Reading Roman Women

*modus operandi* should be the same whether the texts we are studying purport to describe particular, historic women or female types and female behaviour in general: we need in each case to assess scrupulously the particular purpose of the text, its codes, its emphases and exclusions. And to keep our brains switched on high and our fantasies on hold.

APPENDIX 1

ITALY AND ITS SURROUNDS
Late Republic/Early Empire

Map drawn by D. Tully, The University of Queensland.
APPENDIX 2

Some Useful Dates

This is a very basic guide for the non-expert reader to the conventional divisions of Roman history. It will give some indication of where authors and characters fit in. People's names (Matidia, Naevolea Tyche) are listed alphabetically in the General index, with brief identifying information, authors in the Index of ancient sources. Only a few are included in this Appendix.

THE REGAL PERIOD
conventionally dated 753-509 BCE

According to Roman tradition, Lucretia's rape and suicide (Chapter 4) ushered in

THE REPUBLICAN PERIOD, 509-27 BCE

The Early Republic: 509-265 BCE
445 BCE: traditional dating of the Twelve Tables, at the time of conflict between patricians and plebeians, the setting of the Virginiia story (Chapter 4).

The Mid-Republic: 264-134 BCE
The Punic Wars and the growth of Roman imperialism and wealth.
Polybius wrote in the second century BCE.
Cornelia, mother of the Gracchi, famous for her wealth and culture, lived in this period. Its end is marked by the tribunate of her elder son, Tiberius Sempronius Gracchus (133 BCE).

The Late Republic: 133-27 BCE
We have better sources from this period, e.g. Cicero and Sallust, who lived then. (The imperial authors Suetonius and Plutarch also wrote about this period).
Some women from the period: Clodia Metelli (Chapter 9), Sempronia (briefly described by Sallust – Chapters 5, 9), Fulvia (Chapter 9).
The Hellenistic era (dating from the death of Alexander the Great in 323 BCE) ended with the death of Cleopatra Ptolemy in 30 BCE.

THE IMPERIAL PERIOD

The Early Empire: 27 BCE - c. 192 CE
is also relatively rich in literary and material sources. (See Appendix 3 for information on 'Late Antiquity' and Byzantine emperors who are relevant to the legal Chapters, 4 and 6)

The Julio-Claudians: 27 BCE (Augustus) - 68 CE (Nero)
This period is also called the Principate, and the emperor the princeps.
18 BCE and 9 CE: Augustan legislation on marriage, adultery, inheritance.

For later emperors see Appendix 3.ii.
APPENDIX 3

Legal Appendix

(i) Some Roman legal terms

auctoritas: the 'authority' of tutores was requisite for specified legal actions by a woman in tutela. Their presence as well as their permission was necessary.

filia familia: a girl or woman (of any age) in her father's power (potestas).

filius familia: a boy or man (of any age) in his father's power (potestas).

manus: literally, 'hand'. Certain Roman marriage forms resulted in the wife coming into the husband's manus. She then joined her legal (agnatic) family instead of her own and ceded rights of property ownership and administration.

mater familia: originally, a woman in the manus of her husband. The term came to indicate a respectable married woman.

pater familia: a Roman man sui iuris had the capacity to exercise potestas over others and was classed as a pater familia even if he was young and unmarried.

patria potestas: the special power a Roman father had over the person and property of his children as long as he lived (unless he agreed to a formal release, 'emancipation', or a legal transfer of a child to another pater familia through adoption or manus marriage).

sui iuris: independent (i.e. of paternal authority or husband's manus). All those heirs (sui heredes) in a man's potestas became sui iuris on his death (except his son's legitimate children, who passed into their father's potestas). A woman sui iuris would still be in the tutela of a man or several men. A child sui iuris also had a tutor or tutores until the age of twelve (girls) or fourteen (boys). See Chapter 6.

tutela: usually translated, rather misleadingly, as 'guardianship'. It was exercised over the holdings of Roman women and children who were sui iuris and therefore able to own property in their own right. Children's tutores (tutores impuberum) actually administered their estates and rendered an account when the children reached twelve (girls) or fourteen (boys). For women over twelve, tutores provided their auctoritas for specified legal transfers, e.g. manumission of slaves, sale of real estate, writing a will) but did not manage the property. Apart from Vestals, women remained in tutela for life until the imperial period. Hence the term 'perpetual guardianship of women' (tutela mulierum perpetua). Chapter 6.

(ii) Some jurists, some emperors and some dates for Section III

The emperors whose names appear below play little role in my text apart from legal citations in Part III, Reading the Public Face. For other emperors, see Appendix 2 and the General index.

