5: Under Roman Roofs: Family, House, and Household

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Introduction: The Paradigm of Patriarchy

It is a truism that the family forms the basic unit of any society and, at the same time, reflects its ruling principles, values, and views, and this is certainly true of Rome. As in all societies, the structure of the basic family unit was made up of a complex compound of criteria and factors that, in their relative importance to the whole as well as individually, could and did differ considerably at any given period and were subject to change over time. Legal status, age and gender, wealth, social standing and rank, traditions and ideologies, and attitudes and patterns of behavior based on them determined the position of a Roman, male or female, in society as well as in his or her family. Republican society at large was characterized by the omnipresence of hierarchies and of overlapping power relations. Distinctions of status and rank abounded, not only between Roman citizens or provincials and the mass of slaves with no rights, but also between magistrates and ordinary citizens, between generals and soldiers, patrons and clients, senators and the plebs in the Roman street, and even within the privileged classes.

The image and idea of the Roman family was deeply influenced by a combination of hierarchy and power. At least in law and in ideology, all relations within the household centered on authority, obligation, and coercion.[1] The aristocratic value system was defined by a number of traditional factors: superiority, rank, authority, talent, and achievement in the service to the state (*res publica*), on the one hand, balanced by sub-ordination, acceptance, and deference, on the other. Similarly, the ideal of the well-ordered Roman household depended on patriarchy, that is,

on the power of the male head of the household. This ideology of the family was deeply entrenched and never called into question, let alone seriously challenged. The ideal household also served as the paradigm of authority and of social order in society and in the state as a whole. In this respect, if not in others, the notion of the patriarchal household was more than a mere "figment of the Roman jurist's imagination or fossilized imprint of archaic customs."[2]

In the everyday life of a member of the political class, "public" and "private" roles and responsibilities overlapped and were indeed inextricably interlocked. For an aristocrat (*nobilis*), being the head of a large house was as much a characteristic of his powerful position in the uppermost eschelon of society as belonging to the senate. Consequently, the prominent senator had to be publicly visible in the Forum, in the Curia, and in the lawcourts but also – in other functions – in his representative house, which, as a physical and social space, provided an equally important stage for the permanent assertion of his status and influence.

Stereotypes and Statistics: Sources and Approaches

A central aspect of the ideological system mentioned above was the stereotype of the "extended" or "joint" family of three generations under a single roof, dominated by an aged patriarch, the "father of the family" (*paterfamilias*) – the towering and forbidding figure at the head of the household, severe and authoritarian, sometimes arbitrary and downright tyrannical, but also righteous and just. He ruled supreme over his wife – the chaste and industrious mistress of the house, spending even her spare time on spinning and weaving. He lorded it over his adult sons – brave and dedicated to service to the state (*res publica*) in war and peace but obediently returning under their father's roof and unquestioningly submitting to his authority. Similarly, his daughters obediently awaited their father's choice of husbands, even as his daughters-in-law were bringing forth and rearing the youngest generation of the family. The father held sway over the slaves and freedmen – hardworking, loyal, and devoted to their master – and over the family property, house, land, and cattle. Autocrats of the old school were held up as examples (*exempla*) against indulgence, indolence, and weakness. The famous censor Ap. Claudius Caecus, old and blind though he was, ruled over one large "house" (*domus*), including four sturdy sons, several of whom went on to become consuls, five daughters, and many

clients – and rule he did, as later tradition emphasized. Not only did he maintain "authority" (*auctoritas*) but "command" in the strict sense (*imperium*) over his whole household, in accordance with the customs and "discipline" of the forefathers.[3]

This stereotype was inseparably linked to the (late) Republican Romans' particular picture of their past. They nurtured the ideal of an original state of uncorrupted innocence, when blissful simplicity, self-sufficiency, and austere frugality were the hallmark of life on the small peasant farms in old Latium. Another paradigmatic figure, the legendary L. Quinctius Cincinnatus, did not own large estates (*magna latifundia*) but had only a few acres beyond the Tiber, which he himself was ploughing when, as the "only hope of the Roman people's dominion" (*spes unica imperii populi Romant*), he was summoned by the senate to assume the dictatorship and save the commonwealth. His "honorable standing" as head of his house (*dignitas patris familiae*) was never affected by his reduced circumstances.[4] This stereotype in turn served as a foil and, implicitly and often explicitly, as a sharp contrast to the Romans' own present, of which they invariably painted a gloomy picture of moral corruption, decline, and decadence due to extravagant luxury, the opulent *dolce vita* of the *jeunesse dorée*, frivolity and adultery on the part of the womenfolk, and all sorts of vices.[5]

