other, less tense and less dangerous historical moments, the birth would not be so very ritually unsettling. When we read of the eight-year-old and ten-year-old children labeled *androgynes* who are "taken to the sea," for example, we must wonder why they were suddenly viewed as ritually disturbing – even though they have been living their lives in their communities for nearly a decade.

We must be careful also about taking the label of *monstrum* to have a one-to-one relationship with marked bodily differences at birth: some children were described as

³⁴⁰ E.g., Obsequens 34 (eight) and 36 (ten); Livy 31.12.5-10 (sixteen).

³⁴¹ As in the case of Livy 35.21.2-5 and 41.13.1-3.

³⁴² For example, MacBain 1982: 75-76 describes scenarios at Obsequens 46 and Cic., *De leg.* 31 in which official assembly meetings (*comitia*) were postponed.

³⁴³ MacBain 1982: 34-42.

“deformed” – and it was encouraged that these children be killed – but this description comes without any ritual significance. In Cicero’s *de Legibus*, for example, he mentions that the *Twelve Tables* contain a recommendation about “quickly kill[ing]” an *insignis ad deformitatem puer*, or “boy/child remarkable for his deformity”.³⁴⁴ This suggests, indeed, that physical otherness did sometimes constitute grounds for infanticide according to ancient law and custom; but, as I have highlighted, it was not necessarily a divine matter.³⁴⁵

A difficult passage to reckon with is Seneca’s comment in *De Ira* that he (and, he expects, his audience) would think it perfectly rational and reasonable to kill babies of certain condition:

Surely someone does not hate his own limbs then, when he cuts them away? That is not anger, but a wretched kind of healing. We destroy rabid dogs, and we kill wild and untamed cattle, and we send down the sword upon sick flocks, lest they contaminate the herd; we deprive of life portentous offspring, and we also, if they are born as weak (*debiles*) and monstrous (*monstrosi*), drown freeborn children; it is not anger but reason that discerns the useless things from the healthy.³⁴⁶

Seneca believes that reason instructs people to kill those who are born differently, in service of a kind of “care” (*curatio*). Seneca certainly writes as if this did happen – but, as so often with similar sources, this quotation provides us with no indication of the frequency of such an occurrence.

³⁴⁴ Cic. *De leg.* 3.8.19.

³⁴⁵ For a detailed discussion, see Wiewiorowski 2016. Wiewiorowski also stresses throughout the importance of the parents’ immediate local community.

³⁴⁶ Sen., *De Ira* 1.15.2: *Num quis membra sua tunc odit, cum abscidit? Non est illa ira, sed misera curatio. Rabidos effligimus canes et trucem atque immansuetum bovem occidimus et morbidis pecoribus, ne gregem polluant, ferrum demittimus; portentosos fetus extinguimus, liberos quoque, si debiles monstrosique editi sunt, mergimus; nec ira, sed ratio est a sanis inutilia discernere*, The Loeb translation, Basore 1928: 145, takes *inutilia* as worse than “useless”, taking it instead as “harmful”.

In an account from Dio's history of Rome, the emperor Hadrian's death-bed speech contrasts the benefits of adoption with the gamble of begetting a successor by blood. Adoption was indeed a regular recourse among well-to-do families, especially if they found themselves on a narrow limb of the family tree, and it was conventional for adults to adopt other, younger adults. According to Dio, Hadrian reportedly gathered the leading men of the state to his bedside, thanked them for allowing him to adopt an heir, and declared:

And this [one, a child that is begotten] is different from that [one by adoption], because the one begotten is born in whatever way it might seem good to the *daimon* (divinity), whereas the other, a person rendered self-chosen, [is someone that a person] himself sets up for himself; the result is that the one from nature very often is given to [their parent] as physically defective³⁴⁷ and thoughtless, whereas the one from judgment is chosen as both completely ready in limb and ready in mind.³⁴⁸

At first glance, this passage suggests that most Roman parents might be like Hadrian and would prefer to choose an heir than beget one because of fears about disability. The implication, however, is that, had Hadrian *had* a child of his own, he would have had to choose that child as his successor -- no matter that child's characteristics. What is more, one could argue that Hadrian is not making a comment as much about disabled vs. nondisabled peers, but is comparing the relative benefits of having a fully adult adopted heir rather than a still-developing "incomplete" child.

³⁴⁷ A brief note on translation of the term used here: dictionaries such as Liddell and Scott 1940: 116 s.v. ἀναπηρία translate the word as "lameness, mutilation." This, however, does not accurately reflect the sense of the term one gets from context. Indeed, this is the reason for my use of the term "deficient" in this case, as ungrammatical English reflection of the actual Greek might be "having-been-made-incomplete-and-thereby-insufficient". The sense of "incompleteness" is even somewhat admitted by Liddell and Scott in the adverbial form of the word, which they translate as "incompletely," Liddell and Scott 1940: 116 s.v. ἀναπηρισμένως.

³⁴⁸ Dio 69.20.1-3: διαφέρει δὲ τοῦτο ἐκείνου, ὅτι τὸ μὲν γεννώμενον, ὅποιον ἂν δόξῃ τῷ δαιμονίῳ, γίγνεται, τὸ δὲ δὴ ποιοῦμενον ἀυθαίρετόν τις αὐτὸς ἑαυτῷ προστίθεται, ὥστε παρὰ μὲν τῆς φύσεως ἀνάπηρον καὶ ἄφρονα πολλάκις δίδοσθαί τι, παρὰ δὲ τῆς κρίσεως καὶ ἀρτιμελῆ καὶ ἀρτίουν πάντως αἰρεῖσθαι.

Indeed, in the following passage from a poem of Horace, it seems proverbial that fathers embraced their children with physical difference. In one of his *Satires*, Horace indicates that fathers often treasured their children in spite of the disabling attitudes in society at large:

And like a father his offspring, so we ought a friend –
namely, not to repudiate them if there is some fault (*vitium*) in them;
the father calls his squinty-eyed child “Winky-Blink”, and he calls “Chicky”
whatever son of his is unfortunately small, like once-preemie Sisyphus³⁴⁹ was;
this one with the completely twisted legs he babbles at as “Bandy-Legs”, and that one
who’s poorly supported on deformed ankles, “Clubfoot”.³⁵⁰

While the imagined father figure here does label the conditions of the children, and thereby reify the children’s bodies into disabling phenomena, he turns the labels into affectionate nicknames. In this way, the father figure is not necessarily celebrating the conditions, but not completely obfuscating them nor, as Horace points out, repudiating the child for the conditions.

Another favourite locus for the “Roman mirage” is a section of Soranus’ *Gynaecology*, entitled “On the Child Worth Rearing,” in which Soranus tells us whether the midwife ought to recommend the child’s being raised. A midwife helped the mother bring the newborn into the world and then, presumably, used her expertise to evaluate the baby’s state of health. Soranus’

³⁴⁹ Gowers 2012: 130 follows Porphyrius to highlight that the Sisyphus mentioned here can be identified as a favourite *pumilio* or “court dwarf” figure of Marcus Antonius, imported to Rome from Syria.

³⁵⁰ Hor., *Sat.* 1.3.43-48: *at pater ut gnati, sic nos debemus amici / si quod sit vitium non fastidire, strabonem / appellat paetum pater, et pullum, male parvus / si cui filius est, ut abortivus fuit olim / Sisyphus; hunc varum distortis cruribus, illum / balbutit scaurum pravus fultum male talis*. Shortly before this passage, he writes of how someone loved his girlfriend not only in spite of her *vitium* or flaw, but in fact because of her *polypus* (which we might translate as wart or sebaceous cyst). The whole piece elides physical faults with moral and mental ones. Of further interest: while the word *balbutit* (which I have translated as “babbles”) could be simply another chance for Horace to employ a cheeky, well-known cognomen in the passage (which he does throughout), there is an added playfulness here for our purposes: he is imagining an older man, a father, fumbling over his own words even as we are supposed to be imagining a child fumbling with his feet. Indeed the resonance of walking and talking as activities that can create a smooth or halting line is consonant with ideas about walking and talking in other Roman authors (see discussion below). Some modern translations take the child to be the one fumbling, perhaps in a literary move akin to a transferred epithet. I follow Gowers 2012, *ad loc.*

criteria for a child “worth rearing” include elements like the number and movement of the child’s limbs and the vigour of their cries when placed on the ground. In response to a child who did not meet these criteria, the decision for the parents would be whether to raise the child for themselves as a part of their *familia*, or to entrust the child either to death from the elements or to enslavement by abandoning the child on a dung heap, at a crossroad, or near a temple.³⁵¹ Another way to look at Soranus’ advice is that it would serve medical professionals (in this case, midwives) with a shorthand for giving parents good or bad news about the likelihood of their child’s survival. Perhaps then, as now, there were parents willing to do anything to raise their children, regardless of prognosis. Indeed, Evans Grubbs, in an excellent overview of arguments about the frequency of infant exposure, makes the point that there would be parents and midwives who would never hear nor read this advice and others would persist in raising the child despite it.³⁵²

The jurist Ulpian’s classification of what counts as an heir is more capacious: the fact that he specifies that a child born *non integrum* (“not whole”) but *cum spiritu* (“with breathing”) constitutes a proper heir³⁵³ highlights the degree to which the bodily condition of a legitimate heir could be less “perfect” than Soranus’s standard.

Exposure could have been about legitimacy and a family’s resources (and potentially gender), and not only about the sickliness of a freeborn baby. Although the following is a much earlier and specifically Greek thought, it suggests differential treatment with respect to disability and gender in children: Aristotle observes that “among humans, more males are born deficient³⁵⁴

³⁵¹ Evans Grubbs 2013: 93-94 mentions the attestations of *expositi*, exposed children, found on dung heaps, and suggests that babies would be placed in locations where other people might be more likely to pick them up.

³⁵² Evans Grubbs 2013: 87-88.

³⁵³ *Dig.* 28.2.12.1, Ulpian.

³⁵⁴ See n. 348 on the translation of this word.

than are females, whereas, among the other [animals], there are no more [deficient males than females].”³⁵⁵ One wonders, as Laes does, whether Aristotle is simply more familiar with seeing families who have chosen to rear males with noticeable physical conditions than females with such conditions. Laes suggests that “Perhaps parents did not want to lose their sole heir” in the case of male babies especially.³⁵⁶

Relatedly, Cicero’s grandson by his daughter Tullia provides an interesting example: the orator’s letters from the short time the child lived exhibit no effusive affection and seldom refer to the child (and flatly when he does) – but Cicero does nevertheless recognize the child despite his sickliness.³⁵⁷ Legitimacy also played a significant role in parental decisions to raise children. This is seen especially in the case of the emperor Claudius, whom we met in the last chapter and will meet again shortly, who exposed his daughter by his wife Urgulanilla on her doorstep. This is the only documented case in which a *paterfamilias* decided to expose a child after she had been accepted into the *familia* – and he did so upon suspicion that the child was illegitimate, not upon discovery of an illness or other physical or behavioural condition.³⁵⁸

There is a lively debate as to whether gender was frequently a basis for the abandonment or murder of infants in Rome.³⁵⁹ Exposing children based on gender was imaginable in our Roman sources, and it certainly did occur, but there is no way of knowing the frequency of such a phenomenon. The example many point to in this case is *POxy.* 4 744, a letter from Roman Egypt. This note is from a man named Hilarion to his wife, telling her to expose her child if born a girl. Another is the Ovidian tale of Iphis and Ianthe, in which a girl is raised as a boy because

³⁵⁵ Arist., *Gen. an.* 1.775a: Γίνεται δὲ ἀνάπηρα μᾶλλον ἐν τοῖς ἀνθρώποις τὰ ἄρρενα τῶν θηλέων, ἐν δὲ τοῖς ἄλλοις οὐθὲν μᾶλλον,

³⁵⁶ Laes 2013: 131. See also Patterson 1985, Edwards 1996, and Rose 2003: 29-49.

³⁵⁷ Specifically a *puerum ἑπταμηνιαῖον* (“seven months’ boy”). On the description of sickliness, he refers to the child as *perimbecillus*, “thoroughly weak.” Cic., *Att.* 10.18.

³⁵⁸ Suet., *Claud.* 27.

³⁵⁹ See especially Evans Grubbs 2013 and Scott 2001.

the child's mother wished not to follow her husband's requirement that she expose a female infant.³⁶⁰ These examples attest to the practice but do not straightforwardly represent the frequency of the phenomenon, and so cannot in themselves provide concrete proof of a relative differential "value" or desirability across the genders.

