



Women and Civic Identity in Roman Antiquity

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Abstract: *In ancient Rome, free women were citizens, but the notion of civic identity is more suitable than that of citizenship for the study of the Roman woman. Her position in the society differs from the position of the Greek woman: more relevant in religion and law and more present in social, civic and judicial spaces. It was an important position but always subordinate to that of the man. The birth and establishment of Christianity will not change the relationship between a man and a woman.*

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I. Foreword

Almost fifty years ago, we saw the beginnings of a fruitful period of research on women in the ancient world, especially in Rome and, if we speak of the Greek world, in Athens. It is difficult to single out specific names or individual works that mark a major turning point, but it seems to me that two such fundamental shifts were made first by Kari Børresen in 1968 with *Subordination et équivalence. Nature et rôle de la femme d'après Augustin et Thomas d'Aquin*, and later by Sarah Pomeroy in 1975, with *Goddesses, Whores, Wives, and Slaves: Women in Classical Antiquity*, a book translated into numerous languages. To Børresen we owe the introduction of the term "*androcentrism*"¹ in these studies and later, in 1991, the introduction of the term "*Matristics*"², which was deployed in symmetrical opposition to "*Patristics*".

It is clear that this academic interest reflected those social and political upheavals that we can place under the banner of the (second) feminist movement. What remains today is above all the

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1 Coined by CHARLOTTE PERKINS GILMAN, *THE MAN-MADE WORLD; OR OUR ANDROCENTRIC CULTURE*, V. *Masculine Literature* (1911): "*Within this last century, 'the woman's century', the century of the great awakening, the rising demand for freedom, political, economic, and domestic, we are beginning to write real history, human history, and not merely masculine history. But that great branch of literature — Hebrew, Greek, Roman, and all down later times, shows beyond all question, the influence of our androcentric culture.*"

2 KARI ELISABETH BØRRESEN, *FROM PATRISTICS TO MATRISTICS: SELECTED ARTICLES ON CHRISTIAN GENDER MODELS* (2002).

underlying awareness of that androcentrism. Nowadays, research using current refined instruments of the social sciences mostly seeks out or re-examines the materials surviving from antiquity in light of this awareness.

Indeed, in 2013, the great Byzantinist Judith Herrin began the *Introduction* to a collection of her essays with the following words: “*At first there was women’s history, then the history of gender, and now a vastly more sophisticated theory and methodology of studying historical men and women.*”³ In the apparent ivory tower of studies of women in antiquity, this process of reorientation is plausible, but its contemporary relevance is also apparent, placing gender at the heart of debate. If we think of the heated arguments of recent years, or more accurately, of recent months, concerning the so-called “*gender theory*”, it is impossible to avoid linking this argument to the interpretations and uses of the notion of *natura*, nature, in the Roman sources on marriage. Exemplary in this context, are the use of this notion by Wolfgang Waldstein⁴ and the potential criticisms that can be advanced against it.⁵

The viewpoints adopted in these studies initially included law, for example in Pomeroy’s book, although it did not occupy a central position. However, in Jane Gardner’s book of 1986 law played a larger role.⁶ Overall, these studies reflect influences of the political and cultural climate of the time, focusing in particular on the themes of exclusion and discrimination against women.

In the early 1980s, I studied the topic of the *populus Romanus*, Roman people. I did it from an essentially legal perspective and, despite all my reading, I found it extremely difficult to give women their rightful place in it. The free Roman woman was a *civis*, a citizen. Yet, in what way did she belong to the *populus*? The issue here is not exclusion, but rather inclusion and the forms of inclusion within a sphere of civic relationships that may go right to the heart of political power and government. Joan Scott later raised this question at the end of her seminal article of 1986:⁷

“What is the relationship between the laws about women and the power of the state? Why (and since when) have women been invisible as historical subjects, when we know they participated in the great and small events of human history?”

For me as a jurist, the main key was the law. There were hardly any earlier studies in the field and their approach was highly traditional. Thirty years have passed since then, and the literature on these issues is now vast. We have seen a new approach to the sources, with the massive use of finds belonging to material culture, especially inscriptions, rendered much easier to process with the IT tools now available. But it is not just a question of tools: the scholars’ attitude to these materials has also changed, including that of Roman law experts; we no longer exclusively study the legal sources. I will now attempt to reflect on a series of issues that are in my opinion illustrative from the point of view of inclusion.

3 JUDITH HERRIN, *UNRIVALLED INFLUENCE: WOMEN AND EMPIRE IN BYZANTIUM*, XIII (2013).

4 WOLFGANG WALDSTEIN, *INS HERZ GESCHRIEBEN: DAS NATURRECHT ALS FUNDAMENT EINER MENSCHLICHEN GESELLSCHAFT* (2010).

5 Jakub Urbanik, *On the Uselessness of It All: the Roman Law of Marriage and Modern Times*, Essays L. Winkel, *Fundamina* 946 (2014).

6 Jane F. Gardner, *Women in Roman Law and Society*, in *The Family in Ancient Rome* (Beryl Rawson ed., 1987); (In those years the early papers of Suzanne Dixon were published.) SUZANNE DIXON, *FAMILY FINANCES: TULLIA AND TERENCE*, *ANTICHTHON* 78 (1984); *ead.*, *Infirmitas Sexus: Womanly Weakness in Roman Law*, 52 *TJDSCHRIFT VOOR RECHTSGESCHIEDENIS* 343 (1984); *ead.*, *Polybius on Roman Women and Property*, 106 *AMERICAN JOURNAL OF PHILOLOGY* 147 (1985); *ead.*, *The Marriage Alliance in The Roman Elite*, 10, *JOURNAL OF FAMILY HISTORY* 353 (1985).

7 Joan W. Scott, *Gender: A Useful Category of Historical Analysis*, 91 *THE AMERICAN HISTORICAL REVIEW* 1053, 1074 (1986).

II. Why identity?

I have chosen to speak of civic identity rather than citizenship. In the legal terminology, the concept of citizenship is in fact a simple one, if we limit ourselves to describing the prerequisites for holding it. Far more complex is the examination of the infinity of legal situations and social relationships that may result from being a citizen: the combination in any given individual of these situations and relationships determines the civic identity of that individual. In Latin, the word *identitas* has a very different and more restricted meaning than our *identity* that has no direct equivalent in Latin. Another reason for choosing the term identity is its current relevance at a time when genuine, presumed or invented individual and national identities are being evoked, not just in Europe, but also all over the world, in order to legitimize political proposals.

I prefer to start by following a different path to those usually taken: differences often serve as indicators of interesting situations and I will therefore begin by highlighting some texts in which the Roman author himself compares the situation of Roman women to that of non-Roman women. We could describe this as a comparative approach *ante litteram*.

