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**A dark side  
of childhood in  
Roman society**

Maltreatment and death  
in children's lives



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# **A dark side of childhood in Roman society**

Maltreatment and death in children's lives

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# Chapter 1

## Introduction

Children are an essential part of human life necessary for the continuity of mankind without which it would have no future and without which its history would not be possible. Yet in the historiographic tradition, children as such, their status, role in society, activities and possibilities or fates (unless they were child saints or rulers) had been neglected for a relatively long period of time. Although children represent an important part of human society, their voices are rarely heard from the ancient past. History is written from the perspective of adults. But the world of children represents a socially relevant subject, and the examination of its forms in the past provides the reader with knowledge about the behaviour and life of people in ancient civilizations and cultures, as well as socio-cultural overlaps into the present. It offers a unique historical parallel to modern social phenomena, such as the various pitfalls of family life in which ideals clash with reality. Within these pitfalls, this book focuses primarily on the issue of children in extreme and risky situations, such as encounters with violence and death, which is a subject currently receiving considerable attention with regard to the interest in the psychological and physical health of children. The monograph also charts the efforts of ancient Romans to deal with the glaring gap between ideal and reality.



## Chapter 2

# The world of Roman children

### 2.1 The objectives and the structure of the book

Given the scope of this publication, it is not possible to provide a detailed overview of the historiography of the subject<sup>1</sup>, but let us at least mention the latest trend in the field of historical research into childhood which this publication seeks to follow. It centres on the idea of studying children as such, in themselves, instead of the hitherto dominant direction of study focused on the perception of children and childhood from the perspective of adults.<sup>2</sup> The intention is to view a child as an active agent and driving force in his or her life, not just a mere object in the world of adults who shape this life through the formation of the education system, legal norms, etc. This is an idea that pushes the research into the world of childhood in antiquity to the limits of current methodological possibilities. This ultimate limit is also manifested in the inspiration and use of the so-called “faction”<sup>3</sup>, a researcher’s careful balancing act between history and fiction based on available facts, with which he or she strives, for example, to depict the historical background and reality as they might have been perceived by minors, in a story of a fictional child.<sup>4</sup>

This innovative approach, using new questions and a novel viewing angle benefiting from the potential of interdisciplinary study, has been presented for the Roman period in a collective monograph edited by Laes & Vuolanto (2017). The researchers attempted to gain insight into the experience of life, or at least, given the possibilities and nature of sources, to define a framework for the child’s experience of the world in late antiquity, and to create from theme probes (within the limits of what is possible) a comprehensive picture portraying children’s life chances, childhood and child culture. The result chiefly involves subtle ventures into the selected topics, close to microhistory, the history of everyday life and the history of mentality.

The aim of this work is therefore to try to look at the world of Roman children and especially its dark side (the presence of violence and death) not only through the eyes of adults but also to focus on the child’s perspective, to get closer to the child’s

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1 For a brief overview of Czech and international historiography, see Antošovská (2023: pp. 8–12); for a more detailed analysis of international historiography, see Aasgaard (2006).

2 Laes, Mustakallio & Vuolanto (2015: p. 3).

3 For further definitional clarification, see Laes & Vuolanto (2017: pp. 2, 8).

4 See, for example, Laurence (2017) or Cojocar (2017).

experience and to mediate it as accurately as possible. This is manifested in an attempt to get, at least partly, beyond the source framework, where the child is only an object of the external world that shapes him or her (through laws, the approach of adults and the system of education, etc.), and by focusing on the examination of the child's active approach: what were his/her possibilities of moving within this framework in which he/she had the choice to act according to the conventions, or how adults imagined that he/she should act or wanted them to act (e.g. the decision not to/to obey a teacher or parent, etc.). In doing so, the book also offers a link between this new trend and a previous one. The difference between the two can be simplistically demonstrated, for example, by two basic questions: How important was the family for a child? and How important was a child for the family?

This book centres on the children of free Roman citizens. Children of slaves or inhabitants without Roman citizenship are not the focus of this work, although the situation of especially non-free children is reflected in places. It covers the period of the Roman Empire cross-sectionally in an attempt to capture the changes in its development over centuries. To this end, it works with sources across centuries: from literature from the turn of the republic and the beginning of the empire in the second half of the 1st century BCE to the codification activities of Emperor Justinian in the first half of the 6th century CE. The interpretation also takes into account the findings of modern archaeology, psychology, evolutionary biology, etc., which help to bring further insight into some aspects of human life as such (in the context of cultural determinism and beyond).

The book is structured in three chapters which follow a brief introduction and are summarised by a short conclusion. The first chapter presents a concise definition and anchoring of the work, followed by a brief introduction to the basic principles of family life and the status of children, their role and importance in Roman society, including the definition of the term "child" as such, i.e. who was considered a child in Roman society?

The second chapter seeks to provide a comprehensive view of the issue of the presence of violence in the lives of underage Romans. The first part analyses the different forms of violence that a child might have faced from the position of a victim against the background of the question of the non-/legitimacy of that form of violence in society. However, children could also feature as perpetrators of socially, morally or legally undesirable activities, ranging from common mischief to criminal activity. The central question of the next section of this chapter is thus the issue of children's criminal activity in Roman society.