Clearly, some Romans were content with, or indeed preferred, daughters. Indeed, we need only consider such examples as Plutarch's wife Timoxena, who apparently hoped specifically for a girl to share her name (*Consolation to his Wife* 608C).³⁶¹ A Hippocratic author gives advice for a man wishing to beget one gender or the other, suggesting that sometimes a girl was also desired. He recommends the man time the intercourse according to the wife's menstrual cycle, how vigorously he ought to push, and he adds the move of binding a testicle (i.e., binding the right will produce a girl and the left a boy).³⁶²

In general, Roman adults had ableist preferences, and there is no question that ableist ideas were current among our authors. It is nevertheless also the case that Roman authors expected many parents to care for their children regardless of their condition. I am inclined here to agree with Laes and Evans Grubbs that raising a child was a matter of individual decision-making bound up with questions of legitimacy, resources, and in limited cases, gender. This conclusion runs counter to the "Roman mirage".

Conditions of concern to adults, disabilities in childhood

³⁶⁰ Ov., *Met.* 9.666-713. Those who cite this as an example of emotionally shallow recourse to infant exposure have not read it closely. Ovid writes a psychologically rich account: he puts hesitations and justifications in the husband's mouth, so while he explains that a girl will be more of a burden (which indeed strikes our ears as callous), he conveys in no uncertain terms how loath he is to make the choice.

³⁶¹ I would not go so far as to say that Romans were, as Hallett 1984 puts it, filiafocal, but there is ample evidence to say that there was a complex range of attitudes toward the raising of daughters. Indeed, Artem. 15 indicates that dreaming of daughters is a sure sign of debt to come, and one must imagine in a dowry society that such considerations would have played a role in some parental choices.

³⁶² Hippoc. *Superfetation* 31.

Thus far, I have addressed questions of what a child is, some of the expectations that went into being a Roman child, and how some children were violently excluded by Roman society at birth (although not necessarily as frequently as popular accounts might suggest). I turn now to the question of how children were disabled by parents in the context of childhood, and specifically a childhood in which children were chosen to be raised by their *paterfamilias*. I suggest that two of the main disabilities of concern to Roman authors have to do with conditions that impacted speech and conditions that impacted walking.

It was throughout the first cycle of seven years that speech formed an important stage of development in the Roman normative development arc. There were even gods specifically tailored to these areas of infant-to-child development.³⁶³ In fact, the ability to speak governed not only the developmental stages of children but the mythical origins thereof: children not able to speak are called *infantes* (non-speakers), and the Birth-Goddesses speak the fates of children to come.³⁶⁴ Indeed, people who were *infantes* (incapable of speech) suddenly speaking aloud are reported as portentous events.³⁶⁵

For all that Roman parents loved their children's lisps,³⁶⁶ that the particular quality of children's speech was one of the most charming things they could experience, parents could still become concerned about children's speech development. Speech was arguably the most important asset a young freeborn Roman boy could have, because of the political career he could build. After all, Cicero became a *novus homo*, the first of his family to be consul, on the strength of his skill in oratory. The amount of energy ancient parents spent thinking about speech in their

³⁶³ Fabulinus or Farinus, for example, attested in the list of childhood gods in Tert., *Ad nat.* 2.11.7. See Bettini 2008.

³⁶⁴ Varro, *Ling.* 6.52. Ps.-Arist., *Pr.* 11.27 centres a question about how children develop speaking, hearing, and understanding.

³⁶⁵ *Obsequens* 41; Liv. 21.62.

³⁶⁶ As in Sen., *Ep.* 115.14.

children, and the lengths to which they might go to “cure” their mutism and speech differences, are extensive.³⁶⁷ Some of the main therapies for speech development of various kinds could involve exercises, speaking with rocks or marbles in the mouth, and strategies as severe as cutting portions of the tongue to “release” it for smoother speech.³⁶⁸

The case study of a young boy with mutism in the early Empire is illustrative here. Pliny the Elder writes an aside (in a discussion about painting) about Quintus Pedius, a young boy described as *mutus* who was embarking upon his educational career.³⁶⁹ According to Pliny, a meeting took place among the most important men of Rome (likely a meeting of leading senators) to discuss Quintus Pedius’s future. During this meeting, even Augustus was there, as was Quintus Pedius’ relative on his grandmother’s side, the great orator Messala. Messala suggested that the boy be excused from the regular career path expected of a young man of his pedigree and that he be allowed to undertake the pursuit of painting. Pliny tells us that he did, and that he achieved much in a short time before dying at the age of thirteen. Pliny calls this a tale to be remembered (literally “not to be omitted”). Its implications are threefold. First, Quintus Pedius’ mutism was believed to be such an impediment to his education that his family allowed him to undertake a seriously unconventional career path. Second, the issue of his mutism was of such import that “leading men of Rome” (including the emperor, Augustus) spent time in arranging this alternative path. Third, if one had access to wealth and political power, as Quintus Pedius did, one stood a better chance of gaining accommodations for disabling conditions.

³⁶⁷ Speech therapies are detailed in Gibson 2006.

³⁶⁸ Celsus, *Med.* 7.12.4, for example, describes the surgery used to “release” the tongue in people whose tongues are believed to be attached too closely for speech. Theories of speech were developed in elaborate ways. Hippocrates, for example, draws his conclusions about the nature of speech and how it works from the examples of people who are deaf from birth, from singers, and from people who have survived slitting their own throats (Hippoc. *Fleshes* 18).

³⁶⁹ Plin., *NH* 35.21.

The other condition of serious concern to Roman parents was walking, both about the form of children's legs and the way in which they used them. Varro, for example, mentions the parents who fastened splints onto their children's legs in order to correct their form and gait. He says there is no sense in that, because it is too late, and he recommends instead that the practice of walking awkwardly ought to be caught earlier so that it can be corrected.³⁷⁰ Roman authors regularly regard walking as a reflection of character: scholars have already observed that Roman elites associated modes of walking with different genders, classes, and moral attitudes.³⁷¹

Case Study of Claudius

Perhaps the most famous childhood from Roman antiquity is that of the emperor Claudius. We have met Claudius in this dissertation already — as emperor, he issued the edict intended to prevent slave owners from abandoning sick and elderly enslaved people on the banks of the Tiber.³⁷² For this case study, however, we will travel back in time, long before he became emperor, beginning from his birth on the 1 August 10 BCE.

If our sources are faithful to life in the imperial household, Claudius was himself disabled in his *familia* from a very early age; his bodily and behavioural differences were mocked not only throughout his life but even after his death.³⁷³ One complicating feature of this case study is that he was a member of the imperial household, so his roles as child and son were public. The question of political leadership was heavy in the air, but this would be the case in any

³⁷⁰ Varro, *Ling.* 9.10-11.

³⁷¹ Corbeill 2004:107-139 and O'Sullivan 2011. For an illustrative example, Macrobius *Sat.* 2.3.16 attributes a joke to Cicero that he found fault with his daughter Tullia's manner of walking. Apparently, Tullia walked too quickly for a modest woman and Piso, her husband (*vir*) walked too gently and slowly for a proper man — and this state of affairs found Cicero jokingly commanding Tullia to "walk like a man (*vir*)!"

³⁷² See p. 85.

³⁷³ Suet., *Claud.* 8 details some of the dinnertime bullying he would endure if he fell asleep, including people putting his shoes on his hands, such that, when he woke up, he would rub his face with them. After Claudius' death, Seneca wrote the *Apocolocyntosis*, making fun of Claudius' appearance, speech, gait, and tenure as emperor.

household of senatorial rank. Thus, the dynamics of disability operative in Claudius' childhood, while not strictly representative of all children growing up in well-to-do households, could have operated in modified form elsewhere.

Suetonius' biography of Claudius is our best source for his early life. Suetonius has a strong interest in physiognomy and uses the bodies of emperors to underscore elements of their psychological character in their bearing, face, gait, or speech. This should give us pause in accepting his description of Claudius uncritically.³⁷⁴ At the same time, Suetonius was known as a man of letters and served the imperial household himself, which gave him access to letters and other private papers of the imperial family and makes him a more reliable source on domestic matters than he would be otherwise.

In descriptions of Claudius' body and behaviour, key elements are similar across sources, not just in Suetonius but also in the accounts of Tacitus and Dio Cassius and in the invective piece of Seneca's, the *Apocolocyntosis*. Claudius was reportedly regularly sick in his youth, he had speech differences, mobility impairment or at least a marked difference in gait, and he was given to shaking and inappropriate laughter.³⁷⁵ Seneca's *Apocolocyntosis* was written most closely after Claudius' death. It means literally the "gourdification" of Claudius, playing on the idea of *apotheosis*, the ascension to the heavens that emperors would enjoy after their deaths. Seneca imagines, in this scathing work, that Claudius ascends to the heavens but the gods do not know what to do with him because of his voice, his appearance, and his behaviour. Before he was emperor, Suetonius reports that he gave the impression of "stupidity" (*socordia*): then, when Claudius took to writing his own account of his childhood, he assured the Senate that he only

³⁷⁴ Gladhill 2012.

³⁷⁵ Childhood sickness: Suet., *Claud.* 2.1. Speech differences: Sen., *Apocol.* 4.3, 5.2, 6.2. Mobility impairment: Sen., *Apocol.* 1.2; Suet., *Claud.* 30; Dio 60.2.1.

pretended to be “stupid” as a survival strategy.³⁷⁶ Even Tacitus, whose account does not otherwise involve much direct invective, alludes to the usual “sluggishness and inebriated character of Claudius” as the reason onlookers took some time to realize when he had been poisoned.³⁷⁷

Of Claudius’ disabling conditions, Levick writes that, “We do not have a clinician’s picture of the symptoms, which may have been relatively mild, rather those of hostile witnesses who had reason for reporting them at their worst. It was the sensitivity of Romans to matters of decorum (appearance, bearing, dress and speech, areas in which Claudius was plainly deficient) that made his family hesitate to let him appear in public.”³⁷⁸ I would respond by saying that we do not need a clinician’s picture to say that it was precisely Roman ideals of decorum that disabled Claudius.

His immediate kin were particularly vicious toward him. Suetonius tells us that Claudius’ own mother called him “a *portentum* of a human, not completed by Nature, but merely left incomplete, and if she would accuse someone of *socordia*, she would say they were more stupid than her son Claudius.” His grandmother was cold toward him, and his sister Livilla openly disparaged the idea that Claudius would one day lead the state.³⁷⁹

His grandfather Augustus’ views are slightly more complicated. Suetonius relates several of Augustus’ letters to Livia (his wife, Claudius’ grandmother). It is entirely possible that these were letters to which Suetonius in fact had access, but, even if they might be heavily edited by

³⁷⁶ Suet., *Claud.* 38.3, who claims the public did not believe the account: a book was soon published that argued that no one pretends to be *stultus*.

³⁷⁷ Tac. *Ann.* 12.67: *socordiane an Claudii vinolentia*

³⁷⁸ Levick 2015: 16.

³⁷⁹ Suet., *Claud.* 3.2.

Suetonius, they still provide a glimpse into judgments by an adult that cast a child or adolescent in a disabling way.

A fascinating feature of these letters is the use of Greek. It is not strange for a well educated Roman man to move between Latin and Greek when writing informally: Cicero's letters are full of examples of learned, witty quotations and jokes. What is fascinating in the case of Augustus' letters about Claudius is his choice to put disabling language in Greek. In the following translations, I have put any translations from Greek into French (with English translations in the footnotes) to imitate the linguistic change.

In the first letter, Augustus shares a deep concern about Claudius (to whom he refers by his first name, Tiberius) being conspicuous not only to the people but also within a smaller community – for his body and behaviour being on display in a way that could expose the *familia* to ridicule.

I have consulted with Tiberius, as you asked, my Livia, about what ought to be done with your grandson Tiberius [Claudius] for the Games of Mars. It's certainly agreed that we have to establish at once what advice we ought to follow in his case. For if he is *assez bien défini*,³⁸⁰ as I might say, *tout à fait complet*,³⁸¹ which is what we think he might be, ought he to be led forth through the same opportunities and steps as those through which his brother would be? But if we feel him to be *plus mauvais* and *entravé dans le plein épanouissement de son corps et de son âme*,³⁸² it is not [right] that he nor we offer up things to be derided by men *habitués à ridiculiser et à se moquer de telles choses*.³⁸³ For we will always be in turmoil, if we deliberate about all the individual opportunities at different times, *tant qu'on ne l'a pas décidé à l'avance*³⁸⁴ [whether] we judge him to be able to carry out offices or not.³⁸⁵

³⁸⁰ English: "Well defined enough."

³⁸¹ English: "Absolutely complete."