Jurists and the Digest (Pandects): The opinions (sententiae) of jurists and the judgements of emperors are recorded in Justinian's Digest, compiled in Byzantine in the sixth century CE (See under Justinian below). References to the Digest therefore include the name of the jurist, e.g. Digest 33.7.1 (Paul).

Codices: The Theodosian Code (CT = Codex Theodosianus) and the Justinianic Code (CJ = Codex Justinianus) record decisions made by emperors in response to appeals from subjects all over the empire.

See Crook 1967: 13-35 (esp. 25-7) on sources of Roman law. Servius Sulpicius Rufus is the only Republican entry in this list. All dates are CE (AD).

Alexander Severus: emperor 222-235.

Claudius: emperor 54-68.

Constantine: the first Christian emperor, ruled the western empire 312-337.


Justinian: Byzantine emperor 527-565.

Justinian ordered a rationalised compilation of currently applicable law. The Justinianic Codex (CJ), which includes emperors' rulings in individual cases, was promulgated in April 529. An amended version, published in 534, has survived. The Digest, or Pandects, published in December 533, gives extracts from earlier jurists' authoritative opinions (for citation) arranged by subject in fifty books.

Marcus ('Aurelius'): emperor 161-180.

Modestinus: Herennius Modestinus, a jurist active in the early third century CE. He composed rescripts (responses to petitions) for Alexander Severus.

Paul: Iulius Paulus, fl. late second/early third century. He advised the emperors Septimius Severus and Alexander Severus.

Pius: Antoninus Pius, emperor 138-161.

Pomponius: Sextus Pomponius wrote books under Hadrian, Antoninus Pius and the emperor Marcus, but probably did not deliver authoritative 'opinions'.

Septimius Severus: emperor 193-211.

Servius Sulpicius Rufus: late Republican legal expert and author; an acquaintance of Cicero.

Theodosius: emperor 408-450, authorised the Codex Theodosianus (promulgated 438).

Ulpian: fl. mid to late second century. Author of the Titles. His opinions are cited extensively (as authoritative) in the Digest.
Notes to pages 70-80

Introduction to Part III

1. Classical Athens continues to be invoked as the extreme of female seclusion, although that stereotype might also bear modification (Cohen 1991) and should not in any case be extended uncritically to Greek women from other places and times. Cf. Schaps 1979, Pomeroy 1984a.
2. See Chapters 5 and 9 for more detail.

6. Womanly weakness in Roman law

1. I owe particular thanks to Susanna Braund and Rob Wills for their suggestions about making this chapter more comprehensible and palatable to the lay reader.
2. Such as ‘emancipation’ or adoption. As we shall see, the most common method was the transfer of a daughter to the ‘hand’ (manus) of her husband or father-in-law.
3. Institutes 3.3 gives a detailed guide to the principles of intestate succession. For a clear and accessible summary, see Crook 1986a.
4. Vestals were the exception — e.g. Tables VI.1; Gaius 1.144-5, 1.130; Aulus Gellius Noctes Atticae 1.12.1, 18.
5. reckoned at twelve years in the case of girls, fourteen (or puberty as revealed by inspection) in the case of boys, Gaius 1.196, Institutes 1.22 pr., CJ 5.60.3.
6. e.g. Calatoria Themis, whose tutor Petronius Telesphorus (Herc.Tab. XIII, XIV) had been a freed slave of her deceased husband Petronius Stephanus (Herc.Tab. XIII/pag. 5; Pugliese Carratelli 1948). Cf. IL VI.2650, CIL VI.7468.
7. Pro Cluentio 178, 179, 181 (Sassia); Pro Caeso 31, 68, AD Atticum 12. 44.2; 12. 32.2 (Clodia), AD Atticum 2.4.5; 2.15.4, AD familiares 14.1.5 (Terentia). Some of the transactions listed in these sources formally required the permission of the women’s tutors, while others did not (Ulpian has a list at 11.27). In both cases, the women, not the tutors, seem to have made the decisions. The tacit assumption appears to be that their compliance could be taken for granted by these financially active matrons.
8. Gaius 1.171; 157; Ulpian 11.8; Gaius 1.165, 192
9. Gaius 1.150-4; i.e. husbands whose wives had been in their ‘hand’ (in manu). Whether there were still such husbands in Gaius’ day is moot. As elsewhere, he might be referring to an earlier practice with no contemporary application. Fathers could also appoint tutors to daughters in their wills.
11. This action dated back to the Twelve Tables FIRA. I: 61: Justinian Institutes 1.26 pr.; Cicero De officiis 3.15.6.
12. This was the lex (P)Laetoria, introduced some time before 186 BCE – Rotondi 1966: 271-2. Cf. Watson 1971: 42. See the original 1984 article for more detail about the extension of this law to women and the development of curatella.
13. e.g. Noctes Atticae 5.13.2.5, where the second century CE scholar Aulus Gellius cites a speech of Cato the elder (second century BCE) about traditional moral emphasis. Given the strong cultural value on ancestral virtue, this in effect located tutela in a kind of moral genealogy. Cf. Cicero De officiis 1.25.85.
14. Cf. the definition of tutela in terms of need, originating with Cicero’s contemporary, the jurist Servius Sulpicius, and passed on (certainly with changes), via imperial jurists at Digest 26.1.1 (Paul 38 ad edictum). See also Institutes 1.13.1.