The last chapter is devoted to the end of human life. Reflecting on the demographic situation of Roman society, it touches on the issues of illness and dying of children, along with forms of prevention and protection of children from death (What could parents do for their child? How could a child act?) and also the experience of death (the death of a child and forms of coping with loss; on the other hand, the death of the parent and the possibilities of orphaned children deprived of natural protectors).

Unfortunately, a historian of antiquity does not have at his or her disposal for this type of research nearly the same body of sources that researchers studying the more

recent eras of history can draw on (e.g. parish records, registers, children's diaries, etc.). The earlier concept of the child as a passive object is largely due to the nature of the surviving sources. At first glance, children appear as rather marginal objects of interest for adult individuals, while at the same time these sources primarily reflect the adult view of reality, of childhood. This is why it is possible for a historian to piece together from the fragments of preserved sources a (relatively) "complete" picture of the children's world from the perspective of adults and the relationship of adults to children. On the other hand, our possibilities to approach and explore a child's experience are limited. For its reconstruction, a historian of classical history is dependent on "second-hand accounts", since sources that primarily (i.e. through the eyes of children themselves) reflect the reality of Roman society are very scarce – only a few letters written by children have survived.<sup>5</sup> Huntley (2017), using findings from developmental psychology, seeks to identify inscriptions that could be described as "children's graffiti". According to Dolansky (2017), the question is whether toys can be considered primary evidence of children's culture and perspective, as these artefacts may have served children but were produced by adults, based on their demands and ideas of what a child needed.

This does not mean that we do not have a range of material for study: numerous literary works, legal sources, epigraphic and artistic documents and archaeological finds have survived. All these sources contain a wealth of valuable information (some extensive, some rather modest) from which we can try to assemble a mosaic of the ancient past. However, given the surviving sources and the possibilities they offer as sources of information, as well as the limitations that restrain their communication, it is not possible to fill all the gaps or answer all possible questions. Sources may offer more than one possibility of interpretation or justification. They reveal, in particular, the world and life of the inhabitants of cities. As far as the rural population is concerned, although it constituted the majority of the overall population, it left behind virtually no information on which to base our research.

This monograph draws primarily on written literary and legal sources, and reflects the results obtained from the study of epigraphic and archaeological sources; however, the amount of this material is beyond the scope of this book. These texts present a vast amount of information necessary for the understanding of the ancient world, its history, society and culture, but as primary sources they have their own informative potential and limits, and the specific problem of studying literary sources with regard to research into the world of childhood is the marginality of this topic in the works of Roman authors and the absence of anything that can be described as "children's literature." As far as the study of the world of family and childhood is concerned, from the narrative and normative sources of imperial Rome one can generally reconstruct only the framework of this world, that is, the framework of ideologies, ideas, assumptions, expectations, or fears within which people lived their private lives, specific examples from the lives of particular families (mostly prominent personalities), whose experience cannot be generalised. The most information

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5 See Vuolanto (2017: pp. 19–21; note 26).

and the most complete picture provided by literary works allows us to reconstruct, in particular, the life, ideas and expectations of the world of the Roman elites and aristocracy who participated in the literary works and to whom they were also addressed as an audience, while as regards children, there is more information about boys as heirs of the family, its name, status and property and cult, and at the same time as future citizens. Legal sources can help to get to the basic principles applicable even to less well-off families. In sources of this type, children of different social status feature quite prominently as someone who is unable to defend themselves and who needs protection, help and care; who is entitled to a share of the family property, but who also has obligations, not just rights, towards their family (Rawson, 1997: p. 86). Yet the problem of normative sources lies in the relationship between the legal norm in theory (which reflects a desired social state) and the social reality and enforceability of the norm in practice.<sup>6</sup>

## 2.2 A child in the Roman family and society

In order to examine the other side of the children's world, it is first necessary to look at childhood itself. Who was considered a child in the Roman Empire? What was his or her legal and social status? What did a child mean to a family<sup>7</sup> and society, and conversely, what was the importance of the family and society to a child? And how was childhood as such perceived?

From a legal point of view, one of the basic specific features and central aspects affecting the life, status, social roles and possibilities of children included origin and legitimacy, i.e. to which social class the child was born and whether he or she was born in or out of wedlock. What was specific to Roman children compared to children of the surrounding cultures was the existence of the so-called *patria potestas* (i.e. the authority of *pater familias*,<sup>8</sup> the head of the family, over children of legitimate marriage) as the legal and cultural-social framework within which the children moved, which had a number of direct and indirect effects on children and their possibilities. It was an integral part of the ideology of Roman family relations and a fundamental principle of the organisation of economic relations.

The peculiar nature of *patria potestas* as something purely Roman was highlighted by the jurist Gaius in the 2nd century CE (*Gai Inst.* 1.55). As a characteristic and still-functional element, this claim was also recorded in Justinian's *Institutions* (*Iust. Inst.* 1.9) from the 6th century CE, although the practical effects of *potestas* did not remain unchanged during the existence of the Roman Empire. According to some scholars (e.g.