³⁸² English: "Inferior" and "hindered in the full articulation of his body and his soul."

³⁸³ English: "Accustomed to ridiculing and mocking such things."

³⁸⁴ English: "While we have not worked it out in advance."

³⁸⁵ Suet., *Claud.* 4.2: *Collocutus sum cum Tiberio, ut mandasti, mea Livia, quid nepoti tuo Tiberio faciendum esset ludis Martialibus. Consentit autem uterque nostrum, semel nobis esse statuendum, quod consilium in illo sequamur. Nam si est artius, ut ita dicam, holocleros, quid est quod dubitemus, quin per eosdem articulos et gradus producendus sit, per quos frater eius productus sit? Sin autem ἡλαττώσθαι sentimus eum et βεβλάφθαι καὶ εἰς τὴν τοῦ σώματος καὶ εἰς τὴν τῆς ψυχῆς ἀριότητα, praebenda materia deridendi et illum et nos non est hominibus τὰ τοιαῦτα σκώπτειν καὶ μκκτηρίζειν εἰωθόσιν. Nam semper aestuabimus, si de singulis articulis temporum deliberabimus, μὴ προῦποκειμένου ἡμῖν posse arbitremur eum gerere honores necne. ...*

Elsewhere in another letter, we learn that Augustus was also worried about Claudius' moral development and the development of his bearing, thinking Claudius' childhood friends were a bad influence in both respects:

Indeed, while you'll be away, I will invite Tiberius [Claudius] every day to dinner, lest while he's on his own he dine with Sulpicius and Athenodorus. I would wish he would choose another person more carefully and less *tremblant*³⁸⁶ for his company, someone whose movement and comportment and gait he might imitate. The poor little boy *n'a pas de chance*;³⁸⁷ for *parmi les personnes actifs*,³⁸⁸ where his mind does not wander away, *la noblesse de son âme*³⁸⁹ is apparent enough.³⁹⁰

Here, in addition to the insight about Augustus' concern for Claudius' development, we gain a glimpse into the childhood world of Claudius. He is able to make friends independently in the household, not shuttered away completely despite the sentiments of the previous letter.

In the following short excerpt, Augustus also expresses surprise about Claudius' speech, as he is surprised to learn that he can declaim well:

I wonder, my Livia, that I would be so amazed at the fact that your grandson Tiberius [Claudius] was able to please me in declaiming. I fail to see how someone who converses so *peu clairement*,³⁹¹ can nevertheless speak *clairement*³⁹² what ought to be spoken when he declaims.³⁹³

This assertion clearly illustrates the connection for well-to-do Roman parents between the ability to speak and the parameters with which Roman authors would evaluate children's abilities more generally. Declamation was a key component of any young boy's rhetorical education, as training for the political arena in adulthood: parents of Roman boys regularly prized the ability to

³⁸⁶ English: "Waveringly, shakily."

³⁸⁷ English: "is unlucky."

³⁸⁸ English: "Among active people."

³⁸⁹ English: "The well-born character of his soul."

³⁹⁰ Suet., *Claud.* 4.5: *Tiberium adulescentem ego vero, dum tu aberis, cotidie invitabo ad cenam, ne solus cenet cum suo Sulpicio et Athenodoro. Qui vellem diligentius et minus μετεώρως deligeret sibi aliquem, cuius motum et habitum et incessum imitaretur. Misellus ἄτυχεϊ: nam ἐν τοῖς σπουδαίοις, ubi non aberravit eius animus, satis apparet ἡ τῆς ψυχῆς αὐτοῦ εὐγένεια.*

³⁹¹ English: "unclearly."

³⁹² English: "clearly."

³⁹³ Suet., *Claud.* 4.6: *Tiberium nepotem tuum placere mihi declamantem potuisse, peream nisi, mea Livia, admiror. Nam qui tam ἀσαφῶς loquatur, qui possit cum declamat σαφῶς dicere quae dicenda sunt, non video.*

speak, the ability to speak with a voice that other Romans recognized as authoritative, and the ability to present and challenge arguments organized and structured in a particular fashion. Claudius is, according to Augustus, unable to converse in the way his family wants him to, but he can declaim in precisely the way that Augustus wants. Suetonius underscores the point of Claudius' elite learning by asserting to the reader that Claudius was very invested in studying and wrote several books.³⁹⁴

Frustratingly, we do not have much in the account from Claudius himself. The closest thing we have to a personal testament to Claudius' childhood, however, is contained in Suetonius' biography. Suetonius reports that Claudius in later life recalled his *paedagogus*, his child-minder, and declared that the *paedagogus* was a savage brute, a muleteer of a man.³⁹⁵ This is significant especially because Suetonius also tells us that Claudius was forced to have a *paedagogus* for much longer than was average for a young man of his age.³⁹⁶

Indeed, in this same passage, Suetonius is quick to tell us that Claudius' trajectory was other than it should have been: Claudius did not enjoy the same *rite de passage* out of childhood as other young men. This rite was the *toga virilis* ceremony, in which boys put aside the clothing of childhood and don the toga of a man.³⁹⁷ Claudius experienced the ceremony, certainly, but only under cover of night, and carried in a litter to the spot. Privacy, if not outright secrecy, was the goal. Seneca, in one of the moral letters he sent to his friend Lucilius, wrote of the *toga virilis* ceremony: "You hold still that memory, how much joy you felt, when having laid aside the *toga praetexta* you took up the *toga virilis* and were led into the Forum..."³⁹⁸ So Claudius, because of

³⁹⁴ Suet., *Claud.* 3.1.

³⁹⁵ Suet., *Claud.* 2.2.

³⁹⁶ *Ibid.*

³⁹⁷ For thorough explorations of the *toga virilis* ceremony, see Dolansky 2008; 2000 [*diss.*].

³⁹⁸ Sen. *Ep.* 4.2: *Tenes utique memoria, quantum senseris gaudium, cum praetexta posita sumpsisti virilem togam et in forum deductus es...*

his *familia*'s worries about image, was made to miss out on a momentous and joyful occasion with his peer group.

These attestations about Claudius' childhood make clear that Roman adults in charge of his rearing had a specific idea of how they wanted Claudius to be and to seem. These expectations of development rendered Claudius an abject other within his own household and within his peer group. He was nevertheless a member of the household into which he was born and not only went on to become its *paterfamilias*, but also the most powerful person in the empire.

Conclusion

Roman children, as a general rule, could be special to the adults around them. In the constructions of medical authors, literary authors, and legal opinions, children were at once disabled as a whole – inferior to adults – and, when we consider the framing expectations for childhood, further disabilities existed within that frame. This is especially the case after the child's first "cycle of seven years" and can be seen most clearly in the relationships between parents and children because of societal expectations (specifically with respect to speech and walking). These concerns play out in a case study of Claudius, the boy who would one day – contrary to the expectations of those around him – become an emperor.

This is a more complex and subtle understanding than what emerges if we only consider the exposure and infanticide of othered children. The violent expiation of children labeled *monstra* is a blatant case of ableism, a horrific othering. It is also true that Roman parents prioritized an ideology of the normate, one that lent itself to such othering. The story is a tangled one, however: how the label of *monstra* was applied was not fixed, and the decisions made by

Roman parents about which children to raise and how would have been local to their own *familiae* and communities.

Chapter Four

Dynamics of Disability for the *Bonus Pater Familias*

... *debet enim omne, quod diligens pater familias in sua domo facit, et ipse facere.*

“... for he ought to do everything himself that a careful head of household does in his own house.”

Dig. 7.65.1pr (Pomponius)

The phrase *bonus pater familias*³⁹⁹ and variations thereon⁴⁰⁰ were instrumental in the legal sources of the classical period of Roman law (c. 30 BCE—284 CE) and appeared in nonlegal written sources more broadly.⁴⁰¹ In English, it translates to “the good father of the household,”⁴⁰² and I suggest, in line with other scholars, that it encodes a set of expectations, including authority over one’s property, control over the members of the *familia*, reasonable judgement with respect to property and dependents, and masculinity of a particular type. I argue further that people who were in the legal position of *pater familias* who did not fit these expectations were disabled socially. By focusing on individuals who are excluded from the

³⁹⁹ I follow Saller 1999 in separating *pater* and *familias* rather than writing it as *paterfamilias*. I do so partly to encourage a critical distance between modern associations with *paterfamilias* as an English term.

⁴⁰⁰ E.g., *diligens, idoneus*.

⁴⁰¹ Saller 1999: 182 and 184 asserts that there are nearly twice as many references to the *pater familias* in the *Digest* alone than appear “in all nonlegal classical Latin prose texts combined.” Buckland 1930 and Molnar 1992 argue in a long-lived legal debate that the standard of liability suggested by the figure of the *diligens pater familias* is indeed classical.

⁴⁰² A translation of “male head of household” or especially “father of the household” is ultimately inaccurate or at least insufficient, according to the argument of Saller 1999: 183, 189.

distinction of being a *pater familias*, I throw into relief a distinctive Roman category of moral disability.⁴⁰³

In this chapter, I begin from the legal sources and their claims about what a *bonus pater familias* or ordinary *pater familias* consists in and, most importantly, what he does not. Then, I set these images against similar portraits that are painted in literary sources. Given this normative baseline, I illustrate the moral model of disability using the figure of the *prodigus*. I use the case study at the end of the chapter, a fictional scenario from one of Seneca's *Controversiae*, to illustrate some aspects of the role of the *pater familias* in the Roman imagination.

The notion of the *bonus pater familias* – most often associated with only a single identity category, the adult citizen man of means⁴⁰⁴ – deserves its own chapter for several reasons. One, this specific construction (*bonus pater familias* and *pater familias* rather than the role of *pater*) provides a reasonable scope within which to explore ideological parameters of disability in a group most readily represented in nearly every ancient source (i.e., high-status and/or high-class adult citizen men). Second, the *pater familias* himself is a normative/baseline figure in legal texts and functions as a key component of the functioning of a *familia*.⁴⁰⁵ Finally, the health and wellbeing of the *familia* were perceived as reflective of the health of the *res publica*, and the *pater familias* – and his ability to control his household – had a direct correlation, ideologically, with his abilities in the public sphere.

Basic Definitions: What's in a *Bonus Pater Familias*?

⁴⁰³ I take an approach similar to Gardner 1993, as she explores limitations on “being a Roman citizen,” but with a more express interest in considering disability and by focusing more narrowly on the position of a *pater familias*.

⁴⁰⁴ Importantly, I am saying the identity associated with this position, not necessarily the reality – especially with respect to gender. See Saller 1999: 184, Gardner 1995.

⁴⁰⁵ On the *pater familias* as normative and central to logic of Roman law, see Gardner 1995; Saller 1999:182-3, 188, 192-3.

A *pater familias*, *bonus* or otherwise, according to the third-century jurist, Ulpian, was a person who was *sui iuris*, that is, not legally subject to the will or power of another person. This was true regardless of age or class, and it was true whether or not one was actually a *pater* (“father”).⁴⁰⁶ Such individuals had a particular legal power over property especially, but also any people connected to them, in their *patria potestas* (“fatherly power”).⁴⁰⁷ The latter included the power to expose any children who were theirs; the power of life and death (*vitae necisque potestas*), apparently exercised much less often by the Romans than ancient Greek sources might lead one to believe and than modern social historians long presumed;⁴⁰⁸ and the sale, surrender, and recovery of people and property.

There is a crucial distinction between a *pater familias* and a “head of household” conceptually: a *pater familias* could only ever be a boy or a man, legally, because only a male person could exercise *patria potestas*, or power over his dependents (his wife if she was *in manu*,⁴⁰⁹ his children, his enslaved household). A head of household, on the other hand, did not need to be a man. Technically, as Gardner highlights, women who were *sui iuris* were the heads of their own private households, as they were able to dispense property. They lacked *patria potestas*, so could have no dependents, but they could make wills and buy and sell property.⁴¹⁰ In a definition of the *pater familias*, Saller points out the following:

In addition to the family members, the slaves and the estate were part of the *pater*’s *familia*. The *pater*’s power included several dimensions of authority: (1) his *potestas* over his children (and his wife if in *manus*), (2) his *potestas* or *dominium* over his human chattels or slaves, and (3) his *dominium* over the family’s property.

⁴⁰⁶ *Dig.* 1.6.4, 32.50.1; Saller 1999:184, 189.

⁴⁰⁷ e.g., *Dig.* 1.6.3-4 and 50.16.195.2.