1. First right: the right of women to the instruments of elegance, private and public

The historian Livy relates that 195 BCE saw the abrogation of a *lex Oppia*, approved in 215, the year after Hannibal defeated the Romans at Cannae. This law had forbidden women to own more than 14 grams of gold, wearing multi-coloured garments and travelling in a carriage unless they were attending a public ceremony. Livy first tells us that a multitude of women crowded into the forum to support the abrogation of this law. This is not a unique event: when their interests as women were at stake, the sources testify to the existence of a female public opinion. Women, who never had a role in the legislative process, were nonetheless able to make their voices heard and thus to obtain what they sought. Livy provides a reliable account of the speeches for and against the law in question. These include various "*Leitmotive*". In particular, it was argued, women have a right to their so-called feminine world of objects, to their adornments, because:

*"Neither offices of state, nor of the priesthood, nor triumphs, nor badges of distinction, nor military presents, nor spoils, can fall to their share. Elegance of appearance, and ornaments, and dress, these are the women's badges of distinction; in these they delight and glory; these our ancestors called the women's world."*⁸

These are salient rights of Roman women that must be restored in part:

"But, in truth, it will be a source of grief and indignation to all, when they see those ornaments allowed to the wives of the Latin confederates of which they themselves have been deprived; when they see those riding through the city in their carriages, and decorated with gold and purple, while

8 Liv. 34.7.9: "*Non magistratus nec sacerdotia nec triumphi nec insignia nec dona aut spolia bellica iis contingere possunt: munditiae et ornatus et cultus, haec feminarum insignia sunt, his gaudent et gloriantur, hunc mundum muliebrem appellarunt maiores nostri.*"

they are obliged to follow on foot, as if the seat of empire were in the country of the others, not in their own."⁹

The women of Rome, the dominant city, cannot be inferior to Latin women: in these demands, we see two interesting rights, to public transportation and to jewellery. Yet, when the use of the litter was established, not all women were allowed to use it, but only those of good repute: it was prohibited to others.

As for jewellery, it had always represented an important part of the hereditary assets of women, and thus evidenced their economic capacity.¹⁰ The Digest of Justinian preserves a precious fragment, containing a slice of life:

*"A woman, at the time of her death, made the following bequest of her ornaments: "I wish all my ornaments to be given to my friend Seia." She also added in the same will: "I desire my funeral to be conducted in compliance with the wishes of my husband, and whatever my burial ceremonies may be, I desire to have buried with me, of my ornaments, two strings of pearls, and my emerald bracelets." When the body of the deceased was committed to the earth, neither her heirs nor her husband buried her with the ornaments, which she directed to be placed upon her body. The question arose whether the aforesaid articles would belong to the woman to whom she left all her ornaments, or to her heirs. The answer was that they would not belong to the heirs, but to the legatee."*¹¹

A woman dies. It is clear from the context that she has made a will, her husband is alive and there are *heredes*. The woman leaves – this is undisputed – all her ornaments to her friend Seia, except some jewels to be buried with her. Yet, the heirs do not fulfil her wishes, thus the jurist responds that these ornaments too belong to the legatee and not to the heirs.

2. Second right: women at official dinners, in their own home or that of others

Sometimes, even in the most recent literature, the condition of Roman women is examined alongside that of Greek, and especially Athenian, women. However, the Romans adopted a similar approach as well. One example, in the 1 century BCE Cornelius Nepos writes, contrasting Greek customs and Roman customs:

"For what Roman is ashamed to bring his wife to a feast, or whose consort does not occupy the best room in the house, and live in the midst of company? But in Greece the case is far otherwise; for a wife is neither admitted to a feast, except among relatives, nor does she sit anywhere but in

9 Liv. 34.7.5–6: *"At hercule uniuersis dolor et indignatio est, cum sociorum Latini nominis uxoribus uident ea concessa ornamenta quae sibi adempta sint, cum insignes eas esse auro et purpura, cum illas uehi per urbem, se pedibus sequi, tamquam in illarum ciuitatibus non in sua imperium sit."*

10 About the economic capacity of women see lastly 43 THE MATERIAL SIDES OF MARRIAGE. WOMEN AND DOMESTIC ECONOMIES IN ANTIQUITY (Ria Berg ed., 2016).

11 Dig. 34.2.40.2 (Scaev. l. 17 dig.): *"Mulier decedens ornamenta legauerat ita: 'Seiae amicae meae ornamenta uersa dari uolo'. eodem testamento ita scripserat: 'funerari me arbitrio uiri mei uolo et inferri mihi quaecumque sepulturae meae causa feram ex ornamentis lineas duas ex margaritis et uiriolas ex smaragdis': sed neque heredes neque maritus, cum humi corpus daret, ea ornamenta, quae corpori iussus erat adici, dederunt: quaesitum est, utrum ad eam, cui ornamenta uersa reliquerat, pertineant an ad heredes. respondit non ad heredes, sed ad legatariam pertinere."*

*the innermost apartment of the house, which is called the gynaeconitis, and into which nobody goes who is not connected with her by close kinship.*¹²

Remembering what we have just said about female *amicitia*, friendship, one should recall the text of the only materially surviving letter in Latin written by a woman in her own hand, found at Vindolanda, in Britannia.¹³ At around 100 CE, Claudia Severa writes to another woman (*Lepidinae suae*) to invite her to her birthday party: as many as three times in a few lines she calls her *soror*, sister, and once *anima mea*, my soul.

This *amicitia* does not have political or economic implications but expresses ties and connections of a social nature: the documentation of this matter in inscriptions is vast.¹⁴ *Amicitia* is documented not just between women but also between men and women,¹⁵ without sexual implications.

The importance and frequency of female *amicitia* should be stressed, precisely given the characteristics of Roman society: the literary sources (especially Cicero) exalt friendship as a relationship that exists fundamentally between males. Moreover, friendship is a very strong social relationship, placed in an intermediate position between the restricted circle of relatives and the widest circle of fellow citizens. Women also fully belong to this network of city relationships.

3. Third right: elsewhere there are queens who govern

At around 400 CE, the poet Claudian¹⁶ states that in Rome a woman may not become a consul, in other words, she may not wield supreme authority, in contrast to other peoples who may have a female queen. Women cannot *imperare*,¹⁷ in other words, be magistrates.¹⁸ Even when, starting from 14 CE with Livia,¹⁹ the woman, linked by blood to the emperor (mother, daughter, sister and above all wife), adopts the title of *Augusta*, the statues that portray her in full length never include the belt, the *cingulum* typical of the Roman magistrate. The difference between *Augustus* and *Augusta* is particularly evident in one of the most famous fragments of the Digest of Justinian. Only its initial part is usually cited, but we will read in its entirety: "*The Emperor is free from the operation of the law, and though the Empress is undoubtedly subject to it, still, the Emperors generally*

12 CORN. NEP. *vir. ill.*, III *De excellentibus ducibus exterarum gentium, Praefatio*, 6–7: "*Quem enim Romanorum pudet uxorem ducere in convivium? aut cuius non mater familias primum locum tenet aedium atque in celebritate versatur? quod multo fit aliter in Graecia. nam neque in convivium adhibetur nisi propinquorum, neque sedet nisi in interiore parte aedium, quae gynaeconitis appellatur, quo nemo accedit nisi propinqua cognatione coniunctus.*"