6 For more on these sources and a brief analysis of their potential and limitations for studying childhood in Roman society, see Antošovská (2023: pp. 14–19).

7 An overview and definition of the Roman family based on sources and the findings of modern scholarship is summarized in Antošovská (2023: p. 21–29); for further literature, see e.g. Saller (1984; 1986; 2000, etc.), Bradley (1991); Dixon (1992; 2004a, etc.); Rawson (2010), Harlow (2010) among others.

8 On the definition of the term *pater familias*, see Saller (1999).

Evans, 1991: pp. 188–190), the decline and disintegration of this traditional institution had already begun with the expansion of the republican Rome in the 2nd century BCE. According to others (e.g. McGinn, 2013: pp. 357–358), rather than a decline in the authority of the head of the family we should speak of its transformation, notable especially from the 2nd century CE onwards. Shaw (2001) points out that the all-encompassing and disproportionately powerful archaic *patria potestas* (especially in the exercise of *ius vitae necisque*) celebrated and extolled as an ideal by a number of Roman authors who viewed positively Rome’s glorious “better past” may to some extent be a myth created by the Romans themselves.

What did this power of the head of the family mean to a child and how could it influence his or her life? What possibilities did children derive from the initiative of the state defending its interests through some form of “assistance” to children, and what form did it take?

The legal theory of the status of the child in the family is based precisely on the broad and almost “absolute”<sup>9</sup> authority of *pater familias* and the total dependence of even the adult offspring on his decisions. As a result, it is sometimes argued that the father’s power over his children (under private law)<sup>10</sup> was “without limits” and the legal status of the child is often likened in literature to that of a slave<sup>11</sup> (e.g. Kincl, Urfus & Skřejpek, 1995: p. 143). The concept of the proximity of this status of children and slaves and a kind of “duality” of power in the person of *pater familias*, combined with the idea of its absoluteness, served as a metaphor (or exemplum) to support the argumentation of the Christian writer and theologian Lactantius in the early 4th century AD, in which he advocated a single God and opposed polytheism. Lactantius compares the position of sons and slaves in the power of the head of the family and the duality inherent in the person of the head of the family to the position in relation to God and his power, one that is endowed with power over all, the power of a father: one God, one head of the family. Sons are to love and honour the father, while slaves are to fear and respect the master. In the same way, there is one God whom we are to love as sons and fear as slaves (Lact. *Inst.* 4.3.13–4.4.1).

In this similarity, a difference is also visible: in the relationship between son and father, love is essential; in the relationship between master and slave, it is fear.<sup>12</sup> It would be a mistake to think (and current research bears this out)<sup>13</sup> that in everyday life the Romans, thanks to the almost unlimited *potestas* in legal theory, treated their

9 On the early regulation of *potestas* through *mores maiorum*, religion, and law, see e.g. Skřejpek (2005).

10 In public law, children were treated as “independent entities.” For instance, an adult son could remain under his father’s *potestas* while simultaneously serving as consul and making decisions concerning the fate of Rome – including, potentially, that of his own father – because public law was considered superior to private law (Plescia, 1976: pp. 143–159).

11 Slaves were also part of the *familia* – as property, they formed an integral part of the household; on slaves in the Roman family and on families of slaves, see e.g. Bradley (1987); Mouritsen (2011).

12 See also e.g. Hieronymus *Ep.* 52.7; and on fear as a driving force in the master-slave relationship (albeit critically), see Sen. *Ad Lucil.* 47 or Tac. *Ann.* 14.42–45.

13 Saller (2000: pp. 863–868); Garnsey & Saller (2014: pp. 160–164).

children almost as slaves and did not distinguish between the power of the “master” (*dominica potestas*) and that of the “father” (*patria potestas*).

By contrast, McGinn (2013: p. 341) points out that imperial legislation generally tends to treat juveniles and minors very well and to act in favour of children with a view to protecting their interests (especially property). The protection of children’s interests became part of public policy, since children represented, among other things, not only the heirs of the family but also future citizens in the service of the Roman emperor and the empire.<sup>14</sup>

Saller (2000: pp. 864–865) demonstrates the distinction between the two forms of *potestas* by, among other things, the example of the whip, which was a common way of punishing a slave. When it comes to punishing a child, however, references to such punishments are scarce. Both Quintilian (*Inst.* 1.3.14–17) and Plutarch (*De lib. ed.* 12), who dealt theoretically with the upbringing of children, warn against physical punishment, especially whipping, for fear of awakening a slave mentality, that is, a mentality unworthy of a Roman citizen. *Patria potestas* was different from power over slaves. And as the jurist Marcianus (early 3rd century AD) points out, its basis was not to be ‘cruelty’ (*atrocitas*) but *pietas*, i.e. mutual love and respect (*D.* 48.9.5).

Indeed, by virtue of *patria potestas* in full, the father had the right over his legitimate children over their “life and death” (*ius vitae necisque*). In addition to being subject to him financially, he had the power to sell his children. He also had the right to punish his children, in the extreme case by death.<sup>15</sup> They were subject to a domestic court (*domesticum iudicium*), in which other male relatives convened by the head of the family participated, especially if the offence was more serious, but *pater familias* was not bound by their judgment and could only take their opinion into account as advice.