⁴⁰⁸ A very persuasive case against widespread and frequent exercise of a *pater familias*’ power of life and death is found in Saller 1994, which elaborates and expands the argument of Thomas 1984. Further support for a non-tyrannical *pater familias* figure exists in an expectation in Sen., *Controv.* 1.4.8, discussed below, that a father does not force his son into a profession for which he lacks the ability.

⁴⁰⁹ The legal style of marriage in which a woman enters the *potestas* of her husband, as opposed to the style (*sine manu*) in which a woman does not and remains in the *potestas* of her natal family.

⁴¹⁰ Gardner 1995: 387.

Saller identifies the third criterion as the “minimum essential dimension” for a *pater familias* in legal discourse: one need not have children, wife, or enslaved people in order to be a *pater familias*.⁴¹¹ Saller therefore points out, following Gardner, that any citizen *sui iuris* could be considered the head of their own household, regardless of gender – but not a *pater familias*.⁴¹² Thus, regardless of the reality of women’s property ownership, the elite perception of the *pater familias* sees the figure, and especially the label of *pater familias*, only as a male role.

In addition to the base prerequisite of being a man, what characterized a *bonus pater familias*? How would Roman interlocutors have understood the usage of the phrase? In a nutshell, the expectations of a *bonus pater familias* imply an active role in management and organization of an estate, as well as in protecting things / people or promoting things / people in good condition and in good faith in accordance with prevailing Roman ideals.⁴¹³

A modern comparandum in a North American context that might be useful in this case, at least in some respects, would be the phrase “true gentleman”. Anyone of any identity can illustrate the same behaviours expected of a “true gentleman” in a social encounter and can have this label, but the picture conjured by the phrase for many in North America today entails specific identities (high status, and often white, cis-gender men) and behaviours (exhibiting politeness, decorum, and dignity, and especially as addressing “ladies” – also often read as high status and often cis-gender white women). Also, as Saller argues the *pater familias* would have done for Roman authors,⁴¹⁴ the phrase “true gentleman” hearkens to some way of being in the

⁴¹¹ Saller 1999: 184.

⁴¹² Saller 1999: 184, Gardner 1995. See *Dig.* 1.5.10, Ulpian, which settles a question of which gender category a *hermaphroditus* ought to be considered: whichever they most closely resemble.

⁴¹³ See Sáry 2020 on imagining the *pater familias* as a force for protection of the environment, both natural and built. I do not have the space to consider the role of the *pater familias* in household ritual, but this deserves further attention. For example, I credit William Soergel for their recommendation to consider Cicero’s criticisms of Clodius’s trembling hand in the ritual detailed in *De Domo Sua*.

⁴¹⁴ Saller 1999: 192.

world in an archaic, romanticized past for a particular subset of the population. Like Saller, I think a *pater familias* would have put in Roman minds the image of a man in charge of a sprawling estate, as head of a household. I would add that Roman elite values would have populated such an image with all of that – estate, household control, but also full control over any enslaved people and children in his power, and place the *pater familias* as the centre of a network of *clientes*.

Saller makes the argument that we, as scholars, ought to keep distinct the modern image of a *paterfamilias*, a stern head of the family and centre of affective kin relations, and the ancient concept of the Roman *pater familias*, which was primarily a legal descriptor of a property owner.⁴¹⁵ He argues this especially because Roman written usage seems to have been primarily legal, and Roman authors who write about the affective relationships in the *familia* use the term *pater familias* only in reference to estate ownership and not to discussions of family life.⁴¹⁶ In other words, a *bonus pater familias* was more about being a careful property owner of an estate, and not really about family relations except insofar as his dependents needed to be protected in his power. While I agree that we ought to dispel modern constructions in order to understand the nature of this ancient ideal better, it is not so easy to draw the line between property and people as Saller sees it.

Property ownership and property distribution are inherently relational. Saller himself points to testation, to will-making, as an area in which the line he paints is blurred.⁴¹⁷ A good *pater familias*, as a responsible property owner, would make a good will – and how would such a will's goodness be measured by his community? One, he would leave an inheritance greater than

⁴¹⁵ Saller 1999: 193, 197.

⁴¹⁶ *Ibid.*, 182, 185, 186-7, 190.

⁴¹⁷ *Ibid.*, 185, 191.

when he came to it,⁴¹⁸ and two, he would leave appropriate inheritance to each of the people in his life, according to what they deserved from him. How people chose to dispense their property in a will was the subject of conversation and contention in Roman literature and life, in large part because it was seen as a reflection of a person's moral character, of their commitment to observing *pietas* in appropriate measure.⁴¹⁹

Thus I assert, in some qualification of Saller, that we need to envision the *pater familias* – real and imagined – as operating in property relations with other people. Given this picture, we should realize that the *pater familias* is a role attended by expectations of a duty of care toward property and toward people.

Introduction to Moral Disability: *Infamia*

Part of what defines a *bonus pater familias* is the standard of his moral character (as obvious as it may seem to say). The ideal of the morally good person implies the countervailing possibility of moral failure. I suggest in this chapter an axis of disability, moral disability, that is possibly unfamiliar to a modern audience, but that, I argue, is fundamental to a proper understanding of disability in an ancient Roman context. I take inspiration from Wheatley's concept of religious disability as laid out in his book, *Stumbling Blocks before the Blind*, which centres disability and specifically blindness in medieval Europe. He compares the representations and cultural constructions of blindness in France and England, tracing the differences between them and the emergent similarity of a religious model of disability. In comparing his religious model with the medical model, he writes, "At its most restrictive, medicine tends to view a

⁴¹⁸ Sen., *Ep.* 64.7.

⁴¹⁹ Remember the context of Domitius Tullus in pgs. 48-52 above: Pliny the Younger praised the appropriate and dutiful distributions of his will (*Ep.* 8.18.7.). Further on will-making, see Champlin 1991. On *pietas*, see pgs. 105-106 above.

disability as an absence of full health that requires a cure; similarly, medieval Christianity often constructed disability as a spiritually pathological site of absence of the divine where ‘the works of God [could] be made manifest.’”⁴²⁰ I take from this that a religious disability, similar to my model of moral disability, consists in a bodily/mental phenomenon entangled with concepts of health and sickness, and that it ties a concept of cure inexorably to a person’s embodiment and their cultural context.⁴²¹ I highlight that, in the role of the *pater familias*, some people were perceived to be inherently morally “defective” and in need of accommodation by those around them. What my moral model of disability lacks, in contradistinction to Wheatley’s religious model and the medical model, is a robust, totalizing ideological force across vast territory. For my concept, there is no fixed institutional apparatus that would have encompassed the geographical span of the empire in a unifying fashion (unlike, for example, the institution of the medieval Church or of “Western” medicine) and that thus would have been able to establish a universal (and universally applicable) notion of the *bonus pater familias*. Roman legal sources represent an attempt at such a unifying force, but (legal historians may well argue) “attempt” is the operative word.⁴²²

The obverse of the *bonus pater familias* is therefore the focus of my chapter: the people who are perceived by jurists and literary authors as neglecting a role of care toward both the property and the people toward whom they had a duty.⁴²³ Also, I highlight people who are

⁴²⁰ Wheatley 2010: 11.

⁴²¹ Wheatley 2010: 10-19 for a definition of his religious model of disability.

⁴²² Honoré 2010 for an appreciation of the vast undertaking Justinian’s *Digest* was in itself.

⁴²³ Sáry 2020 highlights the fact that men who let their own affairs run waste could be punished by the censors and lose their position in the senate. This is also alluded to in Gell., *NA* 4.12, Plin. *NH* 18.3.11, *D.* 7.1.9pr (Ulpian), and *Inst.* 2.1.38.

perceived to be incapable of that care in the first place, such that they are excluded from the position of active care and reimagined as recipients of (paternalistic) care.⁴²⁴

One way to be the opposite of a *bonus pater familias* was to incur *infamia* – a word of multivalent meaning used frequently in nonlegal sources. The legal character of this term (and its *de facto* impact) shifted over the period of the empire. Even so, it was a real legal descriptor denoting something like “infamy” or “bad reputation,” which bore various consequences for both social interaction and property management.⁴²⁵ People tarred with the brush of *infamia* most often included those who committed serious crimes and those who engaged in “shameful” professions: gladiators, people in the sex trade – and indeed any man “who experienced womanly acts with his body”⁴²⁶ – and actors.⁴²⁷ As Gardner puts it, in the conclusion to her thorough and wide-ranging chapter on the subject:

Examination of the areas of behaviour incurring *infamia* show that these fall mainly into two kinds, the illegal and the marginal. The former are those who have abused the relation of trust between citizens on which society depends. The latter involve people regarded as frivolous and disreputable, mainly the practitioners of ‘shameful professions’, who distance themselves from the proper concerns of respectable Roman individuals, which ought to be the perpetuation of their own *familia* through legitimate procreation and the securing of its material well-being, and that of society as a whole, by husbanding and trying to enhance its material resources. The *bonus paterfamilias* is the standard against which they have been found wanting.⁴²⁸

Infamia therefore serves as a point of equivalence between those who have not played the role of the *bonus pater familias* well and a variety of people who are relegated on moral grounds to a

⁴²⁴ On the messy and power-laden issues of concepts of care in modern Disability Studies conversation, see for example Rembis 2018, Morris 2004, and Watson et al. 2004.

⁴²⁵ See Gardner 1993: 110-154 for a detailed account of these consequences in historical context. Many thanks to William Soergel for reminding me of this distinction.

⁴²⁶ As in *Dig.* 3.1.1 Ulpian: ... *qui corpore suo muliebria passus est*.

⁴²⁷ One such list of people incurring *infamia* appears in *Dig.* 3.2.1 (Julian), listing (among others) dishonourably discharged soldiers, people convicted of theft, and people who do not observe appropriate mourning periods either for widows in their power (i.e., marrying them off too soon to someone else) or for prospective brides (i.e., marrying someone while in the mourning period).

⁴²⁸ Gardner 1993: 154. *Paterfamilias* appears as a single word in that text.

place outside free (elite) adult male property ownership. In all of these cases, a kind of passivity, a lack of control over oneself and one's property, is met with disapprobation and (limited) legal consequences, creating barriers to easy property distribution.

Masculinity of the *Pater Familias*

The figure of the *pater familias* thus represents an ideal site for the exploration of the entanglement of gender (specifically masculinity), sexuality, and disability. As I mentioned, the *pater familias* could only ever be a boy or man, but that women could in theory be heads of their own households. Even so, women are the most obvious “failure” of masculine gender performance in the role of *pater familias*. Their exclusion from legal or political positions is often explained away, in some legal sources and nonlegal references, by their being “weaker” or “inferior” to men, or by prior examples of women in a position of authority who – supposedly – ruined the opportunity for every woman afterwards.⁴²⁹ Carfania is the most famous of this latter group. She was a woman in the republic supposedly infamous for litigiousness – so that Valerius Maximus could say that “Carfania” became a go-to insult for people to use against impudent women, and Ulpian could report that Carfania was the reason women were not allowed to represent anyone before the praetor any more.⁴³⁰ Ulpian cites a worry about women's modesty as the reason, charging Carfania with immodesty and shamelessness in her conduct and suggesting not only that a woman involving herself in someone else's suit was inappropriate but also that litigation was a man's enterprise.

⁴²⁹ Dixon 1984; Evans-Grubbs 2002: esp. 46-64; Gardner 1993: esp. 85-109, which includes the example of Carfania.

⁴³⁰ Val. Max. 8.3.2, *Dig.* 3.1.1.5 Ulpian.

In nonlegal sources, women are either imagined as careful conservators of the legacy of a *familia*, or their relationship to wealth is lampooned: women could be highly susceptible to luxury in the Roman imagination.⁴³¹ It was an automatic accommodation that a *tutor* be assigned to every woman to oversee her financial affairs. This could only be nullified if the woman became *sui iuris* – and one way to achieve this in the period of the empire was to have three children.⁴³² This is not to say that women did not engage in civic life or have a prominent role within the household; to the contrary, in fact, women played crucial roles in both respects. It is simply the case that, in general, their involvement was prominently *de facto* rather than *de iure*. The *pater familias* of the elite Roman imagination would not be a woman – as Gardner puts it, “the female is embraced by the male and becomes invisible.”⁴³³

The Prodigus as Foil to *Pater Familias*

A few questions to shore up the notion of moral disability: when is moral failure simply moral failure – as we might recognize in any conversation around morality in any historical context – and when is moral failure instead moral disability of a character peculiar to the Roman context? What is the use or historical interest in such a concept? For the answers to these questions, we can avail ourselves of a description of a constructed figure, of a label that was attached to real people and had real consequences in life and at law: the *prodigus*. The *prodigus* is variously translated as “spendthrift”, “wastrel”, and “prodigal”. In even clearer English, a *prodigus* is subject to overwhelming luxury and cannot control his spending. The third-century

⁴³¹ On susceptibility of women to luxury, see e.g., Plin., *HN* 12.41.