The stereotype of the patriarchal family in the good old days is a cultural construct that served propagandistic and other ideological ends. At the same time, it does tell us something about moral values, attitudes, and ambitions and perhaps about collective fears and nostalgic hopes – at least those of the middle-aged male members of the urban élite in the second and first centuries B.C., like the elder Cato and Cicero, who themselves produced the extant literary texts or who patronized their authors.[6] None of these texts, however, can be taken as evidence of social reality, that is to say, as evidence of the basic structure or the everyday functioning of early or even mid-Republican families. By the period of the earliest surviving literary records – that is, the first decades of the second century B.C. – the old Republic of Cincinnatus and Claudius Caecus was a thing of the past, and the new "imperial Republic" had already become the most powerful and by far the richest state of the whole Mediterranean. The discourse of decline, represented by Cato, among others, was omnipresent, and the stereotypes were well established.

Yet, there is some literary evidence that allows us a few intimate glimpses into family life and the wheeling and dealing of an upper-class male as head of a family. Cicero's correspondence touches on

all aspects of his own everyday life, including the notoriously elusive intimate aspects of marital emotions and parental affection, of chagrin and sorrow.[7] There is also other material that provides us with some information on attitudes, conventions, and values – for example, the extant comedies by Plautus and Terence. But we are faced with a problem: most of the evidence is later, sometimes much later, than the Republic.[8] The main legal sources date from the high Empire or even from Late Antiquity. That means that the family in Republican law, and especially the early development of the interlocking legal systems of marriage and divorce, dowry and other property, guardianship, and adoption and inheritance, can be reconstructed only in outline. The same is true for another important genre of evidence for family life and life cycles. The bulk of the relevant epigraphic evidence – above all dedicatory inscriptions on tombstones – dates from the centuries after the fall of the Republic. Once again, this material is less than representative in more than one respect: its geographical distribution is uneven, the vast majority of extant funerary inscriptions come from urban rather than from rural contexts, and the epitaphs were put up by certain social groups and classes with their own particular epigraphic habits.

Although this group of documentary evidence does lend itself to numerical analysis, the problem of the statistical representativeness of samples and of the generalizability of conclusions based on them remains a matter of discussion.[9] Owing to the almost total absence of data in a reliable chronological series, we cannot ever hope to be able to analyze long-term trends of fertility and mortality or patterns of marriage, divorce, and remarriage. Nevertheless, under the influence of studies of later, better-documented periods of European history and of the innovative methodological approaches and conceptual perspectives developed in these studies,[10] our understanding of the Roman family has made some progress during the last three decades.[11] We have been confronted with systematic criticism of apparently self-evident dogmas with respect to, for example, the power and the reciprocity of obligation in the Roman family, power and filial duty (*potestas* and *pietas*), ideology, and reality.[12] We have seen a vivid discussion about concepts and categories such as the "extended" versus the "nuclear" family and their applicability to the Roman family and its variants. Last but not least, the available statistical data, combined with general models and parameters in computer simulation, have given rise to new ideas about, and insights into, structures and patterns of fertility and mortality; the average age of men and women at marriage; median life expectancy;

and, above all, the impact of these patterns on the structure of the family. These new approaches, their concrete results, and the conclusions to be drawn from them have been, and will certainly remain, controversial. The discussion is still under way.[13]