As part of the duty and responsibility to preserve the continuity of the family, its name, property, social status and prestige, which applied to the head of the family and which was based on the need to maintain the lineage and the family cult<sup>16</sup>, *pater familias* also had the power to decide on the admission of new members to the family. This was done both through adoption or fostering (strategies to ensure the family against dying out, applied especially when the father had no male offspring of his own) and through the acceptance (recognition as a legitimate heir and family member) of a newborn (his own or his son’s). The birth of a child into the family did not necessarily guarantee their entry into it, since the father had the right to reject the newborn (De Coulanges, 1998: pp. 88–92; Koskenniemi, 2009: pp. 1–9; and chap. 3).

14 The role of emotion and human sentiment cannot be entirely ruled out, although it was more likely a secondary factor accompanying Roman pragmatism, rather than a primary influence on the actions of adults in shaping this “public interest.”

15 This was not, however, an exercise in arbitrariness. From an early stage, this authority was subject to correction and limitation – initially through custom – and by the late Republic and the Imperial period, it seems to have been reduced to a right to abandon or kill a newborn without legal repercussions; see chap. 3. On *ius vitae necisque*, see e.g. Skřejpek (2005).

16 On the family cult see De Coulanges (1998); Bodel (2012); Skřejpek (1999).

On the other hand, *patria potestas* entailed responsibility for the actions of persons subordinate to *pater familias* and for the possible transgressions of their descendants, as well as the duty to provide for the descendants – both as part of the “natural affection” and as part of the duty to maintain the continuity of the family, which is ensured through offspring. For example, a father who failed to provide his daughter with a proper dowry<sup>17</sup> and a suitable husband could be judged as having failed (Plin. *Ep.* 2.4; Sen. *Ben.* 4.27.5; Mart. *Epigr.* 6.8). The father represented the natural protector of the family and was associated with providing for its material needs.

*Pater familias* was the sole owner and administrator of the family property, or the only one who could (relatively) freely dispose of it (the owner as such was the “family” in the sense of the family lineage)<sup>18</sup>. The other members of the family, by their work, did not acquire possessions for themselves but for him, and thus participated in the increase of the family fortune. However, children could receive from their *pater familias* the so-called *peculium*, property formally belonging to the father but intended to be freely disposed of by the one to whom it was assigned. The *peculium* assigned to the son could function as a lever and means of control.<sup>19</sup> Another practical effect regards, for example, a certain de-escalation of possible generational conflicts between an adult son in *potestas* and a father that may have resulted from the son’s financial dependence: as far as children were concerned, the father’s power over them in classical Roman law did not end when they reached adulthood. The element of reaching a certain age, virtually adulthood, as a possibility (not an absolute principle) of achieving emancipation (without further legal action), i.e. freedom from paternal power and gaining independence, appeared only in the 5th century CE under Emperor Valentinian III,<sup>20</sup> and in line with the ongoing changes in the classic Roman *patria potestas* (Vial-Dumas, 2014: p. 311). According to Arjava (1988: pp. 147–165), in this period, with the reaching of adulthood, the start of a career and the establishment of one’s own household, *potestas* actually ceases to rule the father-son relationship. An example is the son of Quintus Aurelius Symmachus (4th/5th century AD), who married at the age of 18, gained the office of praetor, and was helped by his father

17 On the issue of dowry, see e.g. Sommer (1946: p. 167); Kincl, Urfus & Skřejpek (1995: pp. 140–143).

18 There existed both a legal (e.g. measures against spendthrifts who squandered family property, the so-called *cura prodigi*) and a moral imperative for the proper management of family assets. The *pater familias* was expected to pass on the estate to his descendants at the very least undiminished, ideally increased. According to Saller (1999), the term *pater familias* reflects not so much “father” as such (which is more accurately captured by *pater*), but rather the head of the household as the manager of family property, responsible for its stewardship for the benefit of the family and future generations.

19 *Peculium* could significantly impact economic arrangements, the structure of transactions, contracts, or labour organization, as the *pater familias* retained greater control over the individual who held the *peculium* (e.g. a son or a slave) than he would over a free wage labourer (Kehoe, 2011: pp. 145–147).

20 Although reaching adulthood might motivate a father to emancipate his child earlier, should he wish to grant them independence, as suggested by *C.Th.* 8.18.2 from 319 CE.

to establish himself independently (with his father only in the role of “helper and advisor”).<sup>21</sup>