⁴³² The *ius trium liberorum*, which was sometimes awarded to individuals without the labour of bearing three children.

⁴³³ Gardner 1995: 387.

jurist Ulpian describes this figure as someone “who possesses no time limit or boundary on spending but pours out his property by frittering it to pieces and scattering it”.⁴³⁴

The legal status of the *prodigus* is mentioned in the same breath as – and receives the same treatment as – the legal status of a *furiosus*, the figure we met in Chapter One.⁴³⁵ This legal analogy dates back to the Twelve Tables, and it appears throughout the *Digest*.⁴³⁶ Both categories of person are not trusted to act in their own best interest and are stripped of agency in legal affairs, as they are subject to an *interdictio bonorum*⁴³⁷ and are unable to make an oath or valid pact.⁴³⁸ Because of their perceived lack of judgment, they would be assigned a *curator*, or conservator, to manage their affairs for them.⁴³⁹ By the third century CE, a *curator* was not merely a conservator holding the purse strings, but a guardian of a more general character: a *curator* comes to have not only the role of vetoing or approving financial decisions but also the added responsibility of ensuring the wellbeing (however loosely defined) of his ward.⁴⁴⁰

It might be argued that the *prodigus* is not an individual with a moral disability but rather that he is a mentally disabled figure, a person whose judgment is not deemed trustworthy and in his own best interest by jurists, exactly like the *furiosus* or a *demens* (a variation on *furiosus*).⁴⁴¹

⁴³⁴ *Dig.* 27.10.1pr, Ulpian: *qui neque tempus neque finem expensarum habet, sed bona sua dilacerando et dissipando profudit.*

⁴³⁵ The closest English translation for *furiosus* is “mad,” referring to someone who is not believed to be rational. For further discussion, please see p. 22 and n. 52 above.

⁴³⁶ Twelve Tables: 5.7c in Bruns; 5.7 in Crawford ed. Select references using this analogy (either to *furiosus* or similar figures) in the *Digest*: 2.14.28 Gaius; 26.7.48 Hermogenian; 26.10.3 Ulpian; 27.10 Ulpian; 32.50.2 Ulpian; 42.4.7.9-12 Ulpian; 46.2.34.1 Gaius.

⁴³⁷ *Interdictio bonorum* = an interdiction on someone’s goods that excludes them from access to dispensation of their property, as in Berger 1953: 507, s.v. *interdicere bonis*.

⁴³⁸ Oath: *Dig.* 12.2.35.1 (Paul); pact: *Dig.* 2.14.28 (Gaius).

⁴³⁹ Readers in the wake of the #FreeBritney campaign, which in 2020 and 2021 sought to emancipate celebrity Britney Spears from the conservatorship of her father, might find resonances with conversations around conservatorship. Many thanks to William Soergel for pointing out this modern parallel.

⁴⁴⁰ Historical development of the position of the *curator* from the time of the Twelve Tables to the codification of Justinianic law is attested by Berger 1953: 420 s.v. *cura*, Jolowicz and Nicholas 1972: 121-2.

⁴⁴¹ This is the stance taken by Voutyras 2011, who perceives a continuity between ancient definitions of passion, Christian definitions of sin, and modern pathological descriptions of mental illness.

There are at least two persuasive counterarguments, however: first, the *prodigus* finds himself in a morally loaded condition which has no comparandum in the case of the *furiosus*, and, second, a *prodigus* individual cannot be tested for something medically, as a *furiosus* or a *demens* could, to determine whether he was “truly” a *prodigus*.

On the moral point, it is a commonplace to say that giving into luxury was antithetical to morality in many elite circles of Roman society, especially among those of a Stoic persuasion.⁴⁴² Therefore, the intimate relationship of luxury and moral turpitude in Roman imaginations is overdetermined. Elsewhere, in nonlegal sources, luxurious behaviours are regularly lampooned and the ever-present spectre of luxury loomed over the *pater familias*, inextricably entangled with threats to masculinity. Luxurious behaviours could include an enjoyment of gastronomy, whether in the procurement of rare foods or in hiring cooks skilled in the confection of elaborate dishes; extravagant dress or jewellery; making any ostentatious displays of wealth, including in funerals; collecting unusual things (or people!) or engaging in generally dissolute behaviour like playing at dice. Responsibility for such behaviours is usually laid squarely on the shoulders of the people exhibiting them; occasionally other parties are blamed for their undue influence. In such sources, the *luxuriosus* is usually an agent of extravagance.

Contrary to his representation in nonlegal sources, the *prodigus* in legal sources is not cast as responsible. As Antoninus Pius ruled in a situation in which a mother asked for her sons to be declared *prodigi*, the assumption is that these people ought to be cared for because of the state of their mind (however non-*furiosus* they might otherwise seem). Ulpian reports:

The deified Pius allowed the complaint of a mother about her prodigal sons (*filiis prodigis*), that they receive a *curator*, in these words: “It is nothing new that some people, even if they seem from their conversations to be in possession of their

⁴⁴² Wallace-Hadrill 2008 situates probable motivation for such luxury in elite status competition, and specifically in a competitive display of consumption. For more on luxury, see Edwards 1993, Berry 1994, Dalby 2000, and Zanda 2011.

mind, nevertheless treat the property belonging to them in such a way that, unless this be helped, they are led into poverty. And so let someone be chosen who directs them with advice: for it is fair that we look out for those who bring about a mad destruction (*furiosum exitum*) in respect of what pertains to their own property.”⁴⁴³

The fact that the emperor needs to state this reasoning in full is suggestive of possible resistance to the thought that spendthrifts deserved care.⁴⁴⁴

At the same time, the legal protections and allowances that were afforded to a man of spendthrift character differed from those afforded to people who could manage their money. For example, an action for fraud is not to be given to “a *luxuriosus* and *prodigus* or any other worthless/cheap person (*vilis*) against a person of a more correct way of living.” In other words, if a *luxuriosus* or *prodigus* accuses someone else of fraud, but it is agreed by the community that, if the accused is of a “more correct way of living” than the accuser, then the accuser will not win the case regardless of the merit of his claim.⁴⁴⁵ Ulpian adds the parallel situations of a low-rank person accusing a higher-status person of fraud, or of a plebeian person accusing an acknowledged authority.⁴⁴⁶

I am using masculine pronouns deliberately in this case, as the *prodigus* in the Roman imagination was almost exclusively a (free) man. The only situation in which a woman is called

⁴⁴³ Dig. 26.5.12.2 Ulpian: *Divus Pius matris querellam de filiis prodigis admisit, ut curatorem accipiant, in haec verba: " non est novum quosdam, etsi mentis suae videbuntur ex sermonibus compotes esse, tamen sic tractare bona ad se pertinentia, ut, nisi subveniatur is, deducantur in egestatem. eligendus itaque erit, qui eos consilio regat: nam aequum est prospicere nos etiam eis, qui quod ad bona ipsorum pertinet, furiosum faciunt exitum".*

⁴⁴⁴ As a near-contemporary reaction from another quarter, one might think of the elder brother’s response to the “prodigal son” in the New Testament parable, Luke 15:11-32. A father with two sons bequeaths his wealth to them early, at the request of the younger son. When left to his own devices, however, the younger son squanders his patrimony, and as the money runs out, he experiences time in poverty and in servitude to others. Eventually, this “prodigal son” decides to return and beg forgiveness for his sins against his fathers both earthly and spiritual, and his parent on earth is quick to celebrate his return with the sacrifice of a fattened calf. The elder son is piqued at this; he feels that his own responsible conduct with respect to his patrimony has gone not only unrewarded but indeed affronted – here is his younger brother, spendthrift and yet forgiven, even celebrated. His father tells him that there is every reason to rejoice and make merry because the younger brother was lost and dead but is now alive again. (In this context, the Greek equivalent of *prodigus* is ἄσωτος.)

⁴⁴⁵ Gell., *NA* 14.2.1-25 shows the quandaries introduced by similar concerns when Gellius himself was serving as a *iudex*, a lay judge.

⁴⁴⁶ Dig. 4.3.11.1 Ulpian: ... *vel luxurioso atque prodigo aut alias vili adversus hominem vitae emendatioris.*

prodiga – to my knowledge – is in Juvenal’s *Satires* 6, where the speaker rails against the *prodiga... femina* who is insensitive to her husband’s dwindling wealth. The husband, in contrast, foretells cold and hunger for himself.⁴⁴⁷ It is unclear whether there is provision for *sui iuris* women to be classified as *prodigae* and receive appropriate accommodation.⁴⁴⁸

Enslaved people exhibit similarly “irresponsible” behaviours with respect to money and resource management, as the Curule Aediles’ Edict attests, but they never receive the descriptor of *prodigus* and certainly do not receive the accommodation of a *curator*. For example, Ulpian tells us that Pomponius, a jurist in the late first through early second centuries CE, declared there would be no refund for those who found their newly-purchased enslaved people to be “gamblers and wine-guzzlers... nor gluttons, imposters, liars, or the litigious.”⁴⁴⁹ Similarly, the jurist Gaius writes:

If the seller affirms something about the property [i.e. the enslaved person] and the buyer complains that this is not so, it is possible to proceed with a refund or discount (that is, *quanti minoris*) case; for example, if he affirms that they are constant or hardworking or swift or watchful, or that they acquired a *peculium* (“allowance”) through their frugality, and he [the buyer] finds them to be, on the contrary, fickle, violent, rebellious, sleepy, indolent, sluggish, or an eater.⁴⁵⁰

Here in a near-pairwise set of opposites, desirable characteristics for a slave buyer are contrasted with undesirable counterparts: constant vs. fickle, hardworking vs. violent, rebellious, and sleepy, swift and watchful vs. indolent and sluggish. The final pair contrasted is a financially

⁴⁴⁷ Juv., *Sat.* 6.360-5: *prospiciunt aliquando viri, frigusque famemque formica tandem quidam expavere magistra: prodiga non sentit pereuntem femina censum. ac velut exhausta recidivus pullulet arcanummus et e pleno tollatur semper acervo, non umquam reputat quanti sibi gaudia constant.*

⁴⁴⁸ The gender is unclear because the masculine terms in the *Digest* are understood to refer to both men and women, e.g., *Dig.* 50.16.195pr. For more on this, see Gardner 1995.

⁴⁴⁹ *Dig.* 21.1.4.2 Ulpian: *...aleatores et vinarios... gulosos nec impostores aut mendaces aut litigiosos...* A similar assertion about gambling appears at *Dig.* 21.1.19.1 (Ulpian), which sees a vendor liable if the vendor makes a false assertion that the enslaved person is not a gambler (*aleator*), which suggests that this constitutes a *vitium animi* or “defect” of the mind.

⁴⁵⁰ *Dig.* 21.1.18pr Gaius: *Si quid venditor de mancipio adfirmaverit idque non ita esse emptor queratur, aut redhibitorio aut aestimatorio (id est quanti minoris) iudicio agere potest: verbi gratia si constantem aut laboriosum aut curracem vigilacem esse, aut ex frugalitate sua peculium adquirentem adfirmaverit, et is ex diverso levis protervus desidiosus somniculosus piger tardus comesor inveniatur.*

careful enslaved person who is watchful over their belongings (even though those belongings ultimately belong to their owner) against an enslaved person who is an “eater” – an enslaved person with an excessive appetite. The characteristics here derided – gambling and excessive eating – were grounds for a free man to be called luxurious, excessive, and likely a *prodigus*, but this same adjective is never applied to an enslaved person in this edict. (It is also likely the case that a free person eating to their peers’ ideas of excess looked very different from an enslaved person eating to the slave buyer’s idea of excess.)