However, a broad consensus seems to have emerged on a few general patterns. First, the nuclear family – parents and children, as opposed to the extended family of the stereotype – seems to have been predominant, at least in the urban upper classes of the late Republic. Second, although there is no empirical evidence to assess fertility, the birth rate was certainly considerably higher than in modern times – perhaps as high as 35 or even 40 births per 1,000 people per year. This is no more than an informed guess based on general probabilities, comparisons, and the assumption that the Roman population did not dramatically decrease. In other words, fertility must have balanced a mortality rate that was very high, as is to be expected in any preindustrial society. This is the third point of the general consensus: it is more or less accepted that for Romans the average life expectancy at birth was well under thirty years of age, possibly not more than twenty-five years. However, given the particularly high infant mortality rate (only about half of newborn children reached the age of ten), this stark figure by itself is somewhat misleading. Romans who were lucky enough to survive until the age of twenty had an increased life expectancy. At this age, on average, they had another thirty-five years or so to live. Fourth, the average age at marriage of men and women differed noticeably. Girls usually married rather early by modern standards, that is, in their late teens, and girls from senatorial families even earlier, at about fifteen years. Men tended to marry about ten years later – (future) senators in their mid-twenties[14] and other men at just under thirty years. On the basis of these trends and ideas, ambivalent and inconclusive though they may be, an attempt to give a rough outline of what the Roman family and its household seems to have looked like in the (late) Republic may not be an altogether futile exercise.

FAMILIA, GENS, DOMUS: CONCEPTS, CONTENTS, CONTEXTS

The Crux of Clear-Cut Categories

We should take the Romans' own linguistic categories as a starting point, and not only for the sake of convenience and convention. This approach produces results that are as apparently paradoxical as they are

telling.[15] First, the Latin term *familia*, on which the English word "family" and its equivalents in other modern languages are based, does not have the same semantic range and meaning as the word we normally use today. It seems self-evident that the notional, that is, nuclear family is made up of the individuals of the father–mother–children triad; in today's parlance, moreover, "the whole family" may also include paternal as well as maternal siblings, cousins, and aunts and uncles. By contrast, in his treatment of *familia* and of the predominantly legal meanings associated with the concept, the great imperial jurist Ulpian (*Dig.* 50.16.195) began by distinguishing between *familia* as *res* in the sense of "property" or "estate," on the one hand, and *familia* as people, on the other. This is not the only notion totally alien to modern ideas of the family. Another is certainly the other definition of *familia*, namely a group of slaves under their "master" (*dominus*) and belonging to his household. This definition excludes the free members of the household.