The classic *patria potestas* ended either with the death of the head of the family or with the so-called emancipation of the offspring. Upon the death of the father, the sons became *patres familias* of their own families (D. 50.16.195.2). Emancipation (triple in the case of a son, single in the case of a daughter or grandchildren) was a legal act representing the imaginary sale and subsequent release of the offspring from the father’s power, after which the emancipated person became a person in his or her own right (*sui iuris*), and paternal power thereby ceased.<sup>22</sup> If the father died during the immaturity of his children, a guardian (*tutor*) was appointed to protect their property interests. In the case of boys, the guardianship (*tutela impuberum*) lasted until they reached adulthood; in the case of women, it was permanent (after reaching it, it turned into a guardianship over women – *tutela mulierum*). The reason for this was the “reckless spirit” which the ancient Romans attributed to women (Gai *Inst.* 1.144; similarly, e.g., Liv. 34.2). The aim was to protect women and their interests. This notion – or rather prejudice – of the reckless, weak woman (which Gaius himself saw as erroneous) affected the position of women in legal matters in which they could not act entirely independently, even when personal private matters were involved. Although the situation of women gradually improved over time, never in ancient Rome was a woman fully equal to a man.<sup>23</sup>

One of the important changes in the status of children in the late Roman Empire which disrupted the traditional concept and content of *patria potestas* was the increasing possibilities of material and financial independence of the offspring from the father, even if the offspring was still formally subject to his authority. At the beginning of the development in this direction was the introduction of the institution of *peculium castrense* by Emperor Augustus. It enabled men in military service to acquire their own property independently of their father. Moreover, their *pater familias* had only limited access to the property thus acquired.<sup>24</sup> In the 4th century AD, the legislation of Emperor Constantine I and his successors extended the possibility of gaining access to this type of property in the case of doing civil service in the imperial administration, being a solicitor or a clergyman in church service (*peculium quasi castrense*; Mastrangelo, 2005; *C.Th.* 1.34.2 and 2.10.6 of 422).

Another possibility for (even still underage) children to acquire their own property was to inherit property from their mother, later from a third person (*bona materna/*

21 Nathan (2002: p. 156, notes 189–191).

22 The legal relationship between father and child also ends, and the child loses the right to inherit from the father in the absence of a will, as under the *agnatic* system – which for a long-time dominated inheritance law over simple blood kinship – they are no longer considered a member of the family (Kincl, Urfus & Skřejpek, 1995; Skřejpek, 2011).

23 On the topic of women in Roman society, see e.g. Hawley & Levick (eds.) (1997); Clark (1993); Dixon (1988; 2004b); Evans (1991); Hylén (2014); Pomeroy (1975); Treggiari (1979; 1991), among others.

24 The son held, in essence, the status of owner with respect to this property, even though formally it belonged to the father; its revocation was regarded as immoral. The son had the right to make a will regarding the *peculium castrense*; if he did not, the property reverted to the father.

*adventitia*). Here again, the father had only limited rights – he had only *usufructus* over this property and possibly power of guardianship if the child was a minor at the time of the mother's death, even in the case of *alieni iuris*<sup>25</sup> (*C.Th.* 8.18.1–3; 8.19.1). The amendment of Valentinian III from 452 CE established the right of a child, after reaching the age of twenty, to full access to half of the property inherited from his or her mother, even if the father were still alive and had jurisdiction over the offspring (*N. Val.* 35.10). In the case of the father's property (*peculium profecticium*), even in the time of Emperor Justinian, it continued to be the case that if the father granted property to the son to handle freely, the property still belonged to the father.<sup>26</sup>

Gaining (at least some) economic independence created the opportunity for the younger generation to start their own household, with the previously dependent sons themselves in the role of *pater familias*. According to Vial-Dumas (2014: pp. 312–320), one can speak of a social and legal anchoring of emancipation without the need to perform a traditional legal ritual, already obsolete and gradually falling out of use in the late imperial period. Moreover, it allowed the state to gain easier access to (especially) young men whose services it could use for its needs in return for a reward.

The obligation to provide for basic needs (first determined by a moral code, later by law) and to share property among core family members was not one-sided, but we can underline here the idea of reciprocity. Just as the father was obliged to share his property with his children and provide for their needs, so the offspring was obliged to provide their property to the father. This obligation extended not only to the father but also to the mother and possibly to the grandfather on both the mother's and the father's side (*D.* 25.3.5.2–3). It could also be enforced by courts, in which case the legitimacy of the claims and maintenance fees had to be assessed based on property, with the possibility of ordering the repossession of property in the event of non-fulfilment of the ordered obligation. If a son reported his father to the court, the father was entitled to refuse to pay maintenance fees (*D.* 25.3.5. pr.).

Yet this mutual obligation was not based on *potestas*, since according to Ulpian it also applied to emancipated descendants (*D.* 25.3.5.1). This behaviour was part of the concept of family morality, based on mutual love and respect (*pietas*) and the duty of obedience (*obsequium*) to parents, which was expected and promoted, along with gratitude for the beneficence and care of the parents.<sup>27</sup> It is obvious, for example, in the rhetoric of the edict of Emperor Constantius II from 359 AD: in the case of release from *potestas* by emancipation, the son is to be most grateful and obedient to the father precisely for the grant of the gift of freedom (*C.Th.* 6.4.16.2). It also illustrates the fact that the relationship between parent and offspring reflects a natural bond

25 That is, while under the *potestas* of the father, all property acquired by the child became the father's legal possession. Upon the termination of *potestas*, the property reserved for the child would then become theirs.