The legal sources’ focus on the free man (probably a man of means) arises, I think, because of the expectation that the *pater familias* fulfills a *curator*-like function himself over the people in his respective *familia*. There is a presumption of asymmetric control and care. In exchange for the services of his household and *clientes*, the *pater familias* (or *filius familias* of majority age and relative financial control) would be engaged in active care for his property and the people attached to it. Indeed, one of the meanings of *pater familias* that Saller points to is the idea of the Roman man *qua pater* of the slave *familia* – which, the sources state, is supposed to evoke the image of a gentle, beneficent enslaver like a father to his children.⁴⁵¹

This also highlights the difficulty – and great interest – in the obvious social element of being labeled a *prodigus*. Being a *prodigus* was an ill-defined condition, with no hard and fast criteria to determine when an individual had moved beyond the conventional and celebrated acts of generosity expected of a wealthy man within his local community (e.g., giving banquets, putting on spectacular events, putting money into local infrastructure) into the selfish and/or foolish squandering of resources for short term personal enjoyment – and what all that might

⁴⁵¹ E.g., Sen., *Ep.* 47.14 and Lactant., *Div. Inst.* 4.3.17, according to Saller 1999: 192.

mean for his future.⁴⁵² There is some (albeit minimal) suggestion in the *Digest* that someone could recover from being a *prodigus*. In the definition of a *prodigus*, Ulpian elaborates thus:

... both [the *furiosus* and the *prodigus*] will be under a curator for as long as it takes for the *furiosus* to take back his health (*sanitas*) or that one [the *prodigus*] his healthy habits (*sanos mores*); and if this will happen, by this very law they will stop being in the power of the curatores.⁴⁵³

So, *de iure* at least, a *furiosus* and a *prodigus* can shed their undesirable status.

The degree of an individual's prodigality, and any "recovery" therefrom, however, would have been measured by the people around him.⁴⁵⁴ We can reasonably expect that those who stood to gain or to lose from his actions would have a deep interest in either labeling him a *prodigus* or, conversely, in preventing that label from sticking. Family members hoping to inherit as much money as possible might strive to keep the estate intact, wresting the purse-strings from the man in charge before he is too loose with them. On the other hand, a community that benefits from the spending of a wealthy man might wish for that spending to continue and might not see fit to attach the label of *prodigus*.⁴⁵⁵ Thus, *prodigus* was likely a flexible and instrumental label, liable to recovery and lapse, depending on those around the person in question.⁴⁵⁶

My assertion about the *prodigus*, and about its instrumentality as a label, might amount to no more than speculation. When we examine the figure of the *furiosus*, *demens*, and related

⁴⁵² This is a point on which Voutyras 2011: 312-317 and I converge. Voutyras, however, also examines this in dynamic historical perspective, pointing up the changing character of defining "prodigal" donations: from acceptable charity in accordance with one's station (which she locates in Aristotelian thought onward) into the Christian ascetic mode of giving up more than one can afford to the Church.

⁴⁵³ *Dig.* 27.10.1pr Ulpian: *et tamdiu erunt ambo in curatione, quamdiu vel furiosus sanitatem vel ille sanos mores receperit: quod si evenerit, ipso iure desinunt esse in potestate curatorum.*

⁴⁵⁴ On the trope of the expensive expectations at Rome for elite circles, see Sen., *Ep.* 5.50.3; Lucian, *De mercede conductis*; Mart., *Ep.* 1.2 and 2.99 (although *passim* through the *Epigrams*); Arr., *Epict. diss.* 4.13-14. Juvenal calls Rome herself *prodiga* (*Sat.* 7.138). Cicero (*Off.* 2.54-6) has opinions about the boundary between appropriate euergetic impulse and prodigality.

⁴⁵⁵ On subjectivity, again see Voutyras 2011: esp. 313. Voutyras also makes a key connection to Veyne's 1976 *Le Pain et le Cirque* on euergetic practice (320).

⁴⁵⁶ Indeed, Voutyras (2011: 341-344) discusses the possibility of contestation of wills (*querela inofficiosi testamenti*) for wills that were made by those who afterward might have been perceived as *prodigi* (and therefore to have been incapable of valid will-making).

categories, however (which I have mentioned already in analogy with the *prodigus*), we do have evidence about the instrumentality of “madness” as a label. As I have explored in previous chapters, *furiosi* especially are treated on analogy with children, animals, and even a falling roof tile in respect of their culpability or capacity for wrongdoing.⁴⁵⁷ They are deemed incapable of the management of their own affairs, because they are believed not to have reason.

There was concern, certainly by the third century CE in legal sources but earlier in others, to prevent *patresfamilias* from being wrongfully labeled *furiosus* and *demens*.⁴⁵⁸ People who are technically legal dependents of the *pater familias* could call his judgment – and therefore his authority over their lives and livelihood – into question and gain financial advantage. One need only look to the genre of declamations – especially Seneca the Elder’s *Controversiae* – to witness the ease with which the label is thrown around; such accusations are often implied to have been made not in good faith.⁴⁵⁹ In one *controversia*, for example, a father encourages his daughter to kill herself. When she does, he defends himself against a subsequent accusation of being *demens*:

Powerless I am, and I am cruel, I am severe, but nevertheless I am not mad. You should conform your habits (*mores*) to your father, not command [the habits of] a father. Speak: you are foolish, you understand nothing; I will collect evidence of my sanity, if I will be able; I will speak: in the senate I have said an opinion that wasn’t stupid. What do I seem to you to have done madly? Have I conducted my roles badly? You should collect many indications of my madness; you are not able to condemn a father on account of words – no, really, on account of a single word. If any father can be condemned of *dementia*, even if he is not *demens*, because of some unproven deed, then maybe this father could be.⁴⁶⁰

⁴⁵⁷ See Ch.1 above for the discussion of legal capacity to consent. Gai. *Inst.* 3.109 for analogy with children; *Dig.* 9.2.5.2 (Ulpian), in the question of fault for damage; *Dig.* 9.1.1.3 for description of lacking sense; for a full discussion, see Toohey 2013: 449.

⁴⁵⁸ *Dig.* 27.10.6, in which Ulpian advises not to select a *curator* without careful investigation first, as some may feign being *furiosus*.

⁴⁵⁹ The *controversiae* that foreground madness in some form include Sen., *Controv.* 2.3, 2.4, 2.6, 3.7, 3.9, 6.7, 7.6, and 10.3. See also Ps.-Quintilian *Declamationes Minores* 256, 290, 314, 364. The *Declamationes Maiores* include references to madness, but none of the cases hinge upon (nor describe in detail) a finding of madness.

⁴⁶⁰ Sen. *Controv.* 10.3.7-8: *Inpotens sum, crudelis sum, inmitis, non tamen demens. Mores tuos patri debes adprobare, non patris regere. Dic: desipis, nihil intellegis; ego sanitatis meae, si potuero, argumenta colligam;*

Moreover, in the legal sources of the *Digest*, there was a special investigation required to determine one's "madness" – a *cognitio* into a person's mental state. King in his 2000 dissertation on the topic explores what such investigations might have entailed, and provides the following summary, which I lay out in enumerated steps:

1. An action for someone being *furiosus*, *demens*, etc. is brought to a praetor or governor by an interested party (e.g., child, spouse, or agnate, like a brother).
2. The interested party presents a case that the person is indeed *furiosus*, *demens*, *amens*, etc. because of a disease, and that he is not being accused just for making an unpopular decision.
3. The praetor assigns a lay juror (*iudex*) from a short list of eligible people (*album*) to undertake an investigation (*cognitio*) of the case.
4. The *iudex* summons people to interview and ask questions, as King suggests, "How has the subject been acting?" and "How long has the subject been acting this way?"
5. Then, as King puts it (with some modifications): "If the subject for example had deeded all his property to his wastrel younger son, and left exactly nothing to his sober older son, [...] but displayed no physical or behavioral signs of [madness], such as charging about with a flushed visage, one imagines that this case would be thrown out. For the law states that only those who are [mad by means of a disease] can have a curator appointed to them."⁴⁶¹

dicam: in senatu non stulte sententiam dixi. Quid tibi videor fecisse dementer? partes male egi? Multa debes dementiae signa colligere; damnare non potes patrem propter verba, immo propter verbum. Si damnari dementiae aliquis pater, etiam non demens, ob aliquod improbandum factum potest, an hic possit. Emphasis my own.

⁴⁶¹ King 2000: 109.

As emerges somewhat in the Senecan declamation, it was important (to jurists, to lawmakers, and to the people in question) at the time to find an empirical, medical justification for being *furiosus*.

As one might glean from my first chapter, there is overlap in the challenge *furiosi* vel sim. pose for the capacity for intent to be married and, as is the focus of this chapter, the capacity to be a *pater familias*. At a basic level, the issue concerns the person's ability (as evaluated by others) to make decisions in their own best interest. What emerges from a comparison of these two situations, however, is that jurists are much more concerned about classifying and excluding the *pater familias* from legal agency and privilege than they are about people who become *furiosi* after they are married. Whereas jurists were willing to live and let live somewhat if the parties were married and one became *furiosus*,⁴⁶² their worries about a *pater familias*' mental state were constantly being put forward.⁴⁶³ The very fact, too, that accommodation was made for periodic lapses of judgment (i.e., not simply the blanket category of a constant madness) attests to the attention paid to the mind of a property owner: the agency of a *pater familias* who made a legal decision (especially a will) during a lucid period, despite being “mad”, would be protected.⁴⁶⁴

More on Community-Ratified Ability

That said, mental state was a socially established element in ancient Rome – how one's mind worked would be determined by others via expectations of how “effective” one's methods

⁴⁶² *Dig.* 23.1.8 (Gaius) and *Dig.* 23.1.16.2 (Paul).

⁴⁶³ Noted also by Gardner 1993: 168.

⁴⁶⁴ *Dig.* 27.10.1pr. (Ulpian) makes clear that lucidity / recovery of health (*sanitas*) for *furiosi* ends curatorship. King 2000 also points up the distinction for legal thinkers between perpetual madness and madness *cum intervallis*.

of communication – via hearing, speaking, and writing – were.⁴⁶⁵ Therefore, communicative expectations existed for someone in the position of a *pater familias*, and what these were would have been determined by the community in which he lived. As I mentioned in Chapter One, legal sources often group people disabled in this respect under three labels: *caecus* (“blind”), *mutus* (“nonverbal”), and *surdus* (“deaf” or “deaf and nonverbal”). People who were labeled *mutus* or *surdus* had less legal agency than people who were not, and although people who were *caecus* had fewer restrictions at law, all three groups were legally disabled. *Muti* and *surdi* were in many cases unable to make their own wills⁴⁶⁶ and could not serve as *tutores* or as *curatores* for others.⁴⁶⁷ People with blindness seem to have been less markedly excluded from many legal decisions – a fact perhaps either highlighting the primacy of an auditory and oral culture or the prevalence of blindness in the general population.⁴⁶⁸ They are only expressly restricted from making applications to a magistrate if they are fully blind because they are believed to be unable to see and respect the insignia of the magistrate.⁴⁶⁹

These limits on decision-making might have had little to do with the sociological reality outside of legal decisions. What were other expectations in other contexts, from the perspective of elite authors? In the case of blindness, for all that we have seen that blindness is not the most legally disabling of these three labels, there exists throughout Greek and Roman texts a

⁴⁶⁵ This is a feature which appears again and again in multiple historical contexts. There exists a long history of educators especially incorrectly diagnosing learning disabilities in people who are deaf or hard of hearing, when the real issue was hearing educators’ inability to sign or otherwise communicate with deaf or hard of hearing students.

⁴⁶⁶ Unless they became *muti* and *surdi* in later life by illness or accident, and they had already made a will: *Dig.* 28.1.6.1, Gaius. Ulpian details the reasons why *muti*, *surdi*, *furiosi*, and *prodigi* cannot be testators.

⁴⁶⁷ *Dig.* 26.1.1.2-3, Ulpian: ... *quia non tantum loqui, sed et audire tutor debet* (“...because a *tutor* should not only speak, but also listen”). For a detailed exploration of the legal disabilities of *muti* and *surdi*, see Gardner 1993: 159-167.

⁴⁶⁸ The former is a point also highlighted in Gardner’s exploration of the legal disabilities (and abilities relative to *muti* and *surdi*) of blind people: Gardner 1993: 156-9.

⁴⁶⁹ *Dig.* 3.1.1.5, Ulpian. Also, much like the treatment of madness within marriage, people who become blind over time are given leeway in public office: a man who becomes blind keeps his senatorial rank, can act as a judge, and can retain any magistracy he already holds. For a more detailed exploration of the situation of the blind man in the court room, see Gardner 1993: 113 and 158-9.

representation of the “tragedy” of blindness, often as a metaphor for evils and misfortunes – and as concomitant with a position of precarity economically.⁴⁷⁰ In Pseudo-Quintilian’s major declamation of the blind stepson, for example, the son sleeps in a bedroom in the innermost part of the house and seems to have an isolated existence.⁴⁷¹

At the same time as such constructions of a “tragedy” of blindness existed, however, there were also plenty of adult citizen men who acquired blindness and nevertheless maintained a prominent position in, and indeed were well integrated into, society.⁴⁷² Diodotus the Stoic philosopher, for example, is described by Cicero in terms of his pursuits. Cicero explains that Diodotus lived in Cicero’s house for many years and studied philosophy, played music, taught geometry, and had attendants read to him at all hours of the day. Cicero remarks on his ability to conduct his life and pursue his interests without difficulty.⁴⁷³ Other famous blind men of Rome mentioned in this Ciceronian passage alone include Appius Claudius Caecus, the politician responsible for the Via Appia; C. Livius Drusus, a jurist in high demand; and Gnaeus Aufidius, an ex-praetor.⁴⁷⁴

It is challenging to find in either a Greek or a Roman context prominent adult citizen men who were blind from birth, but it is likely that people blind from birth were not treated as exceptional to the degree a modern reader in Anglophone North America or Europe might

⁴⁷⁰ Echoed in some ways in a modern Greek context in Bernidaki-Aldous’ 1990 work. Trentin 2013 emphasizes that these are merely representations, not sociological reality.