When used for free persons, however, the term *familia* could refer to, in the first place, all those "naturally or legally subjected to the power" of its head, including wife, children, and grandchildren. It could also encompass the wider circle of the "agnates" – that is, the kin related by blood through males up to the sixth degree. This means that a man's sons and daughters were in the same *familia* as his brothers, his brothers' children, and his sisters. His married sisters' children, however, and his wife's siblings were not in his *familia* but were members of their husbands' *familiae* or their fathers' *familiae*, respectively. The agnatic principle also underlies the third meaning *of familia:* according to Ulpian, the concept could also be used for all persons descended from a common ancestor through the male line – "as we talk of the Julian family (*familia Iulia*)" (*Dig.* 50.16.195.4).
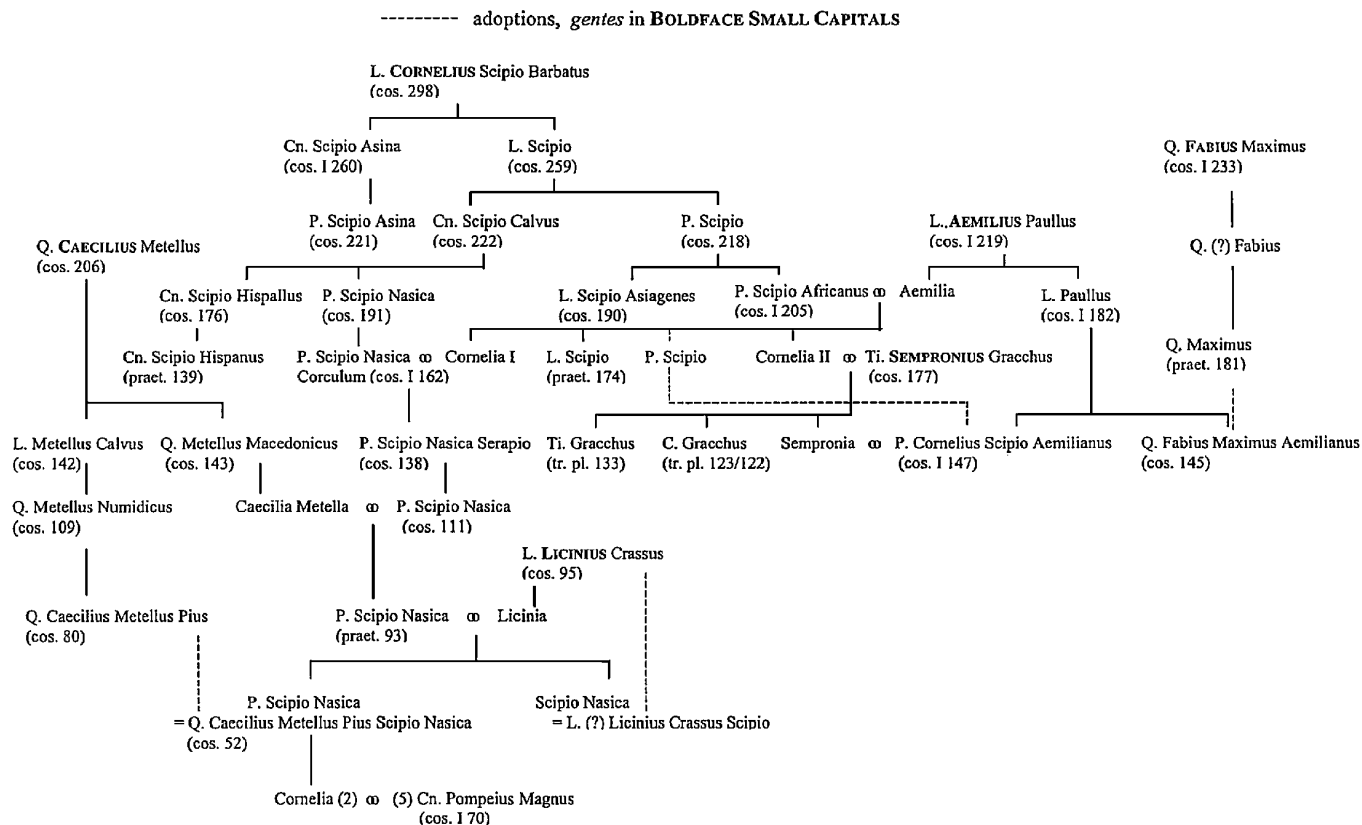
In this last passage, however, as indeed in many other contexts, nonlegal as well as legal, the concept *of familia* is used in a rather loose sense. The legal and social phenomena that Ulpian chose to subsume under this category here would actually have been called *gens* in strict, traditional Republican terminology. In this sense, the *gens* – the anthropological term "lineage" is a better translation than the misleading "clan" – was a much wider community than the *familia* was. The *gens* comprised not only the agnates and more distant relatives but all freeborn descendants of a (mostly distant and sometimes fictive) ancestor, such as *the gens Iulia* that claimed to have descended from Aeneas. Some patrician *gentes*, such as the *gentes Fabia* and *Cornelia*, were known to have common cults, rituals, and burial places and to share distinctive customs. However, these characteristics do not seem
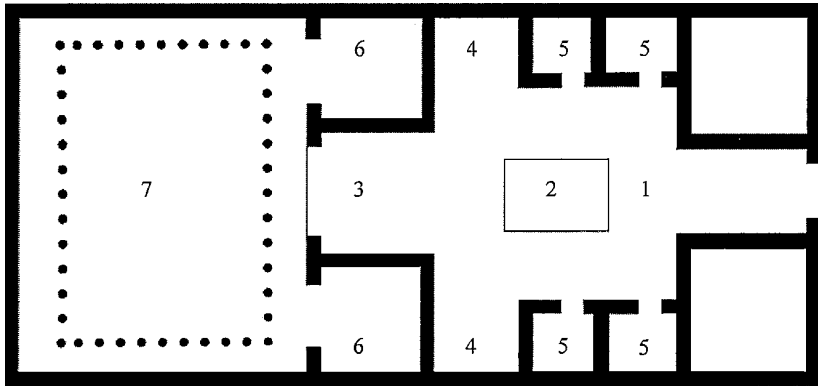
to have been universal, and there is no evidence that, in the middle and late Republic, aristocratic lineages retained a strong sense of cohesion or even embarked on concerted action in politics as collective groups.