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15. Cf. the jurist Paul’s wording at Digest 26.1.1: ‘for the protection of one who is unable to defend himself at law by his own effort’ (or ‘will = sua sponte’).
16. See Dixon 1984: 351-3 for discussion of Schulz’s suggestion that Cicero was echoing Aristotle Politics 1260a.
17. On this, compare Zannini 1976: 64. On pp. 63ff., he gives other instances of Cicero’s reasoning in De republica 3.10.17; 4.6.6, to show that Cicero’s expressed views were not elsewhere contemptuous of women’s rights to economic equity or dignity.
18. Modestinus composed six volumes on excuses for evading tutela (Digest 27.1).
19. Gaius 1.165-6; 192; Ulpian 11.3-5; Digest 26.4 and esp. 5 (= Ulpian ad edictum); Inst. 1.17, 18
24. Valerius Maximus compiled a ready reference, classified by topic, to outstanding examples of good and bad behaviour, for orators to use in speeches. His sources were clearly varied and must have included word-of-mouth. The collection is colourful and often bizarre, not unlike modern ‘strange but true’ TV shows (with talk-show moralising). While not always reliable as history, it provides interesting insights into Romans’ ideas about their own past. Literary references to female ‘weakness’ listed by Beaucamp 1976: 485-509, Schulz 1951: 182, Zannini 1976: 65-6; Arangio-Ruiz 1954: 495-6 refer chiefly to physical weakness.
26. Digest 16.1.1; Codex Iustinianus (CJ) 5.35.1 (Alexander Severus). There was a later form of maternal tutela, but it was very specialised – Codex Theodosianus (CTh) 3.17.4; CJ 5.35.2, 3.
27. Consider Cicero’s scornful reference to the influence of women behind the scenes of the trials of Cluentius and Clodius respectively – Pro Cluentio 169, 192; Pro Caeso 1, 39. See Chapter 9.
28. Digest 16.1.1 (Paul 30 ad edictum); Digest 50.17.2 (Ulpian 1 ad Sabinium).
29. As inductus, not equivalent to English ‘judges’ – Digest 5.1.12.2 (Paul 17 ad edictum).
30. The law, passed during the war with Hannibal, limited luxurious display. It was repealed on this occasion.
31. Tacitus Annals 3.34. Livy’s Cato had also taken the view that the individual husbands had fallen down on the job by allowing their wives to crowd the entries to the forum.
32. Digest 3.1.1.5 – probably the same woman whom Valerius Maximus calls Caia Afrania 8.3.2.
34. Suetonius Velerianus 50, Tacitus Annals 13.5.
35. Ulpian, 29 ad edictum (Digest 16.1.2.1), quoting the words of the senatorial decree passed under Claudius or Nero (i.e. the senatus consultum Velleianum).
36. The senatus consultum Velleianum prevented women from acting as loan agents unless they actually paid the debt and tied the original debtor to their own debt. Simple transfer of the debt without an intervening payment was not possible.
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38. *Digest* 43.29.3.11; 4.4.12; 16.1.25 pr.; 16.1.23.3; 30; *CJ* 4.29.22-5; Novel 13.4.8 – these necessarily postdate the *senatus consultum Vellesianum*, and reflect the thinking of an age which increasingly referred to female inadequacy and helplessness, but which nonetheless admitted certain socially acceptable exceptions.
39. *Digest* 16.1.2 and Crook’s (1986) summary of the function of the *senatus consultum Vellesianum* to confirm magistrates’ response to existing practice.
41. *Digest* 24.1.1 (Ulpian 32 ad Sabinum) – the rationale being that spouses might be misled by their mutual affection to erode their respective estates. See Thayer 1929.
42. Institutes 2.8 pr.; Gaius 2.63.
44. *Digest* 24.3.66.1 (Javolenus citing P. Mucius Scaevola) and see Daube 1965, Waldstein 1972 and Dixon 1986 for the status of the dowry of Terentia and Fausta.
46. *Digest* 16.1.1 (Paul 30 ad editum) seems to represent the *senatus consultum* of his day.
47. *Digest* 16.1.2.3 (Ulpian ad editum). Cf. Alexander Severus, *CJ* 4.29.5, 224 CE. The decision is at *CJ* 8.27.11 (Diocletian).
49. Such as the expectation that female mourning was more abandoned than its male equivalent (Livy 3.48.8).