⁴⁷¹ Ps.-Quint., *Declamationes Maiores* 1.

⁴⁷² E.g., Appius Claudius (*Dig.* 3.1.1.5), C. Livius Drusus (Cic. *Tusc.* 5.112; Val. Max. 8.7.4), Gnaeus Aufidius (Cic. *Tusc.* 5.112), Diodotus the Stoic (Cic. *Tusc.* 5.113). See also Trentin 2013 and De Libero 2002.

⁴⁷³ Cic., *Tusc.* 5.113. Cicero even shares a flirty joke from a fourth century BCE philosopher, Antipater of Cyrene, who said to some women who were lamenting his blindness, “Why are you upset? Do you think there is no pleasure [to be had] in the night?” (*Quid agitis?* inquit, *an vobis nulla videtur voluptas esse nocturna?*, *Tusc.* 5.112).

⁴⁷⁴ All are mentioned in Cic. *Tusc.* 5.112, but Appius Claudius Caecus is also mentioned at *Dig.* 3.1.1.5, and C. Livius Drusus at Val. Max. 8.7.4.

anticipate.⁴⁷⁵ Rose, in her work on the Greek context, suggests that the absence of people blind from birth in the historical record is not a reflection of absence from society: she contends that it is ableist modern perspectives that encourage us to read their absence in that way, and that we cannot assume without evidence that ancient people with blindness were so marked.⁴⁷⁶ Many ancients, in Rose's view, would have been familiar with blindness and visual impairment.

People with deafness and mutism are also reasonably well attested, and there is even some mention historically of gestural communication in a Platonic dialogue.⁴⁷⁷ If they were believed by the people around them to be able to communicate their thoughts and understand the thoughts of others, and in a way that would find them accepted as decision-makers, then, they could be less disabled from the category of the *pater familias* – at least socially.

This emphasis for the *pater familias* to be a legal agent requiring mental and moral “baselines” partly explains a fascinating departure from expectations common in Anglophone North America and Europe. In these contexts, the first axis of disability imagined by many people tends to be the physical: the symbol for disability in public infrastructure and popular discourse is embodied in a wheelchair.⁴⁷⁸ In sharp contrast, mobility impairments receive very little attention in Roman legal sources. The only mention seems to be in the *Twelve Tables*, in which it is not a disability but receives explicit accommodation: sickness and old age would mandate that the defendant be provided (by his summoner) with transportation to court (1.3).⁴⁷⁹

⁴⁷⁵ Rose 2003: 93 and Trentin 2013: esp. 108-111. Likewise Laes 2018: 105 states that “a wealth of information on everyday situations concerning blind people is contained in the body of Roman legal writings” and that “blind people, unlike those with other disabilities, were not regarded as ‘special cases’ in legal situations.”

⁴⁷⁶ Rose 2003: 148-9.

⁴⁷⁷ Pl., *Cra.* 422.

⁴⁷⁸ In the perverse nature of disability representation highlighted by Mitchell and Snyder 2014, there is representation everywhere as symbolic, but that token representation is shallow and merely symbolic: one need only think about how many wheelchairs are represented and how few are legitimately accommodated to realize the discomfort between the metaphorical and the real.

⁴⁷⁹ Although he did not have to provide cushions for the defendant if he did not want to.

Despite the sound and fury in nonlegal sources about children’s legs and manner of walking, as I explored in Chapter Three, nothing about children’s mobility has a prominent role in legal sources.

Two possible reasons for this silence exist: one, that it was not terribly important that a *pater familias* be mobile to a particular standard in order to fulfill his duties *qua pater familias*;⁴⁸⁰ two, that accommodation and supportive technologies and/or prostheses,⁴⁸¹ plus the normative inclusion in wealthy households of enslaved attendants *qua* caregivers,⁴⁸² were readily available to the *pater familias* (when imagined to be an adult citizen man of wealth and/or high status) and could attenuate any socially disabling effects of limited mobility. For example, when Pliny relates to a friend that he is “playing the part of the *pater familias*,” he says that he has mounted his horse and is riding about the grounds,⁴⁸³ and there is much earlier precedent for someone using a horse as transportation accommodation. In a fifth-century Athenian forensic speech, a person with a mobility impairment, labeled ἀδύνατος (lit. “unable”), is attempting to get a stipend from the Athenian people; in order to do so, he has to explain why he has access to riding a horse when he is supposed to be financially insolvent. His answer is that he needs to ride the horse for accommodation’s sake, and that he borrows the horse from a wealthy friend.⁴⁸⁴ A wealthy person with a mobility impairment, then, could quite easily play the role of the *pater familias* in that sense: moving through his property did not require a specific means of movement.

⁴⁸⁰ This accords with the findings of Laes 2018: 161.

⁴⁸¹ On prostheses, see Draycott 2019 and 2021, Bliquez 1983 and 1996.

⁴⁸² As Domitius Tullus complains in Plin., *Ep.* 8.18.7-10 (pgs. 48-52 above). There are elements of ordinary intimacy for personal grooming (hair-dressing, shaving, dressing in clothing, etc.) that do not solicit comment, because that would have been the norm for any fashionable household. Enslaved people could also be subject to all manner of intimacies outside these regular grooming practices and care practices as in, e.g., Mart. *Ep.* 3.82 where an enslaved person is tasked with holding his (inebriated) owner’s penis during urination.

⁴⁸³ Plin., *Ep.* 9.5.

⁴⁸⁴ *Lysias* 24. For more on this speech and the related legislation, see Dillon 1995 and 2016.

A *pater familias* with a mobility impairment could – in theory – be nondisabled in the context of his own household, especially since expectations placed upon him would relate to property distribution and household management, and these might not require actions he could not do, and he could be nondisabled in respect of the law. For example, the second-century C.E. satirist Lucian mocks a wealthy man from Asia who uses wooden prosthetic feet and leans on his enslaved attendants for support. However, Lucian’s point of ridicule is not so much that the man has limb difference, but that the man is interested in adorning his feet with expensive, eye-catching shoes in public.⁴⁸⁵ While the fact of the man’s prosthetic feet is part of the joke, they are not the target – the man’s elaborate overspending is.

On the Hero Head-of-Household

I will now explore a case study of a *pater* (and likely a *pater familias*) whose hands were cut off in the context of war, as it illustrates clearly some elements of the imagined *pater familias* I have addressed in this chapter. An important caveat is required: whereas the case studies of my previous chapters (Domitius Tullus and his wife, Clesippus, and Claudius) were based on real people whose lives were somehow (however scantily) documented, this case study comes from a declamation and therefore, as far as we know, does not depict an historical event.⁴⁸⁶ As we have seen in earlier chapters, declamations as a genre are useful for exploring dynamics of disability because they evince cultural expectations among the free, elite Roman male set who enjoyed declamations as performance and pastime. The genre was useful in its own time for working out exceptions to the rules and for figuring out grey areas in the law and in the minds of elite Roman

⁴⁸⁵ Lucian, *Adversus Indoctum et Libros Multos Ementem* 6.

⁴⁸⁶ This is not true of all declamations: see Sussman 1987: 247, n.1.

men.⁴⁸⁷ In other words, declamations contain some limited recognition of the fragility, flexibility, and diversity of the human condition for people who may or may not have shared these conditions to roleplay and explore in imaginary context. When providing reasoning for or against a position, the declaimers often took on the voice of the imaginary interlocutors. In a strange way, then, this genre gives some “voice” to disabled people – but not an authentic / narrated / autobiographical voice.

In using this material, one also ought to consider the fact that the conditions presented are often made to be metaphorical and/or instrumental to the question.⁴⁸⁸ Put another way, the specific bodily and mental phenomena that receive attention in the declamations are not likely representative of the bodily and mental phenomena that would have been disabled or disabling most frequently for *patres familias* elsewhere, in sociological reality.⁴⁸⁹ At the same time, they can provide some insight into particular experiences, as imagined by people who might or might not have had them themselves. For example, in the case I examine here, it is a man with acquired limb difference. Nonlegal written sources regularly attest to Roman men with limb differences,⁴⁹⁰ but such conditions do not enter legal discussion of the *bonus pater familias*.⁴⁹¹ I

⁴⁸⁷ Fantham 2004.

⁴⁸⁸ Rather than the documentation of a real condition. See Mitchell and Snyder 2014 for the related concept of narrative prosthesis: the idea that authors of stories can deploy disability as a narrative tool, using it as a symbolic representation.

⁴⁸⁹ Indeed, the attention that skin conditions receive, for example, in Celsus, *Med.* (especially Book 6, but *passim*), seems illustrative of what an ancient doctor might spend a great deal of time working with as a pathologized complaint. Authors of letters, too, such as Cicero, Pliny, Seneca, and Fronto, are somewhat vague about people being ill in general; they might speak about headaches, nausea, fevers, and aching fingers, but as a general rule do not tend to pinpoint nor discuss specific conditions in sustained detail. Gout was probably a more prevalent and disabling issue from a physical standpoint (see Laes 2018: esp. 161), but one in which it was possible to find humour: the amusement in a short parody tragedy by Lucian (*Podagra*) hinges on the inevitability and serious pain of the feet.

⁴⁹⁰ E.g., M. Sergius Silus, who had an iron hand (Plin., *NH.* 7.104-6); also Galba, whose hands were affected by gout to the point that he could not unroll a scroll (Suet., *Galba* 21). On a veteran described as having a limp from a war wound, see Cic., *De or.* 2.249. For further examples, see Laes 2018: 160-165.

⁴⁹¹ Where a person’s limb difference has come about through the harmful actions of another person and recompense is required, it is not specified that this applies to a *pater familias* but rather to anyone (whether *sui iuris* or not). The only distinction is between enslaved and free (e.g., Twelve Tables 8.2-3). Book 9 of the *Digest* is organized in part

chose this case, however, as it highlights symbolic associations of the *pater familias* with hands, and with the loss of hands, and it centres the position of the *pater familias* as representative of stable masculinity and household control.

In his *Controversiae* 1.4, Seneca writes of a case centred on the following laws: “If [a man] catches adulterers [i.e., his wife and another person], [he] can kill them, provided that he kill them both at once,” and “It is also/even permitted that a son may punish a mother for adultery.”⁴⁹² The facts of the case calling these laws into question are as follows: a war hero (lit. “strong man” or *fortis vir*), whose hands were cut off in the war, catches his wife and her lover in the act. He cannot kill them himself, but summons his son to kill them for him; when the son refuses, the adulterers escape, and the father disinherits the son.⁴⁹³

Because of the inaction of the son, the adulterers made a mockery of the father.⁴⁹⁴ The declaimers in question present various arguments from the imaginary perspective of the father. Some argue that his son should have been his hands.⁴⁹⁵ Other arguments rely upon the shame that the man was a war hero for the sake of the state, but his son could not even draw a sword for him.⁴⁹⁶ Along similar lines, some state that the son must be the adulterer’s son, as he is no real son of the father.⁴⁹⁷ The *divisio*, or breakdown of the arguments, also suggests that the son was privy to the whole affair – that, for one reason or another, the son allowed the affair to take place.⁴⁹⁸ Another argument is that anyone, son or not, should have killed a wife taken in adultery

around the *lex Aquilia*, which is concerned with damage and covers “damage” of enslaved people (and articulates that free bodies are not subject to valuation but to compensation).

⁴⁹² Sen., *Controv.* 1.4.pr.

⁴⁹³ *Ibid.*

⁴⁹⁴ The issue of laughter appears throughout 1.4.1-3 and 1.4.11. 1.4.10 depicts the lovers relaxing.

⁴⁹⁵ *Ibid.*, 1.4.1, 1.4.3, 1.4.10 (lending hands), and 1.4.11.