What every *gens* did have in common was the name. The Republican system of three names (*tria nomina*) for men was arranged around the gentilitial name (*nomen gentile*).[16] The first name (*praenomen*) was not distinctive. Apart from a few *praenomina* used exclusively in certain families (like *Appius* in the *gens Claudia*), there were only some seventeen praenominal names available for all Roman males, and women did not even have *praenomina*. It was the middle name, or *nomen gentile*, that constituted the identity of a Roman. For example, *Iulius*, *Fabius*, *Claudius*, and *Cornelius* were names borne by all descendants of these patrician *gentes*, and *Caecilius*, *Sempronius*, *Tullius*, and many others were borne by those of plebeian status. Since the mid-Republic, a third element came into use, especially among the élite: the surname (*cognomen*). Some surnames were derived from nicknames referring to personal qualities, others were just straightforward adjectives, but most had etymologies that were rather obscure. The legendary censor of the late fourth century, for example, became known as *Ap*. (for *Appius*) *Claudius Caecus* ("the Blind"), and the full name of the famous orator and consul in 63 B.C. was *M*. (for *Marcus*) *Tullius Cicero* ("Chickpea"). Such *cognomina* often served to distinguish individual branches (*familiae*) within extended *gentes*. The Cornelii Scipiones (Figure 5.1) were just one branch of their *gens;* other branches included the Cossi, Lentuli, and Sullae.

A similar definitional messiness characterizes the shades of meaning attached to another concept closely related to *familia* and *gens*. The semantic range of "house" (*domus*) partly overlaps with their spectrum of contents and connotations.[17] The word was regularly used to denote not only the physical house but also the entire household actually living in the house, including wife and children as well as slaves, freedmen, and occasionally even clients. It was only at the end of the Republic and in the early Empire that yet another meaning of *domus* began to emerge. The concept increasingly was used for a broader group than that for which *familia* would have been appropriate – a group that included not only the agnatic kin (ancestors and descendants in the male line) but also cognates. Terminology mirrors a fundamental social and cultural process of change in which relations by blood through females became ever more important for "family" identity and prestige.

In contrast to the concepts of *familia* and *gens*, *domus* always emphasized the spatial anchorage of the familial group. The physical

--------- adoptions, *gentes* in **BOLDFACE SMALL CAPITALS**

FIGURE 5.1. The Cornelii Scipiones and some of their family connections.

1 *atrium*   2 *impluvium*   3 *tablinum*

4 *ala*   5 *cubiculum*   6 *triclinium*   7 *peristylium*

FIGURE 5.2. Ground plan of a typical *atrium* house with peristyle.

domus − especially the aristocratic urban residence of impressive size and elegance − was central to the Roman construction and conceptualization of social status.[18] A typical upper-class *domus* (Figure 5.2) was organized around a spacious reception hall (*atrium*) that was partly open to the sky and had a basin in the floor to collect the rain (*impluvium*). The *atrium* was the most communal area of the *domus*. Together with the entrance area and the adjoining rooms (*alae* and *tablinum*), it formed the social façade of the *domus*. It was here that many family ceremonies, social as well as religious, took place. For example, the funeral procession would start from here. It was also in this area that the symbolic marriage bed (*lectus genialis*) and the shrines of the household gods (*lares familiares*) were kept. Above all, the *atrium* was where the aristocratic head of a household (*dominus*) would perform many of his public roles. As a patron, he would meet his clients in the *atrium*, and as a senator or magistrate, he could hold informal political meetings here.

In the *tablinum* − ideally the next room on the main axis of the entranceway and *atrium* − family accounts and, if the *dominus* and his ancestors had held high magistracies, official records were stored. It also served as the room where the *dominus* looked after family business, often together with his wife, the mistress of the house. Neither here nor anywhere else in the *domus* was there anything like the strict gender segregation so typical of Greek houses. Roman women were visible,

and they moved about in the middle of male life in terms of domestic space as well as social occasion.[19]

A *dominus* of aristocratic rank (and his wife) needed a great deal of space – not only private (sleeping) rooms (*cubicula*) but also public and semipublic space, for receiving and entertaining specially invited guests, for example. The space of a *domus* would include dining rooms (*triclinia*) and interior courtyards with open and covered walkways (peristyles). A "busy" house (*domus frequentata*) was literally crowded with clients, friends, and all sorts of people calling on the master (*dominus*), and such crowdedness was the visible and tangible indicator of his rank, prestige, and influence.[20]