26 On *peculium*, see e.g. Mastrangelo (2005); Sommer (1946: pp. 160–162); Kincl, Urfus & Skřejpek (1995: pp. 146–147); Saller (1994: pp. 119; 123–124; 218–220); Frýdek et al. (2012: pp. 67–68).

27 Examples of expressions of gratitude toward parents include *Vitr.* 6. pr. 4; *Hor. Sat.* 1.6; *Sen. Ad Helv.* 13–14; *Lib. Or.* 1.4–8; *Hieron. Ep.* 125.6; *Auson. Domestica* 3.4 and *Par.* 4.1; 4.3; 4.6.

that cannot be abolished – unlike the bond created by agnation which is abolished by emancipation along with *potestas*. Thus, the father still maintains a certain ‘power’ over his offspring, however much it is based on adherence to a socially expected moral code. However loving, kind and benevolent many people could be as parents, the power framework of the parent-child relationship with the sovereign authority of the parent was typical of the Roman world throughout. Even Christianity did not bring about a significant change in this respect: while theologically the child is placed on an equal level with the adult before God, just as slaves and masters are equal before God, within the social reality Christianity reinforced the hierarchical status of household members.<sup>28</sup>

During the reign of Emperor Constantine I, there was a general increase in state interference in family affairs. His legislative moves to regulate family life represented a strong intervention into the formerly highly private sector of the family circle than Augustus’s famous laws to promote and restore family morality.<sup>29</sup> According to Giardina, Constantine’s legislation “aimed at asserting principles of rigour, order, and temperance in family relationships” (Giardina, 2001: p. 392). Evans-Grubbs (1995: pp. 1–53) points to the paradox in the proclaimed effort to return to the traditional foundations of Roman society, to preserve and restore social differences that had become unclear in the previous period. Combined with the innovations contained in his legislation, this effort led to the consolidation of changes in the whole society, including the family. All this was connected with moral awareness and the ideology of “proper family life”, adapted to the new circumstances and needs of the times, especially as a result of socio-economic developments, cultural changes and the growing influence of Christianity in society.<sup>30</sup>

The moral consciousness contained in the laws or rescripts of the 4th and 5th centuries AD, in relation to the regulation of the rules of family life, largely adheres to the traditional family structure and ideals, such as the requirement of *pietas* which is still a fundamental value, of family relationships (see, e.g., *C.Th.* 8.14.1 /367 AD/; 6.4.16 /359 AD/).

The will of the head of the family and the offspring’s subordination to his authority were also traditionally linked to the ability to decide (authoritatively or even with respect to the offspring’s wishes) on his or her education, profession, career and marriage, since through all of this the child played a significant role in securing and shaping the family’s future and its possible social mobility. These aspects of parental authority were also much more frequently subject to legal regulation in the late Roman period, particularly in the context of efforts to “preserve” social stability and social order and to comply with the relevant obligations to the emperor and the empire. This also accounts for the specific features of the society in late antiquity and its intense social stratification.

28 On the subject of children and families in early Christianity, see e.g. Bakke (2005); Horn & Martens (2009); Horn & Phenix (eds.) (2009); Balch & Osiek (eds.) (2003); Nathan (2002).

29 Especially *lex Iulia* (18 BCE) and *lex Papia Poppaea* (9 CE).

30 For discussion on the extent of Christian and pagan influences on family life and the legislation regulating it, see e.g. Giardina (2001); Evans-Grubbs (1995); Nathan (2002).

In the Roman mindset, already reflected in Augustus's laws on marriage, the stability of family life reflected the stability of the state (Rawson, 2010: p. 615). In addition to practical and purposeful motivations, it was this way of viewing family life and its potential society-wide implications that influenced legislative measures aimed at trying to strengthen the nuclear family and keep it together. From the 4th century onwards, moreover, along with the increasing stratification of society and the emphasis on social status and the maintenance of its order in the laws, there was a gradually increasing pressure to maintain social order: the emphasis on everyone knowing their position and their place in society for their own good and that of the state (especially economic motivation), and to perform their respective duties in accordance with their position or occupation. The hereditary principle is becoming much more prominent for social status (senators, decurions), for land (coloni), and for certain professions. The concept of hereditary attachment to status, land or profession permeated all social strata. It brought with it the establishment not only of obligations but also of opportunities – the possibilities of marriage, education and the exercise of a profession<sup>31</sup> (or certain professions) were thus bound and restricted by the state, regardless of the interests or wishes of the family, *pater familias* or children themselves.<sup>32</sup>

In this context, some repeated modifications of some of these binding measures (e.g. concerning the binding of coloni to land /e.g. *C.Th.* 5.17.1; 5.18.1/ and of decurions to obligations to their city of origin /e.g. *C.Th.* 12.1; 14.9.1; *N.Mai.* 7.6./) manifest, among other things, the questionable effectiveness of these steps or possible short-term intentions. Roman society was not a society in which social mobility was impossible, despite occasional attempts by emperors to maintain the social status quo or to curb the excessive ambitions of individuals.