13 Vindolanda Inventory No. 85.057 = *Tab. Vind.* 2.291.

14 CRAIG A. WILLIAMS, *READING ROMAN FRIENDSHIP* 96 et seq. (2012).

15 *Id.*

16 CLAUD. *Eutr.* 1.340–348: "*Obstrepuere avium voces, exhorruit annus nomen, et insanum gemino proclamat ab ore eunuchumque vetat fastis accedere lanus: sumeret illicitos etenim si femina fasces, esset turpe minus. Medis levibusque Sabaeis imperat hic sexus, reginarumque sub armis barbariae pars magna iacet.*"; "*Loud sang the prophetic birds in warning. The year shuddered at the thought of bearing Eutropius's name, and Janus proclaimed the madness if the choice from his two mouths, forbidding a eunuch to have access to his annals. Had a woman assumed the fasces [of the consuls], though this very illegal it were nevertheless disgraceful. Women bear sway among the Medes and swift Sabaeans; half barbarity is governed by martial queens.*"

17 AMBROSIASTER *Quaestiones veteris et novi Testamenti* 45.3, at § 7.

18 See LIV. 34.7.9, *supra* note 8.

19 Francesca Cenerini, *Le matronae diventano Augustae: un nuovo profilo femminile*, in *MATRONAE IN DOMO ET IN RE PUBLICA AGENTES. SPAZI E OCCASIONI DELL'AZIONE FEMMINILE NEL MONDO ROMANO TRA TARDA REPUBBLICA E PRIMO IMPERO*, ATTI DEL CONVEGNO VENEZIA 16–17 OTT. 2014, 23, 35 (Francesca Cenerini & Francesca Rohr Vio eds., 2016); about the Augustae see lastly Antonio Pistellato, *Augustae nomine honorare: il ruolo delle Augustae fra "Staatsrecht" e prassi politica*, in *IL PRINCEPS ROMANO. AUTOCRATE O MAGISTRATO? FATTORI GIURIDICI E FATTORI SOCIALI DEL POTERE IMPERIALE DA AUGUSTO A COMMODO* 393 (Jean-Louis Ferrary & John Scheid eds., 2015).

confer upon her the same privileges which they themselves enjoy".²⁰ Someone, who cannot be a magistrate, cannot participate fully in those bodies that elect the magistrate, the popular assemblies. In this regard, women were completely excluded from the sphere of politics understood as the active management of society. As Gellius writes,²¹ the Roman woman does not enjoy *communio comitorum*, the right to belong to popular assemblies.

In the context of public law, we could however consider two very ancient rights enjoyed by the *civis Romanus*, dating back almost to the beginning of the Republic: the *provocatio ad populum*, the right to request a popular judgment in cases, where the persons concerned incurred the maximum penalty, and *appellatio*, the appeal to the tribunes of the plebs to intervene in order to block the initiative of a magistrate that was politically unacceptable. These rights are strongly political in nature. *Provocatio* does not appear to have been forbidden to women, but there is no direct evidence that it was ever used. For *appellatio*, the sources speak about at least one case in which a woman invoked this right. This case illustrates particularly well how complex the statute of the *civis* was, even more so because the woman in question, a certain Manilia, was a prostitute. However, the evidence is probative, since it comes from a technical legal work by a great jurist, Ateius Capito.²² We find ourselves in 151 BCE. After dinner, a high-ranking magistrate, the Curule Aedile Hostilius Mancinus, goes to Manilia's house and demands to be let in. She refuses and, when he tries to enter by force, she throws a stone at his head causing a serious wound. The magistrate seeks to put her on trial, but Manilia asks the tribunes of the plebs for help. They intervene and prohibit the continuation of the trial: Manilia is, hence, saved. The tribunes intervene, on the one hand, to sanction the magistrate's indecorous behaviour and, on the other, to punish his arrogance, albeit towards a woman of lowly social status, such as a prostitute.

Obviously, in the very different context of the Principate, there were effectively no limits on the women's ability to turn to the emperor and his chancery.

4. A great difference between Roman antiquity and today

Seemingly, the above cases show that the condition of Roman women was better than is usually thought. They could even suggest what appears to be a distinction between our own society and that of ancient Rome to the advantage of the Roman women. Paradoxically, we could say that in our time solemn legal formulations often go in the direction of the absolute parity of the sexes, but that social and even legal practice are, as a matter of fact, fundamentally discriminatory, for instance, concerning salaries. By contrast, in the Roman world the rules are, in many cases, strongly discriminatory, but legal and social practice often go in the direction of a vigorously emancipated female figure. As Nikolaus Benke has aptly put it in law, "*the Roman culture of gender appears quite ambivalent*".²³

20 DIG. 1.3.31 (Ulp. l. 13 ad l. Iuliam et Papiam): "*Princeps legibus solutus est: Augusta autem licet legibus soluta non est, principes tamen eadem illi privilegia tribuunt, quae ipsi habent.*"

21 GELL. Noct. Att. 5.19.10.

22 GELL. Noct. Att. 4.14.; about the episode of Manilia see L. PEPPE, POSIZIONE GIURIDICA E RUOLO SOCIALE DELLA DONNA ROMANA IN ETÀ REPUBBLICANA 114 (1984).

23 Nikolaus Benke, *Gender and Roman Law of Obligations*, in OBLIGATIONS IN ROMAN LAW. PAST, PRESENT, AND FUTURE. PAPERS AND MONOGRAPHS OF THE AMERICAN ACADEMY IN ROME 33, 215, 219 (Thomas A. J. McGinn ed., 2012); *id.* at 233: Roman law was "*liberal, individual, and largely gender neutral*"; see also Yan Thomas, *La divisione dei sessi nel diritto romano*, in 1 STORIA DELLE DONNE IN OCCIDENTE. L'ANTICHITÀ 103 (1990).

III. More on Rome and Greece

As we have seen, when looking into the rules of banquets, the Romans themselves often explicitly contrasted Roman and Greek women, stressing the differences. Yet, in some cases, the analysis of the Roman texts is more complex, for instance, when a Roman author translates a Greek text into Latin, changing it to reveal his own mindset, which was very different from that of the Greeks.

An excellent example in this respect is a long passage of Cicero's *De re publica*, in which he explains the potential consequences of the people prevailing in the city, listing a series of examples of the most extreme and even paradoxical evils.²⁴ Among these evils, the equality of man and wife is referred to as disastrous: it would be as harmful as the abolition of slavery or being forced to give way to animals on the street. Here we find a famous contrast between the rights of men and women:

*"The very slaves hold themselves as high as their lords; wives boast the same rights as their husbands."*²⁵ Since the terms employed are wife and husband (*uxores/viri*), the context seems to be that of the married couple.