7. Profits and patronage

1. Polybius 31.25.2. and Plutarch *Cato minor* 17-19 record some colourful contemporary complaints by Cato the Elder (as censor 185 BCE) which could have set the tone for subsequent denunciations (cf. Liv. 39.6.7), but he might not have been the first.
2. Pliny *Natural History* 34.30-1, Forbis 1990 on public statues (but see Forbis 1990: 493 on private terms of praise); Latturnere 1942: 295-9 and Larsson Lovén & Strömberg 1998 for the stock of womanly virtues, especially those listed in epitaphs.
3. The *Lex Claudia (Flaminia)*, c. 218 BCE – Livy 21.63.2, Cicero *In Verrem* II.5.18, 45. It remained technically in force until at least the first century BCE.
6. Attitudes to jobs are examined in more detail in Chapter 8. They are included here because the category of tradespeople overlaps with that of small shopkeepers (*tabernarii*).
7. Some jurists’ examples were taken from actual cases, some were hypothetical. It is not always obvious which is which. Imperial rescripts were decisions handed down by emperors in response to petitions from subjects all over the empire. Crook 1967: 13-33 has an accessible treatment of the sources of law and their authority.
8. Appian *Bella civilia* 1.1.7, Plutarch *Tiberius Gracchus* 8-9 on the plight of the peasantry; Tacitus *Annals* 4.13 on the imperial Sempronius Gracchus who so disgracefully travelled on ships with his own cargo.
9. See Chapter 6 on the *Lutetianum*, its rationale and its possible consequences; Suetonius *Claudius* 18.2, 19 for the privileges granted to freed-women ship-builders in the grain trade.
11. Hobson 1884a: 377. In this study, Hobson succeeds in assembling a good body of examples from the early imperial period, 45-46 CE, roughly contemporaneous with the Vellesian and Claudian statutes limiting female guarantors and encouraging female ship-owners.
12. Cf. Cohen 1991: 166-7 on such discrepancies in modern settings. I could add my own experience as a child, trained to lie to school and other authorities about my mother’s employment and to the family about the fact that we kept a boarding-house.
13. See E. Rawson 1976 (*pace* Treggiari 1979) and consider Pliny’s surprise (*Letters* 19.54) that Bithynian land did not change hands by purchase. Romans bought and sold rural land at a rate unknown to the later Italian or English aristocracy, but it could also be retained and its produce consumed by the owner or sold for profit.
15. On the residential/commercial combination in Pompeii, see Brion 1960: 132-3. On brick production, see Helen 1975, Settálá 1977. Wealthy landowners took pride in supplying food for their households from their own estates (e.g. Petronius *Satyricon* 48; Horace *Letters* 2.2.160), as well as making the most of specialist crops and related manufacture. See also Finley 1973: 35-7, Veyne 1979.
16. Possibly through slave or freedman agents from whom they distanced themselves, while retaining access to the profits available from this high-risk area which was formally regarded as ‘sordid’ and inappropriate to the landed aristocrats of the governing senatorial order. Plutarch’s account of the elder Cato’s activity in the second century BCE (*Cato maior* 19-21) leaves open the question of how typical his practice might have been. On the continuing debate about senatorial involvement in commercial shipping and in commerce generally in the mid-to-late Republic, see d’Arms 1981, Pleket 1984.
17. See Finley 1973: 17-34 for the insight that there was no concept in antiquity of ‘the market’ – or, indeed, of ‘the economy’ – as a distinct entity.
18. Settálá 1977: 250-7 (on Arruntia Camilla) traces a typical example of land transmission over four generations. Even female scholars treat businesswomen as oddities. Loane (1993: 23) took for granted that Spanish women who ran export businesses (*CIL* 15.3691, 3729) had inherited the ships and the businesses from fathers and husbands. Quite likely. Most such wealth was inherited, but she never sees the need to discuss the origins of male wealth in that way.
19. Cf. Livy’s apologetic rationale for recounting the female demonstration of 195 BCE against the sumptuary Oppian Law (Livy 34.1). The equally piedeggret demonstrator of 43 BCE, led by Hortensia, daughter of the famous orator, first approached the wives of the triumvir枢, Rebuffed, they then venturred into the masculine sphere, appearing publicly before the triumvir枢 themselves, where Hortensia delivered a speech against the measure (Appian *Bella civilia* 4.32-4).
20. Or, occasionally, a military one. Cf. Busa of Canusium, who equipped and fed Roman citizen-soldiers after the battle of Cannae, 216 BCE (Livy 22.57.2-3).