There continued to be an approach on the part of adults viewing a child as a “tool” in various strategies of the family and individuals. The hereditary principle permeated all strata of society.<sup>33</sup> The idea that children should share the fate of their parents became a kind of general idea, endorsed even by the legal system. Exceptions

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31 Although continuation of the family trade and apprenticeship within the family (parents training their children in a craft were entitled to certain exemptions from burdens – *C.I.* 10.66.1) was not unusual in Roman society, some families may have preferred to have their child trained by a master, even if in the same profession the family already practiced; see Liu (2017: pp. 219–221); Vuolanto (2015). On the passing down of professions and the preservation of continuity and mutual support within the family, especially for maintaining family unity and property, see *Vitr.* 6. pr. 6.

32 Relevant legislation includes: *C.Th.* 7.22; 12.1; 6.35.1; 10.22.6; 14.3.5; 16.2.9; *N.Th.* 6.1; *N.Val.* 29; *C.I.* 11.10.5, etc. For the social stratification of late Roman society, see e.g. Evans-Grubbs (1995: pp. 21–28); Garnsey & Humfress (2001: pp. 83–106); Brown (1971); Češka (2000); Bednaříková (2013: pp. 11–37).

33 Not only obligations, but also privileges associated with certain professions could be extended to wives and children (e.g., physicians and teachers; *C.Th.* 13.3.2–3). These expectations were also moral in nature: for example, the relatives of a church official were expected to uphold higher standards of discipline and piety.

concerned criminal liability and the rule that children should not be punished or prosecuted for the offences of their parents.<sup>34</sup>

Another set of legal measures taken by Constantine I and his successors to promote the stability of the family environment included those relating to marital cohabitation, which placed even more emphasis than the laws of Augustus on proper marriage and on this kind of union within a social class.<sup>35</sup> Even engagement, which could involve children over the age of seven (as opposed to marriage which was conditioned by adulthood), became legally binding to a greater extent than before (*C.Th.* 3.5).

In line with this policy, the initially rather loose conditions for annulling marriage by divorce<sup>36</sup> tightened and were restricted, and in contrast to Augustus's legislation, which put pressure on remarriage (especially for the purpose of procreation for the good of Rome), remarriage, whether the previous one ended in death or divorce, was viewed more critically. This critical view of remarriage was not only due to the growing influence of Christianity and its concept of sexual morality with emphasis on abstinence and the ascetic ideal. Also at play was the effort to protect the property interests of children from previous unions: step-parents and potential step-siblings were viewed with some concern as persons who might threaten their interests (e.g. deprive them of their rightful inheritance or even their lives<sup>37</sup>).<sup>38</sup>

The emphasis and importance of maintaining the cohesion of the nuclear family is reflected in the laws of succession: families are encouraged to maintain property among members of the inner family circle, and there is a growing preference and importance of simple blood kinship over agnatic kinship.<sup>39</sup> The importance and strength of family relationships, as well as the possibility of using close ties and affection as leverage to maintain "civil obedience" and to defend the interests of the empire, the city or the slave owner, are indicated by measures threatening to separate children from their parents as punishment. These are particularly relevant to runaway coloni, where the threat of separating them from the family also served as a deterrent to keep them in their place (*C.Th.* 5.18.1 /AD 419/; 12.19.1 /400 AD/).<sup>40</sup>

Thus, the legal framework formed by *potestas*, in which Roman children moved, did not cease to exist but this, according to Romans, "absolute" power of the head of

34 An exception in this regard is the crime of *crimen maiestatis* (treason), in which all property of the condemned is confiscated for the imperial treasury, the sons suffer *infamia*, and are barred from holding public office or inheriting property – whether intestate or by will. Daughters may inherit only one-quarter of their mother's estate (Černoč, 2021: pp. 16–19).

35 Evans-Grubbs (1995: pp. 261–316); Giardina (2001); Humfress (2006).

36 On marriage and divorce see e.g. Vrana (2001); Rawson (1991); Evans-Grubbs (1995; 2005); Gardner (1998); Treggiari (1996a; 1996b); Saller (2000); Garnsey & Saller (2014: p. 154–160); Cantarella (2005: p. 25–32). Frýdek et al. (2012: p. 70–90); Stará (2013: p. 70–85; 100–109); Sommer (1946: pp. 165–169); Kincl, Urfus & Skřejpek (1995: pp. 132–140).

37 On the stereotype of the stepparent, see note 316.

38 Relevant legislation includes: *C.Th.* 3.7; 3.8; 9.7.2; 12.1.6; 14.3.2; 14.3.21; *N. Marc.* 4.

39 Relevant legislation includes: *C.Th.* 4.6; 4.21.1; 5.1; *N. Th.* 13. On this shift, see Saller (1984: pp. 351–352); Garnsey & Saller (2014: pp. 152–153).

40 Until the reign of Valentinian III, who in 451 CE ordered substitution as compensation instead of the separation of children from parents – justified by the impiety of such an act (*N. Val.* 31.2–3).

the family over his offspring was transformed and significantly weakened. Increasing interference from the state authority/emperor regulated family relationships and the choices of family members, including the head of the family and the limitations on his authority over children. This responded to the socio-political and economic events and crises that the Roman Empire faced. Whether the legislative actions of the Roman emperors actually succeeded in creating a more stable family environment is debatable.