This text is considerably more interesting if we contextualize it: in *De re publica*, Scipio previously²⁶ stated that he was quoting Plato to the letter, and Laelius later praised the accuracy of this translation.²⁷ But how faithful is Cicero to the original, actually?²⁸ Plato had conducted his

24 Cic. *rep.* 1.43.67: (Scipio) *"ergo illa sequuntur, eos qui pareant principibus agitari ab eo populo et servos voluntarios appellari; eos autem qui in magistratu privatorum similes esse velint, eosque privatos qui efficiant ne quid inter privatum et magistratum differat, <ef>ferunt laudibus, [et] mactant honoribus, ut necesse sit in eius modi re publica plena libertatis esse omnia, ut et privata domus omnis vacet dominatione, et hoc malum usque ad bestias perveniat, denique ut pater filium metuat, filius patrem neclegat, absit omnis pudor, ut plane liberi sint, nihil intersit civis an peregrinus, magister ut discipulos metuat et iis blandiatur, spernantque discipuli magistros, adulescentes ut senum sibi pondus adsumant, senes autem ad ludum adulescentium descendant, ne sint iis odiosi et graves; ex quo fit ut etiam servi se liberius gerant, uxores eodem iure sint quo viri, inque tanta libertate canes etiam et equi, aselli denique libere [sint] sic incurrant ut iis de via decedendam sit. ergo ex hac infinita,"* inquit, *"licentia haec summa cogitur, ut ita fastidiosae mollesque mentes evadant civium, ut si minima vis adhibeatur imperii, irascantur et perferre nequeant; ex quo leges quoque incipiunt neclegere, ut plane sine ullo domino sint."*; *"Then those who feel in duty bound to obey the chiefs of the state, are persecuted by the insensate populace, who call them voluntary slaves. But those in the magistracies who flatter the popular equality, and the demagogues who plead the levelling system, and endeavour to abolish all distinctions between nobles and commoners, these they stun with acclamations and overwhelm with honours. It inevitably happens in a commonwealth thus revolutionized, that liberalism superabounds in all directions, due authority is found wanting even in private families, and misrule seems to extend even to the animals that witness it. Then the father fears the son, and the son neglects the father. All modesty is banished; they become far too liberal for that. No difference is made between the citizen and the alien; the master dreads and cajoles his scholars, and they despise their masters. The conceited striplings assume the gravity of sages, and sages must stoop to the follies of children, lest they should be hated and oppressed. The very slaves hold themselves as high as their lords; wives boast the same rights as their husbands; dogs, horses, and asses, are emancipated in this outrageous excess of freedom, and run about so violently that they frighten the passengers from the road. At length this infinite licentiousness produces such a morbid self-sufficiency, such fastidious and effeminate sentiments get possession of the people, that when they observe even the slightest exertion of magisterial authority, they grow angry and seditious, and thus the laws are necessarily infringed, because there is no ruler that dares to execute them."*

25 Cic. *rep.* 1.43.67: *"ex quo fit ut etiam servi se liberius gerant, uxores eodem iure sint quo viri."*

26 Cic. *rep.* 1.42.65.

27 Cic. *rep.* 1.44.68.

28 PLAT. *pol.* 563B-D: *"τὸ δὲ γε, ἦν δ' ἐγώ, ἔσχατον, ὦ φίλε, τῆς ἐλευθερίας τοῦ πλήθους, ὅσον γίγνεται ἐν τῇ τοιαύτῃ πόλει, ὅταν διῆ οἱ ἐωνημένοι καὶ αἱ ἐωνημένοι μηδὲν ἤττον ἐλεύθεροι ὡς τῶν πριαμένων. ἐν γυναιξὶ δὲ πρὸς ἄνδρας καὶ ἀνδράσι πρὸς γυναῖκας ὅση ἡ ἰσονομία καὶ ἐλευθερία γίγνεται, ὀλίγου ἐπελαθόμεθ' εἰπεῖν. (563c) οὐκοῦν κατ' Αἰσχύλον, ἔφη, "ἔροῦμεν ὅτι νῦν ἦλθ' ἐπὶ στόμα;" πάνυ γε, εἶπον: καὶ ἔγωγε οὕτω λέγω: τὸ μὲν γὰρ τῶν Θηρίων τῶν ὑπὸ τοῖς ἀνθρώποις ὅσῳ ἐλευθερώτερά ἐστιν ἐνταῦθα ἢ ἐν ἄλλῃ, οὐκ ἂν τις πείθοιτο ἄπειρος. ἀτεχνῶς γὰρ αἱ τε κύνες κατὰ τὴν παρομίαν οἰαίπερ αἱ δέσποινα γίνονται τε δὴ καὶ ἵπποι καὶ ὄνοι, πάνυ ἐλευθέρως καὶ σεμνῶς εἰθιμῆνοι πορεύεσθαι, κατὰ τὰς ὁδοὺς ἐμβάλλοντες τῷ ἀεὶ ἀπαντῶντι, ἐὰν μὴ ἐξίστηται,*

argument looking first to the public sphere, then to the private sphere and finally to that of the animal world. Notable in this regard is that for Plato, the evil would lie in the fact that women might obtain freedom and equal rights compared to men. Suffice it to note that Cicero summarizes Plato's text and changes his generic "women" to *uxores*, wives: for Cicero, women are wives and the city order is subverted when wives demand legal equality with their husbands. By contrast, the state is well ordered when the woman/wife is in an unequal legal condition, whereby the feminine sphere is essentially limited to that of the family. Plato's mention of liberty alongside legal equality (thus denying the right to both) vanishes in Cicero: faced with both legal spheres mentioned by Plato, Cicero opts for equal rights alone. Women are absolutely precluded from participating in the political dimension.

But perhaps the thought process underlying Cicero's translation is yet more subtle and revealing: the Roman woman is already *free* and has her own social, civic and judicial spaces, albeit inferior to those of her husband. Such equality would cause upheaval in the *res publica*. For a woman, participation in the governing of the state – above all participation in popular assemblies, *communio comitorum* – is unthinkable.

At the same time, when we read Cicero, it becomes easier to understand why in Rome *civis*, a word that already represents a concept with a sufficient level of free "fellow citizenship", was sufficient for all. Athenian society, however, felt the need to differentiate even on a linguistic level between male and female citizens with two pairs of words that are both connected to the city: on the one hand, the masculine *astòs* and feminine *astè* and, on the other, masculine *politès* and feminine *politìs*. The easiest explanation in this respect is that for the female citizen, only *astè* is used, whilst for the male political protagonist, the word is *politès*. In actuality, however, things are not so simple: it is merely a cliché to state that the feminine *politìs* is extremely rare and late. The word is also found in inscriptions and is common in the language of trials. Sophocles and Euripides use it, as does Plato himself who fears the political liberty of women as one of the principal horrors of popular democracy. In particular, when in his utopia he writes²⁹ that the best way to ensure women's participation in the *polis* is to make them participate in military activities, then – and this is the only instance in the whole Platonic corpus – Plato uses the feminine *politìs*.

Furthermore, this word is used many times in Aristotle's *Politics*, at the beginning of the third book,³⁰ where he discusses citizenship: before Pericles's law of 451 BCE, the Athenian citizen had to be born from a *politìs*, but after 451 – from a *politìs* and a *politès*, whereby the plural *politai* is used for the couple, husband and wife. Perhaps Aristotle had to declare that the true citizen was only the man: this statement reflected Athenian society, in which women were unusually subordinate. On the other hand, he also stretched this reality in an ideological sense in order to allow men to preserve a pre-eminence that language seemed to rule out. All this took place in a society

καὶ τὰλλα πάντα οὕτω (563d) μεστὰ ἐλευθερίας γίγνεται."; "By all means," he said. "And the climax of popular liberty, my friend," I said, "is attained in such a city when the purchased slaves, male and female, are no less free than the owners who paid for them. And I almost forgot to mention the spirit of freedom and equal rights in the relation of men to women and women to men." "Shall we not, then," said he, "in Aeschylean phrase, say whatever rises to our lips?" "Certainly," I said, "so I will. Without experience of it no one would believe how much freer the very beasts subject to men are in such a city than elsewhere. The dogs literally verify the adage and 'like their mistresses become.' And likewise the horses and asses are wont to hold on their way with the utmost freedom and dignity, bumping into everyone who meets them and who does not step aside. And so all things everywhere are just bursting with the spirit of liberty."