For the Roman aristocrat, however, the *domus* was more than just the representative center of his marital, familial, and social life; it was inseparably associated with lineage and family tradition. It literally housed the visible and tangible assets of his accumulated symbolic capital. On the *atrium* walls there were family trees, and the wax masks representing his prominent ancestors (*imagines*) were kept there. The accompanying inscriptions (*tituli*) recorded not just his and his family's genealogy but especially the achievements of his ancestors as senior magistrates and triumphant generals.[21] The trophies of their (and his own) victories in battle were often quite ostentatiously fastened to the façade of the *domus*. Even if a great family had died out and its *domus* housed new inhabitants, the spoils were not to be removed: such houses had a lasting *genius loci*, and, according to Pliny, they "eternally celebrated triumphs even though their *domini* had changed."[22] More than anything else, it is this idea that highlights the ideological and conceptual coalescence of *domus*, *gens*, and *familia*, "house" and "family," lineage, and tradition.

The Letter of the Law

As in most cultures, the Romans formed a certain ideal type of the family that was regarded as the norm, legally as well as ideologically. The notional Republican *familia* was a predominantly legal construct that consisted of a precisely defined membership and a universal and unchanging structure of power relations.[23] The *familia*, in the strict sense of the concept, was centered on and literally headed by the oldest living male (the legal definition of *paterfamilias*). It comprised all those under his "paternal power" (*patria potestas*), not only his descendants, male and female (*filii* and *filiaefamilias*), born to him and his legitimate wife (or successive wives), and his adopted sons, but also the children of his

sons and so on in the male line, through as many generations as might be simultaneously alive. His wife, the *materfamilias*, was also considered a member of the *familia*, but only if she had come under her husband's control – literally "entered his hand" (*convenire in manum*) – and that depended on the legal form of their marriage.[24] When passing into the legal control (*manus*) of her husband, the future wife had not only to give up her previous status of daughter (*filiafamilias*) in the paternal power of her father (*pater*), but she also had to leave the agnatic family of her birth altogether in order to enter into her husband's *familia* – or into that of his father (*pater*). After all, in principle *patria potestas* was not subject to any limitation by age but continued so long as the parties involved were alive. Consequently, it was only on the death of the *pater* that the members of his *familia* became legally independent (*sui iuris*). Anything like a statutory age of majority was totally unknown. Indeed, it was only on the death of their legal father that the adult married sons (*filiifamilias*) themselves became *patresfamilias* in their own right, even if they had already "fathered" children. In other words, it was only on the death of their grandfather that these children passed under the legal power (*potestas*) of their natural fathers. In turn, this very same principle entailed that any Roman without a living male ascendant, even if he was a bachelor or still an immature boy (*pupillus*), necessarily and automatically was technically a *paterfamilias* – according to the letter of the law so precisely explained by Ulpian.

The legal power (*potestas*) of the father (*paterfamilias*) – a unique and specifically Roman institution, as another imperial jurist observed (Gai. *Inst.* 1.55) – was virtually unrestricted, extensive, and, in the strict terms of traditional law, even "total."[25] The father's concrete rights and powers make up an impressive list. His legal authority was established at birth: a child born in wedlock (*iustum matrimonium*) immediately came under the *potestas* of the *paterfamilias*. Once again, only the father had the right to recognize the newborn infant as legitimate and, as it were, worth rearing. It was he who raised the baby from the ground, where it had to be placed after birth, and by this gesture (*filium* or *filiam tollere*) he accepted the child as a new member of his *familia*. However, he could also refuse to raise it up; in that case, the child was to be exposed and left to die or to be enslaved.

This latter option was considered part of the notorious right of the *paterfamilias* to put his own children to death with impunity, even his adult sons and daughters (*vitae necisque potestas*). This was, and still is, considered the central or at least the most remarkable element of the rights of *patria potestas*.[26] The father could inflict punishment on

all members of *his familia*, including his wife (if *in manu*), for offenses that threatened the reputation of his *familia*. This sort of household jurisdiction included the right to have them put to death for serious crimes – without trial in a court and without the approval of magistrates or judges, but only after taking the advice of a family council. Moreover, the father had the right to sell his children into slavery or deliver them into bondage (*nexum*).[27]