In addition, there emerged another institution that claimed authority over the lives of the individual citizens and their obedience that began to interfere heavily in the private lives of people: the Christian church. Its growing influence is reflected in the laws and decrees of the emperors. Children thus found themselves in an imaginary triangle of interests of family, state and church which were not always congruent, and the silent voice of a child was not always taken into account in history. One example is the question of a daughter's dedication to God (the church) and a life of renunciation (even immediately after birth), regardless of her possible wishes to marry and have children in the future. Jerome (e.g., Hieron. *Ep.* 107; 128) advises parents who have vowed to raise their daughters as future nuns to guide them so that ideally they will not be able to taste any worldly "joys and sorrows" at all, and as a result will not desire things they will not be able to have. The promise made to God by the parents is binding, regardless of any desires the girl may have in the future. The practice of underage, mentally immature girls being forced by their parents to live a life of chastity, regardless of their possible interests and free choice to marry and become wives and mothers, is criticised in an amendment by Emperor Majorian in 458 CE (*N. Mai.* 6). If a girl wanted to marry and have children, she should not be forced to accept the veil.<sup>41</sup> She could adopt celibacy later – ideally as a widow after her childbearing years passed. Underlying this criticism is not exactly an interest in girls' wishes and their opportunity to make their own choices but rather the state's demographic interest in procreation.

### 2.3 The concept of childhood and the childhood world

It has been argued that the authority of the head of the family over children did not end with reaching adulthood and could continue and influence the lives of adult children. Of course, it is not the main intention here to deal with the lives of "children" in the sense of "offspring", and therefore with the relationships between adult parents and children, although with the paucity of material and the frequent confusion over the exact ages of the persons referred to in the sources it is necessary to reflect on these facts as well. The main focus is on "children" in the sense of "underage individuals"

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41 Although the preface of the *novella* explicitly mentions potential coercion through *patria potestas*, the text later refers to both parents (*pater materque*): both the father and the mother could be coercive figures and held responsible for such conduct (including potential penalties involving property).

and reflecting on the period of childhood as a specific developmental stage of human life. From this perspective, it is necessary to define who the Romans viewed as a “child”. When does childhood end and adulthood start? What did the Romans mean by “childhood”, or “child”?

In the Roman world, there existed no clear definition of childhood or its unambiguous delimitation, which is evident especially in the legal definition of the “child” and the inconsistent and ambiguous delimitation of adulthood, especially for boys.

The reaching of adulthood was an important milestone, notably for boys who were subject to guardianship after the death of their fathers, since it ended when the boys reached adulthood (it is in this context that the question of age assessment is elaborated by Gaius, and later Justinian). If the *pater familias* was alive, it was of importance especially in terms of the young man’s possibilities of self-realisation in public life, even though he was still subject to *potestas* under private law. He was becoming a man and citizen, a legally competent man, and could embark on his career.

According to Gaius, the question of when a boy could be declared an adult was a point of dispute between two schools of law, the so-called Proculians and the Sabinians, to which Gaius himself leaned: *Masculi autem cum puberes esse coeperint, tutela liberantur: puberem autem Sabinus quidem et Cassius ceterique nostri praeceptores eum esse putant, qui habitu corporis pubertatem ostendit, id est eum, qui generare potest; sed in his, qui pubescere non possunt, quales sunt spadones, eam aetatem esse spectandam, cuius aetatis puberes fiunt; sed diversae scholae auctores annis putant pubertatem aestimandam, id est eum puberem esse existimant, qui XIII annos explevit.* (Gai Inst. 1.196).

Adolescent boys were therefore, according to some views, to undergo an examination to assess their physical maturity, i.e. whether they were capable of producing offspring, not just by reaching a certain age. Under what circumstances this examination was to take place we do not know. It may have depended on the judgment and decision of the *pater familias*, on his consideration of whether the boy was ready to enter the adult world, taking into account his intellectual capacity as well as his physical (biological) maturity and age, while also considering the situation and the needs of the family.

The individual approach is also indicated by references to the rite of passage of adopting the white male toga (*toga virilis*), which traditionally involved the formal declaration of a boy as an adult. This ritual, however, did not have a fixed point of occurrence, and most often took place between the age of 14 and 16 (Krause, 2011: p. 629): e.g. in the case of the future Emperor Augustus at the age of 15 (Suet. *Aug.* 8.1), Commodus at 14 (SHA *M. Ant.* 22.12), and probably Geta at 16 (SHA *Sept. Sev.* 14.8).<sup>42</sup> This ritual was associated with both a public declaration of the young man’s maturity

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42 Age is not often mentioned explicitly in this context; when it is, it typically concerns “outliers” at the extremes, particularly in the imperial family. According to the historian Suetonius (1st/2nd century CE), for example, Caligula wore the *toga virilis* only at the age of 19 and without any accompanying honours (Suet. *Cal.* 10); both Nero and Britannicus were reportedly declared men prematurely – at not yet 14 years of age – by imperial decision, for political reasons (Tac. *Ann.* 12.41; Suet. *Claud.* 43).

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