29 PLAT. *leges* 7.814c.

30 ARISTOT. *pol. spec.* 1275B 22–34.

in which the situation of an individual depended precisely on the possession and origins of their citizenship, as demonstrated by the life of Pericles the Younger, the son of Pericles and Aspasia, a non-Athenian woman, a life negatively affected by these origins.³¹

Regardless of the ideology, the need, as Aristotle himself claims,³² to overcome the scarcity of citizens through maternity, turns her into a citizen, a *politiss*: the demographic reality is stronger than the ideology of exclusion.

We should also remember that in much of Greece, and later in the large part of the Hellenistic world, the women's status was better than it was at Athens, both from the point of view of private legal relationships and considering their public presence, to the point of coming close to political power in city governments. For instance, the most recent studies have shown that the practice of manumitting slaves, an act of considerable economic importance, was extremely common on the part of women.³³ Women were also a strong presence in civic spaces,³⁴ including under Roman rule, as we shall see shortly.

A well-known inscription for a victory at Olympia in a chariot race offers the best illustration in this regard. This inscription, found at Olympia, is by Kyniska of Sparta, Olympic victor for 396 and 392 BCE, as non-driving woman owner. It is the dedicatory verse epigram to be inscribed onto the pedestal of a bronze sculptural group consisting of her team of horses, her driver, and herself. The inscription says:

*"My father and brothers were kings of Sparta. I, Kyniska, conquered with my chariot of fleet-footed horses (...). And set up this dedication. I declare that I am the only woman in all Greece to have won this crown."*³⁵

In Rome, everything seems simpler: our word *citizen* seems to be translated by the single term *civis* that appears to comprise the whole free Roman population: men, women, and children.

IV. But what does it mean that a Roman woman is a *civis*?

Our starting point is the fact that ancient Rome never had a written constitution and that Rome's 1300 years of history saw a succession of many different ways of producing law. The increasingly complex structure of Roman society did not radically change the original basis for the rules governing the status of women: Roman law is essentially customary law based on *mores*, the customs established over time that excluded women from what the sources often describe as masculine functions reserved exclusively to males. Obviously, over the course of centuries, numerous formal normative acts intervened to alter the status of women, but the traditional reference framework remained, leaving a female condition very different from that of men. The fe-

31 Raffaele Tondini, *Ione figlio di Aspasia. La carriera politica di Pericle il giovane sulla scena teatrale ateniese*, 84 QUADERNI DI STORIA 127, 137 et seq. (2016).

32 ARISTOT. *pol.* 1278A 26–36.

33 Francesca Rocca, *La manomissione al femminile. Sulla capacità economica delle donne in Grecia in età ellenistica: l'apporto degli atti di affrancamento*, 2 HISTORIKA 247, 262 et seq. (2012), <http://dx.doi.org/10.13135/2039-4985/207> (last visited Mar. 27, 2017).

34 Lastly Timothy Howe, *Shepherding the Polis: Gender, Reputation and State Finance in Hellenistic Boeotia*, 186 ZEITSCHRIFT FÜR PAPYROLOGIE UND EPIGRAPHIK 152 (2013).

35 IG 5.1.1564A; (interesting is, how the woman had come to these victories) see JOHN PEDLEY, SANCTUARIES AND THE SACRED IN THE ANCIENT GREEK WORLD 129 (2005) (However, it seems to be exceptional evidence in classical Greece. Only in the Hellenistic era do we find more and more records of women's public role.).

male condition revolved around the conjugal house and its care. There was also an awareness, to borrow the words of the jurist Papinianus of about 200 CE, that “*There are many points in our law in which the condition of females is inferior to that of males.*”³⁶

Correspondingly, even within the Roman elite, the individual social value, the *dignitas*, of men was always greater than that of women.³⁷

Why this difference? According to the Roman jurists of the II and III century CE, a recurring explanation is the supposed feebleness of the female mind, the so-called *sexus inbecillitas*: this is a common statement in Roman classical culture, one that finds full expression already in Greek culture.³⁸ In my opinion literature has and still places too much importance on this “*feebleness*”, while not enough questions have been asked about why this justification appears in Roman law and culture only from I century BCE in Cicero:³⁹ indeed, it sounds like an artificial label. Even the jurist Gaius, reflecting his world of the II century CE, states that this is a specious explanation devoid of truth.⁴⁰

In fact, this label served to cloak the increasing difficulty of making exclusive recourse to the ancient and original principle, according to which women were excluded from whatever tasks that were considered masculine at the time.⁴¹

This also indicates the concern for protecting women’s modesty, in particular by ensuring that their presence in society remained discreet. Especially in non-legal sources, the female occupation of a public space is condemned. When this does occur, this woman’s opinions place her at

36 DIG.1.5.9 (Pap. l. 31 quaest.): “*In multis iuris nostri articulis deterior est condicio feminarum quam masculorum*”; about *mores* a perfect example is D. 5.1.12.2 (Paul. l. 17 ad ed.): “*Non autem omnes iudices dari possunt ab his qui iudicis dandi ius habent: quidam enim lege impediuntur ne iudices sint, quidam natura, quidam moribus. Natura, ut surdus mutus: et perpetuo furiosus et impubes, quia iudicio carent. Lege impeditur, qui senatu motus est. Moribus feminae et servi, non quia non habent iudicium, sed quia receptum est, ut civilibus officiis non fungantur.*” “Not everybody may be appointed judge by those with the right to appoint judges. For some are prevented by statute from being judges, some by nature, and some by custom. For example, the deaf and dumb, the permanently insane, and the impubes [prepubescent child] through lack of judgement are prevented by nature. A person expelled from the senate is prevented by statute. Women and slaves are prevented by custom, not because they lack judgement but because it is accepted [it is traditional] that they do not perform civic duties.”

37 DIG. 1.9.1 PR. (Ulp. l. 62 ad ed.): “*Consulari feminae utique consularem virum praeferendum nemo ambigit. Sed vir praefectorius an consulari feminae praeferatur, videndum. Putem praeferrere, quia maior dignitas est in sexu virili.*” “That a man of consular rank always takes precedence over a lady of consular rank is a point no one doubts. However, whether a man of praefectorial rank takes precedence over a lady of consular rank remains to be seen. I should think he does, because greater dignity inheres in the male sex.”

38 Giunio Rizzelli, *Représentations féminines, lieux communs et droit dans la Rome antique*, in DONNE, CIVILTÀ E SISTEMI GIURIDICI. RACCOLTA DI TESTI DAL MASTER INTERNAZIONALE CONGIUNTO FEMMES, CIVILISATION ET SYSTÈMES JURIDIQUES 59, esp. 61 et seq. (D. Curtotti, C. Novi & G. Rizzelli eds., 2006).