⁴⁹⁶ Could not even draw a sword: 1.4.1. Shame for the harm to the state: 1.4.1, 1.4.2, 1.4.3.

⁴⁹⁷ 1.4.2, 1.4.4, 1.4.11, 1.4.12.

⁴⁹⁸ 1.4.10.

if the wife concerned were the wife of a war hero.⁴⁹⁹ It is therefore reasonable to this audience that the honour of a man who has served the state is treated as paramount over a woman's life.

In answer to these accusations, in favour of the son's perspective, the declaimers make a strong counter. They argue that a son should not be asked to kill his own mother because she is his mother; parricide is to be avoided at all costs, and it ought to be counted as a weightier crime than adultery.⁵⁰⁰ The *divisio* asks whether a son should be allowed to punish a mother without the husband present; the speaker then goes on to question whether the father is essentially not even present.⁵⁰¹ Such a question implies that, without hands in this case, the father was as good as not in the room. Similarly, an argument in favour of the son uses the language of overwhelming paralysis, framing the fact of not being able to kill because of his *stupor* is equivalent to "not having hands".⁵⁰²

So, what is at stake for the *bonus pater familias* in the adultery going unpunished? What hangs on the imaginary *pater familias*'s "missing" hands in this case? The first issue, should the adultery go unpunished, is that his authority, both over his own wife and son and over the jurisdiction of the space of his physical property, are in question. Second, and perhaps more crucially, his masculinity is undermined – not only because his sexual control over his wife is flouted, but also because his ability to fight with a sword is challenged.⁵⁰³ What is more, the legitimacy of his heir is called into question: the son is cast in multiple declamations as

⁴⁹⁹ 1.4.6.

⁵⁰⁰ 1.4.5, 1.4.8, 1.4.9 (on the penalty for parricide).

⁵⁰¹ 1.4.6.

⁵⁰² 1.4.7, 1.4.8, 1.4.9.

⁵⁰³ This episode resonates with modern entanglements of ideas of masculinity, sexuality, and physical vulnerability / self-defense. These concepts emerge in Ostrander 2008, who conducts an ethnographic study with adult disabled men, especially racialized adult disabled men, and Shuttleworth *et al.* 2012, who examine "the dilemma of disabled masculinity" – a modern-day concept which sees Connell's 1995 concept of hegemonic masculinity coming up against popular perceptions of physical disability (i.e. reading irreconcilable contrasts into masculinity as powerful, strong, protective against disability as helpless, weak, and vulnerable). Shuttleworth *et al.* work to expand this concept, to point out that earlier studies had flattened the diversity of possible disabilities.

illegitimate, as the son of the adulterer. Finally, someone who was maimed in service to his community is wronged in his own bed, while adulterous people go forth fully whole. The moral imbalance will persist if the adulterers continue with unharmed bodies while the war hero imagines and “feels the loss of” his hands.⁵⁰⁴

His acquired limb difference is framed everywhere in terms of loss, and two separate declaimers give attention to the hero “feeling the loss” (*sentire perdidisse*) of his hands as part of the narrative. One asserts that, in a safe *res publica* (and implicitly as a *bonus pater familias*), having hands or not ought to be immaterial: “I never thought it would be the case that, with the *res publica* safe, a strong man would feel the loss of his hands.”⁵⁰⁵

The bodily integrity of the *pater familias* is here explicitly tied to the integrity of the state. Hands serve here as a stand-in for control, manifesting a potent symbol for the audience.⁵⁰⁶ This is not accidental relative to legal prerogatives of the *pater familias*: hands played a vital role in legal procedure (or presumably did in the early days). The *manumission* of enslaved people translates literally as “sending [the person forth] by the hand” – one early form of which could include a ceremony where the owner lay a rod on the enslaved person and physically let go of the person with his hand.⁵⁰⁷ One form of marriage that introduced the wife into the *patria potestas* of her husband was called *manus* marriage, and although this form of marriage became less popular over time, an image of clasped hands remained a symbol of marital union and harmony

⁵⁰⁴ 1.4.2.

⁵⁰⁵ It does not say *bonus pater familias*, but the man would fit the imagination of a man in charge of household and property.

⁵⁰⁶ Sometimes the hands are disembodied, but only in a symbolic way, and there is a limit to this metaphorical thinking. Seneca views one *color*, or strategy in the presentation of the argument, as ridiculous / in bad taste, which argued that the man’s hands were still off fighting somewhere (1.4.12).

⁵⁰⁷ This is a ceremonial form of the procedure, *manumissio vindicta*, which he attests was obsolete by the time of the *Digest*. Nisbet 1918 explores the old ceremonial forms, specifically drawing attention to the rod and to the possibility that the enslaved person received a slap on the head as part of the process.

(*concordia*).⁵⁰⁸ Finally, at least according to old forms, the buying and selling of *res mancipi* (which could include enslaved people, land, and animals) included laying hands ritually on the property in question.⁵⁰⁹

In every instance, the absence of hands in this case stands as metonymy for an absence of authority and control of the household. The threat of the wife's infidelity to the household is linked by the declaimers as a threat to the state. We need only invert the idea to form the ideal of the *bonus pater familias*: one who conserves the household and thereby can conserve the state. A *bonus pater familias* ought to have authority over his own property, control over his impulses (especially with respect to spending), socially ratified communicative ability and reason, and a stable masculinity.

Conclusion

The aims of this chapter have been threefold: first, to more clearly define what a *bonus pater familias* was and was not; second, to elucidate an argument that Roman elites recognized a distinctly moral disability in the case of the figure of the *prodigus*, as antithetical to the *bonus pater familias*; third, to imagine who might be disabled by the expectations made of the *bonus pater familias*, and finally, to use a case study of an imagined Roman *pater familias* in a crisis of his household as a means of exploring further the ideas of masculinity and control pertinent to the figure of the *pater familias*. As with the other relationships I have explored in this dissertation, the people excluded from the category of the *bonus pater familias* throw into sharp relief dual issues of expectation and precarity. With property, legal power, and authority over

⁵⁰⁸ On *manus* marriage: Treggiari 1991: 16-32; on *concordia* in general: *Ibid.*, 251-3; the iconography of *concordia* corresponds with clasped hands (*dextrarum iunctio*). The *dextrarum iunctio* not only referred to marital harmony but harmonious relationships in general.

⁵⁰⁹ Gai. *Inst.* 2.22.-7.

persons, come expectations of money management, mental control, and exercise of that authority in a certain manner.

Conclusion

The first time I set foot in the city of Rome in 2014, it was with one leg in a knee brace and crutches in hand – just in case. From that trip, I remember the day I planned to visit the Forum in particular. I left my sturdy grey crutches in my room at the British School at Rome (BSR), feeling fine enough with brace alone. Besides, the skills with the crutches I had formed back in Canada after my patellar dislocation was not yet adapted to the cobblestone streets of the Eternal City, so I thought the crutches might be more hindrance than help. By the time I had reached the Temple of Antoninus Pius and Faustina, however, a point halfway to the natural end of the Forum beneath the Capitoline Hill, I was favouring my left leg. My feet, especially the left, had swollen beyond comfort, and I had to begin the painful journey back. It was then, with each step navigating an uneven stone or a knot of grass, in the heat and sun of the Mediterranean midday, that I began to think: everybody in history has a body. There in the Forum, I felt a kind of kinship to anyone who had ever limped through the same space: from its development through the republican and imperial ages, through its sleep beneath earthen layers until its *mise en jour* under the trowel of the nineteenth century, this space had witnessed the movements and encounters of so many bodies. Surely there had been more than a few who moved like me, limping over these selfsame stones.

I think of that time as the beginning of my interest in historical actors *qua* bodies. I had always been fascinated by daily life, wondering “what life was like” for people in the Mediterranean in the early centuries CE, and this was the moment I realized fully the role of

embodiment in any such account. To understand history, to understand more completely how we came to be who and where and how we are as humans, we must consider bodies and behaviours and how people throughout time and space have thought about them.

In this dissertation, I have presented a thick description of the historical category of disability, specifically how it was constructed by elite authors in a single arena of Roman elite life, the Roman *familia*. When historians consider how people are othered on the basis of bodies and behaviours in a particular context, as I do here, some of the rich complexities of disability as a category of historical analysis emerge.

In Chapter One, I illustrated that disability as a construction was operative in Roman marital relations, both in terms of partner selection and maintaining a *iustum matrimonium*. Examining marriage with a view to disabled histories encourages us to see the disabling character of marriage requirements (especially the Roman legal concept of *affectio maritalis* and the implicit expectations of married partners' genitalia). Dowry played a role in the disabling of women and the reality at Rome that unmarried women were effectively disabled. Finally, this chapter tells the story, as Pliny the Younger reported it, of an interabled couple, Domitius Tullus and his unnamed wife, to show how they worked together against disabling attitudes in their community.

Chapter Two focused on the context of enslavement, excavating some of the intersections of enslavement and disability. How slave sellers, slave buyers, and slave owners disabled the enslaved person for sale is readily legible in the Curule Aediles' Edict. The value of *utilitas*, of "usefulness," provided a means for elite writers to inscribe their ideas of economic value onto enslaved bodies, and thereby to construct disability in enslaved bodies. What this value of "usefulness" really entailed is ill defined, and ancient authors themselves struggle to give it solid shape – especially when confronted with the luxury market, wherein the rich paid large sums of

money for enslaved people characterized as other on the basis of their bodies and behaviour. This chapter traces the story of Clesippus, the former fuller and eventual freedman who had spinal curvature, and how Pliny the Elder uses Clesippus' body to caricature the luxury of Gegania, his mistress and manumitter.

The third chapter leaves more questions than it answers, as it can only sketch elements of a topic that should receive a monograph of its own. What a child was in the imagination of Roman medical, legal, and literary authors, both in terms of age stages and expectations about their bodies and behaviours, is a construction crucial to any discussion of disability in childhood. Children, in and of themselves, were frequently characterized across genres as lesser than adults. As they formed a unique category on the basis of body and behaviour, children deserve a focused investigation in an exploration of disability. A particular set of traits or behaviours in a child were not necessarily disabling that, in an adult, would be.

In order to identify children (or at least the conditions children had) that were disabled in the *familia*, it is essential to first articulate how parents imagined children “ought” to be, and how their bodies and behaviours “ought” to develop at various ages. In this chapter, I also complicate the assumption that most Roman parents would not raise a disabled child – an assumption that both participates in, and is produced by, a “Roman mirage,” the illusion of Rome as a hyper-militarized, fighting fit, totalitarian state with no room for disabled people. I argue that drawing the line of who counted as a prodigy, who would be killed or violently excluded from the community, and who would be raised in a *familia* was not straightforward. Further, I argue that two of the most disabling conditions for a child growing up in Rome, especially for an elite Roman boy, would be anything that impacted speaking and walking in the manner his parents expected. The case study of Claudius' childhood closes the chapter as an illustration of how this disabling attitude could manifest in a *familia*.

Finally, I come to the head of the household, but at the foot of the dissertation. I explored in Chapter Four the construction of the *bonus pater familias*, the “good male head of household,” a Roman ideal that encoded a set of normative expectations. In the Roman imagination, the *bonus pater familias* was expected to be a Roman man of a particular character, of a stable masculinity, who possessed “reason” (defined by his community) and knew how to manage resources and the people dependent upon him in the household (i.e., wife, children, enslaved people) in a particular way. Roman literature and legal sources present people who might have been marginalized by such expectations (namely *infames*, women, *furiosi*, *prodigi*, *muti*, *surdi*, and to a much lesser extent *caeci*). I focus especially on characterizing the figure of the *prodigus* and argue that this figure embodies a distinctly Roman category of moral (as opposed to physical or mental) disability. I end the chapter with the declamation about a man who is not explicitly identified as a *pater familias*, but a fictional father of a household whose acquired limb difference is instrumentalized for the case. The case throws into relief issues of masculinity and authority in this role, and the symbolic importance ascribed to the hands of Roman heads of household.

In the end, I hope to have shown that there are myriad possibilities for examining disability in the Roman imagination and that there is much to be gained by exploring disability as it pertained in a specific context of Roman life. The discussion has dealt mainly in constructions, in ideals and representations, with some attention to the ways in which real people challenged them. I hope in future research to enrich these conclusions, and especially to do so with more attention to embodiment and increased reference to material culture. Explorations of education as a disabling milieu and of the intersection of gender and disability in childhood must, for now, remain desiderata. Indeed, so many stories are left untold in this text. A dissertation cannot be exhaustive, but it can go some way to demonstrating the value inherent in examining disability as

a category of historical analysis, one that is relational and shaped by the contexts in which we live.

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