39 Cic. Mur. 12.27: *infirmitas consilii*, “weak judgement”; for *sexus inbecillitas* see DIG. 16.1.2.2 (Paul. l. 30 ad ed.): “*Verba itaque senatus consulti excutiamus prius providentia amplissimi ordinis laudata, quia opem tulit mulieribus propter sexus inbecillitatem multis huiusmodi casibus suppositis atque obiectis.*” “And so let us examine the terms of the senatus consultum [s.c. Velleianum, about 54 CE], having first praised the foresight of the most distinguished order [the senate], because it brought help to women, seduced and deceived in many cases of this kind, on account of the weakness of their sex.”

40 GAI 1.190.

41 About *tutelage* see DIG. 26.1.16 PR. (Gai l. 12 ad ed. prov.): “*Tutela plerumque virile officium est.*” “Tutelage is, for the most part, a masculine office.” (The interpolation suggested by some for *plerumque* serves only to remove a source of embarrassment for those who do not wish to admit exceptions.) DIG. 26.1.18 (Neratius l. 3 reg.): “*Feminae tutores dari non possunt, quia id munus masculorum est, nisi a principe filiorum tutelam specialiter postulent.*” “Women cannot be appointed as tutors, because this is a duty for males, unless they petition the emperor especially for the *tutelage* of their children.” (*Plerumque* and *nisi* relativize the scope of the general principle.)

the margins of society through two stereotypes: the shameless woman and the masculine woman.⁴²

This female condition is a generic and general principle whose concrete contents are specified on a case-by-case basis, we might say, by subtraction, or, in other words, by excluding women in specific contexts. Obviously, this cannot occur without ambiguities or grey areas.

V. What Citizenship?

Before taking a closer look at some specific features of the female condition, we should first pause to consider the initial question: what citizenship did Roman women have? The most direct approach is terminological.

Rome first had the noun *citizen*, *civis*, and only later – many centuries later – did the word *civis* give rise to the noun *civitas*, the citizen body as a whole.⁴³ From the outset, *civis* comprised both men and women, with internal distinctions in the quality of *civis* that derive exclusively from their respective positions within the family. But at its dawn and for many centuries, the Roman state represented itself as the *populus Romanus Quiritium* which can be translated as the Roman people of men in the army. The Roman power system was organized on a military basis: popular assemblies were above all ranks of the army; only that which fell within this structure was public in the true sense of the word. The Roman people were simultaneously the state and the army, and consequently the popular assembly that was its most important organ. Women fell outside all of this, which explains their exclusion from the public sphere.

For many centuries, the only true Roman was a man who bore arms: in archaic language the *Quiris*, not the *civis*.⁴⁴ *Civis* was only the individual belonging to the same group, representing a kind of a relationship: *cives Romani* were men, women and children.

Only after the relationship between the people and the army had disintegrated did it become unequivocally clear that the people consisted of all *cives*.⁴⁵

42 Birgit Feldner, *Zum Ausschluss der Frau vom römischen officium*, 62 *REVUE INTERNATIONALE DES DROITS DE L'ANTIQUITÉ* 381 (2000) ("die schamlose Frau" ["the shameless woman"] [Chelidon, Carfania, Agrippina] and "die männliche Frau" ["the masculine woman"] [Maesia, Hortensia]); see also (with some variations) *ead.*, *Women's Exclusion from the Roman Officium* 396 (Sept. 17, 2002), *FORUM HISTORIAE IURIS*, <http://www.rewi.hu-berlin.de/zitat/0209feldner.htm> (last visited Mar. 27, 2017) Feldner studies three cases: Das Skandalon der Chelidon, the lover of Verres; Das Exemplum der Carfania; Agrippina, die socia imperii, Agrippina the Younger, the fourth and last wife of Claudius.

43 In II century BCE *civitas* still describes the whole citizen body, but the dominant and most frequently used term is *populus*, see L. Peppe, *La nozione di populus e le sue valenze. Con un'indagine sulla terminologia pubblicistica nelle formule della evocatio e della devotio*, in *STAAT UND STAATLICHKEIT IN DER FRÜHEN RÖMISCHEN REPUBLIK*, 312, 329 et seq. (Walter Eder ed., 1990).

44 But see Luigi Capogrossi Colognesi, «*Familia*», «*pater*», «*civis*»: *intrecci e contraddizioni*, 40 *INDEX* 146 (2012) (Civis and Quiris cannot be superimposed because – as we will see shortly – they describe different identities, as they refer to different contexts. As such, although sensitive to the difference in context, we cannot agree with the conclusion of Capogrossi that in the «public» sphere [the guillemets are the A.'s] identified as "the political community – above all as warriors and members of the primitive curias"; "the gap between *pater* and *filius* seems to disappear: another organizational criterion and another logic of inclusion/exclusion associated with the image of the *civis* prevails." [author's trans.]).

45 *GAI* 1.3: "*populi appellatione universi cives significantur.*" Very probably, only at the beginning of the Republic "*populus*" starts to mean firstly the entirety of the *cives*, the "*totalità dei cittadini*"; see Aldo L. Prosdocimi, *La Roma "Tarquinia" nella lingua: forme e contenuti tra il prima e il dopo*, 17 *ANNALI DELLA FONDAZIONE PER IL MUSEO "CLAUDIO FAINA"* 367, 407 (2010).

There is no doubt that the Roman woman was a *civis* from the very beginning. Nevertheless, the inclusion of a woman into the community as a *civis* among *cives* works on two fundamental, inalienable levels, insofar as we can distinguish between them: a functional level, relating to procreation and everything gravitating around it (such as the rules of matrimonial exchange between groups), and a symbolic level, religion.

We will discuss religion below. However, at this point it should be stressed that the role of a woman in Rome was to have children and raise them, and to manage the interior of the house in a subordinate condition to the head of the family, the *pater familias*, who was generally the husband or his father, a *Quiris* and a potential soldier. This is the original structure of the Roman family and the relations arising inside and out of it.

For many centuries, almost until 90 BCE,⁴⁶ the Roman woman could confer Roman citizenship on her children: the general rule, governing the citizenship of a newborn, was that in a fully valid marriage (*iustae nuptiae*) the newborn gained the citizenship of the Roman husband at the moment of conception. Even outside this type of marriage, if the woman was Roman but her husband was not, her child was also Roman.

VI. But where did the Roman community and Roman women meet?

Three different situations emerge: religion, civic spaces, taxation. If we speak about taxation, here I can only say Roman women paid taxes. This obviously entails numerous presuppositions that differ, depending on the period and the sums of money involved, and, in particular, the adequate legal capacity of women and the existence of tools for enforcement and for calculating the tax base.

1. Religion

Religion played a truly central role, whereby its rites aimed to preserve the *pax deorum*, harmony with the gods. Religion could be private and public, and the harmony between the gods and the community was seen as the foundation for the well-being of the Roman state. And in the city's religion, women played a fundamental role.

To illustrate, for almost a thousand years the most important priest in Rome was the *Flamen* of Jupiter. However, he had to have a wife, known as the *Flaminica*. Whilst the *Flamen* held his post because he had been elected, the woman was a priestess only because she had married a *Flamen*. If she died, the *Flamen* was divested of his office. The *Flaminica* also performed some tasks of importance for everyday life. Moreover, she had to wear a special hairstyle and perform a solemn sacrifice of a ram to Jupiter every week on market days. Moreover, at the Ides in mid-month, her husband had to sacrifice a sheep to Jupiter. These were obviously fertility rites on behalf of the whole community.⁴⁷

46 In other words, until the issue of the *lex Minucia*, inverting the rule: the son of a Roman woman and a foreigner will be a foreigner; for later developments see GIOVANNI PUGLIESE, ISTITUZIONI DI DIRITTO ROMANO 370 (3d, 1991).

47 CELIA E. SCHULTZ, WOMEN'S RELIGIOUS ACTIVITY IN THE ROMAN REPUBLIC 81 (2006): "Rather than discussing the *flaminica* and the *flamen* as two separate entities, the *flaminica* should be viewed as a single priesthood that required the services of a married couple." On the *Flaminica* see L. Peppe, *Storia di parole, storie di istituti: sul diritto matrimoniale romano arcaico*, STUDIA ET DOCUMENTA HISTORIAE IURIS 123, 188 et seq. (1997).

Another very ancient cult, perhaps introduced in the early Republic but still flourishing during the period of the Empire, was that of *Bona Dea* whose name was secret. This was an exclusively female cult, but it was practiced *pro populo romano*, for the benefit and health of the whole Roman people.⁴⁸ This cult entailed a secret ceremony, to which men were not admitted. This ceremony was officiated in her house by the wife of a supreme magistrate *cum imperio*, assisted by the Vestal Virgins, the high college of priestesses who tended the city's perpetually burning fire.⁴⁹

Finally, the festival of the *Lupercalia* should not go unmentioned. As ancient as Rome itself, it was held in mid-February and physically involved the city and its entire population, explicitly including women, in a rite of purification and fertility, of land and of women. According to Varro,⁵⁰ February was the month in which the people were purified, representing the central point in the life of the city. It is no accident that it was during this festival in 44 BCE that Mark Antony – consul and head of the *Luperci* – offered Caesar the king's crown, which he refused. The festival was still celebrated in 495 CE but was abolished shortly afterwards.

The religious role of the Roman woman is a constant: we also have endless inscriptions naming women who had built or restored temples or altars in their name and at their expense.⁵¹ It is from this perspective that women came closest to playing a central role in Rome's public life.

2. Civic spaces, religious or otherwise

There are only two examples in a rich catalogue relating to this area. Important type of public presence is that of Eumachia, who lived in Pompeii during the Augustan period. Already a wealthy woman in her own right, she married a member of one of the town's oldest families, and became the public priestess of Venus and patron of the corporation of the *fullones*, the washers. She had a large public building constructed at her expense, perhaps to be used mainly as a wool market, and dedicated it to *Concordia Augusta* and to *pietas*, very likely seeking to support her son's election campaign for the post of *duumvir* in the years 2/3 CE.⁵² The model of the building was the *porticus Liviae*, Augustus' wife, with two statues, one representing Livia, and the other – Eumachia.

In the eastern part of the Empire, in the Aegean islands and especially in Asia Minor, between the I and III century CE, we witness the only instances, where a large number of women held posts as city magistrates. These were obviously very wealthy women of particularly high social status, often belonging to families with close ties to Rome, the imperial court and the provincial governor.

Undoubtedly, more often than not these were cities with empty coffers, so that anyone willing to shoulder public expenditure was welcome: these women primarily financed public games. How-

48 Cic. *de har. resp.* 17.37; *de leg.* 2.21.

49 On the cult of *Bona Dea* see ARIADNE STAPLES, FROM GOOD GODDESS TO VESTAL VIRGINS. SEX AND CATEGORY IN ROMAN RELIGION (1988) *passim*.

50 VARRO *l.l.* 6.34, *februatur populous*, people is purified, which is likely to have given the month of February its name.

51 Exemplary is *CL* 1² 1688=10.292=ILS 5030=ILLRP 540 (Padula, late Republic): "*Ansia Tarvi filia/Rufa ex decurionum d(ecreto) circ(a)/lucum macer(iam) et murum ian(uam)/d(e) s(ua) p(ecunia) f(aciendum) c(uravit)*"; SCHULTZ, *supra* note 47, at 59: "*Ansia Rufa, daughter of Ansius Tarvus, by order of the decurions (local officials) ensured that a brick wall and (another) wall and a gate were built around the grove. She paid for it with her money.*"

52 On Eumachia (and Iulia Felix, another interesting female figure from Pompeii) see Rosaria Ciardiello, *Donne imprenditrici a Pompei: Eumachia e Giulia Felice*, in 43 THE MATERIAL SIDES OF MARRIAGE *supra* note 10.

ever, this may be an understatement, as the activities of some of these women had a different and far greater impact. But above all, two important figures are of interest here. Evelyn Höbenreich has recently written about one of them in depth.⁵³ They are Plancia Magna of Perge and her descendant Plancia Aurelia Motoxaris of Selge, both towns in the vicinity of present-day Antalya. These two ladies of the II century CE come to hold the post of demiurge, are the eponymous magistrates of their town, "*representing the city to the world, and so constituting the very top of the whole pyramid of offices*".⁵⁴

Plancia Magna was certainly also a priestess of the imperial cult. We can ascribe to Plancia the magnificent reconstruction of the city gate at her expense in around 120 CE:⁵⁵ women constitute the majority of the statues decorating this gate and the inscriptions refer to Plancia, even preceding her male relatives. Equally generous was Motoxaris, who had the upper agora of her town rebuilt at her costs.⁵⁶ In the inscriptions, these women are referred to respectively as "*daughter of the city*" and "*mother of the city*".

Another aspect of civic spaces concerned the participation of women as spectators in events such as games, public banquets and theatrical performances. There were never any restrictions in this regard, beyond that of decent behaviour. Already in the II century BCE, the leader of a theatre company remarked in a comedy by Terence that among the various reasons for the comedy's lack of success, when first performed in 165 BCE, was the chattering of women.⁵⁷ However, we should always remember that spectacles and games in Rome had a primarily religious significance: the priests of the deities in whose honour they were held participated in these events, whereas head priests and the Vestal Virgins had reserved seats.⁵⁸

VII. Complementarity, Christianity: two final remarks

The first remark concerns the potential for linking together all the threads of this paper into a single word. In my view, this word exists, and it is complementarity, or "*Komplementarität*". This word may have many different nuances in different disciplines: the role of a complementary element within a system may vary from a "*mere accessory*" to "*cooperation on an equal footing*". In the case of Roman women, we see their integration into Roman society as non-egalitarian but necessary for this social system. This complementarity subordinates the condition of women to that of men.

A second final consideration: I have spoken of the importance of women in Roman state religion, but only in the context of paganism. In fact, the birth of Christianity and its later establishment did not radically alter the legal status of women, and only substantially impacted the

53 Evelyn Höbenreich, *Les femmes dans le droit romain*, in *DONNE, CIVITÀ SISTEMI GIURIDICI* 48–49 (Donatella Curtotti, Criseide Novi & Giunio Rizzelli eds., 2007) and previously *ead.*, *Familie und Gesellschaft*, in *SCYLLA. FRAGMENTE EINER JURISTISCHEN GESCHICHTE DER FRAUEN IM ANTIKEN ROM* 9, 66–67 (E. Höbenreich & G. Rizzelli eds., 2003); on Plancia Magna and Motoxaris see also Johannes Nollé, *Frauen wie Omphale? Überlegungen zu politischen Ämtern von Frauen im kaiserzeitlichen Kleinasien*, in *REINE MÄNNERSACHE? FRAUEN IN MÄNNERDOMÄNEN DER ANTIKEN WELT* 229, respectively 247 et seq. and 238 et seq. (M.H. Dettenhofer ed., 1994).

54 Ramsay MacMullen, *Women in Public in the Roman Empire*, 29 *HISTORIA* 208, 208–213 (1980). (Yet, no unanimous explanation exists of the reasons and causes for this role of women in this area and in this time.)

55 PAOLO BARRESI, *PROVINCIE DELL'ASIA MINORE: COSTO DEI MARMORI, ARCHITETTURA PUBBLICA, COMMITTENZA* 521 (2003).

56 *Id.* at 539–540.

57 *TER. Hec.* 35: *clamor mulierum*.

58 *Cic. Mur.* 35.73 as cited in ROBIN LORSCH WILDFANG, *ROME'S VESTAL VIRGINS. A STUDY OF ROMAN'S VESTAL PRIESTESSES IN THE LATE REPUBLIC AND EARLY EMPIRE* 32 (2006).

legal framework of marriage, whilst the importance of women in the religious public sphere decreased. However, Christianity was to become a total social fact, in the sense used by Marcel Mauss, in other words, a feature of Roman culture that is connected to all others and therefore also contributes to structuring civic identity. In this sense, the role taken on by Christianity in the social construction of female identity and therefore in the role of women in society and the state is important. With this in mind, the history of this role can certainly be divided into two parts.

In the first part, from the preaching of Christ until the end of the III century CE, the female presence is strong and important. One of the most popular strands of research in recent years is precisely the study of the history of the female role: at home, women pray and host meetings of the faithful, as seen in *Men and Women in the Household of God* by Korinna Zamfir.⁵⁹ The picture that emerges is of a generally free domestic and non-domestic condition of women: in this regard, the figure of Lydia of Thyatira and her meeting with the Apostle Paul at Philippi is an apt example.⁶⁰

At the same time, we see a strand of misogyny that is obviously a child of the times and that will condition the whole history of Christianity up to the present. This strand finds its strongest expression in the theological problem of whether women, like men, are *imago Dei*, with a predominantly negative answer that later will be overcome, albeit with difficulty. The most important formulation of this trend can be found in a fragment of the Gospel of Thomas, probably influenced by the philosophy of Clement of Alexandria⁶¹ but which is in any case perfectly in line with Pauline thought:⁶²

*"Simon Peter said to them, 'Make Mary leave us, for females don't deserve life.'
Jesus said, 'Look, I will guide her to make her male, so that she too may become a living spirit resembling you males. For every female who makes herself male will enter the kingdom of Heaven.'"*

Traditional Roman law⁶³ and Christian theology meet in Ambrosiaster,⁶⁴ at about 380 CE:

"For in what way can it be said of the woman, that she is the image of God, who is known to subject to the dominion of the man and to have no authority? For neither is she able to teach, nor to be a witness or not to stand security for someone, not to judge: how much more to rule!"⁶⁵

59 KORINNA ZAMFIR, *MEN AND WOMEN IN THE HOUSEHOLD OF GOD. A CONTEXTUAL APPROACH TO ROLES AND MINISTRIES IN THE PASTORAL EPISTLES* (2013).

60 *ACTA AP.* 16.11–15.

61 CLEMENT OF ALEXANDRIA *EXC. THEOD.* 21.3 see MAURO PESCE, *LE PAROLE DIMENTICATE DI GESÙ* 72, 582 (2004).

62 See PAUL. 1 COR. 11.3–10 (much more concrete than PAUL. GAL. 3.27–28 [a mere statement of principle]).

63 See LIV. 34.7.9, *supra* note 10, especially the list of exclusions in the famous DIG. 50.17.2 PR.-1 (Ulp. 1 *ad Sab.*): *"Feminae ab omnibus officiis civilibus vel publicis remotae sunt et ideo nec iudices esse possunt nec magistratum gerere nec postulare nec pro alio intervenire nec procuratores existere. 1. Item impubes omnibus officiis civilibus debet abstinere."* *"Women are debarred from all civil and public functions and therefore cannot be judges or hold a magistracy or bring a lawsuit or intervene on behalf of anyone else or act as procurators. 1. Likewise, someone who is not grown up must abstain from all civil functions."*; FRIER-MCGINN, *supra* note *, at 457: *"act as procurators (for others in lawsuits)"*.

64 (Unknown author, very probably a Christian linked to Judaic culture and with a good legal education.) Ulrich Manthe, *Wurde die Collatio vom Ambrosiaster Isaak geschrieben?*, in *FESTSCHRIFT R. KNÜTEL ZUM 70. GEB. 737* (Holger Altmepfen ed., 2009).

65 AMBROSIASTER *Quaestiones veteris et novi Testamenti* 45.3: *"Quomodo enim potest de muliere dici, quia imago dei est, quam constat dominio viri subiectam et nullam auctoritatem habere? Nec docere enim potest nec testis esse neque fidem dicere nec iudicare: quanto magis imperare!"* (It has been said about this text [*Wurde die Collatio — id.*, a 742;

After Constantine and later the establishment of Christianity as the state religion, the process of institutionalizing the Church led to the formation of the ecclesiastical hierarchy and the regulation of Church property, with an infinity of problems and uncertain solutions, for example, the inheritance of the personal property of a bishop by his wife and children.⁶⁶ The subordination of women is expressed in this sphere by their exclusion from this hierarchy and the creation of new distinctions within the female sex. For example, there was a fierce debate over the wealthy Christian widows' role in the Church, as widowhood had "restored" their quasi-virginal condition. However, at this point we are approaching the Middle Age and its abbesses.

Rocca, *supra* note 35, a 743; tutelage, *supra* note 43] that it is structured following a rabbinic style of exposition "vom Leichterem aufs Schwerere". It has also been written that the syntagma "quanto magis" "interrogatively, is often used in argument" [so ALEXANDER SOUTER, VII 4 A STUDY OF AMBROSIAS 71 (1905)]. The conclusion should be that in this text the most important exclusion for women is "to rule", *imperare*. In the time of Ambrosiaster, it meant to be a formal and real Empress, with all the powers of an Emperor [still in 800 CE one of the arguments for the crowning as Emperor of Charles the Great would be that the throne of Constantinople was vacant, as it was occupied by a woman, Irene]. About *docere* see now K. Zamfir, *Women Teaching-Spiritually Washing the Feet of the Saints? The Early Christian Reception of 1 Timothy 2:11-12*, 32/2 ANNALI DI STORIA DELL'ESEGESI 353, spec. 373-375 (2015).

⁶⁶ CAN. APOST. 40 (IV century CE or a bit earlier).