Other powers were less terrifying but could be of considerable practical importance. A father was also in control over his children's marriages. Not only did he have the decisive say when it came to arranging them, but the approval of the *patresfamilias* of both spouses (if both were still *in potestate*) was also formally required for a legitimate marriage, and either father could even compel a divorce. The *paterfamilias* alone could embark on legal action in court, and he alone held full ownership of absolutely everything that any member of his *familia* might possess or acquire. Once again, even his wife and his adult sons (not being *sui iuris*) had no independent proprietary or other legal capacity. His *patria potestas* thus included not only the full power of alienation, such as in the sale of property, but also the right to dispose of the estate by will and at will. Only the *paterfamilias* had any right to make a valid will (there were archaic solemn procedures for this legal act), and he was free even to transfer most of the patrimony outside his *familia* by disinheriting his own descendants and instituting unrelated heirs.[28]

Rules and Realities

Such a stark catalog of powers is, however, far from being the whole story. The law and its underlying ideology – as conceptualized in the stereotype of the traditional family outlined in the preceding section – presuppose and affirm the primeval character of the role of the *paterfamilias* in terms of powers and prerogatives. This construct is part and parcel of the ideology of a culture based on the asymmetry of all social relations in terms of power, influence, and rank and of a political culture in which power and obedience always and everywhere take precedence over individual liberties and each person's freedom of choice.

In reality, however, the *paterfamilias* was hedged about by certain legal limitations and, even more so, by social conventions and moral norms. Blatant violation of these norms could result not only in a serious loss of public standing and reputation (*dignitas*) but also in formal sanctions, such as a reprimand by the censors (*nota censoria*). The actual

use of virtually all his powers was thus subject to qualifications and limitations, some of which, according to Roman tradition, were even enshrined in time-honored statutes.

Once again, the notorious *vitae necisque potestas* is the obvious case in point: killing a son was certainly not a widespread practice of Roman fathers, let alone a daily reality. The *paterfamilias* was expected not to take any serious action without having consulted a council of male relatives and friends. Condemnation of sons to death was also restricted in many other ways, as the (rather few) notorious accounts of such extreme paternal severity, authentic or invented, regularly emphasize.[29] What these stories actually show is that killing a son was almost always a sacrilege, except in extremely rare circumstances – namely, when a father as consul embodied the state (*res publica*) and when this *res publica* had been badly represented or even betrayed by the son involved. The true character of this power was, once again, mainly ideological and at the same time, in a way, symbolic and formal.

Moreover, there seem to have been at least some rules regulating the gruesome practice of infanticide and child exposure. The extent of exposure and (therefore) its function as a method of birth control remain a matter of controversy[30] The Twelve Tables, Rome's earliest law code, required that newborns who were sickly or severely deformed be exposed. But according to a law attributed to the founding hero Romulus, this could happen only after five neighbors as witnesses had approved, and according to the same law, exposure of sons and first daughters was forbidden. The law was probably invented, but this very fact in itself indicates that the practice, though taken for granted and widespread, was not altogether uncontroversial.[31]

The sale of children, or especially of adult sons, into slavery was certainly never practiced in the middle and late Republic (if ever before). Even in early laws there were limits to this paternal prerogative: daughters were not to be sold at all. And even if the sale of a son had ever been a real option, by the time of the Twelve Tables in the fifth century B.C., it was developing into a ritualized procedure through which a son could achieve freedom from paternal power (*emancipatio*). The father had to sell his son to a third party, who then formally freed (manumitted) him, and the son reverted into his father's legal power (*potestas*). This process of sale and manumission was repeated a second and a third time, at which point the father's legal claim was terminated.[32]

The legal principle requiring paternal consent to children's marriages was not, at least in the world of the upper class in Cicero's day, the most important part of the complex process of arranging marriages.

Legally, there was no specific form of consent. "Informed acquiescence" on the part of the *pater* would suffice, and certainly his active participation in the negotiations of terms with regard to dowry and other arrangements would count as such. Regularly, however, relatives – male as well as female – and the mothers of the prospective spouses in particular were involved in the process of matchmaking, not only as advisers and mediators but also in more active roles.[33] We know of a well-documented and particularly telling example of such a process and its niceties. While the *paterfamilias* Cicero was absent from Rome as governor of Cilicia, he left the arrangement of his beloved daughter Tullia's third marriage to his wife Terentia and to Tullia herself and even gave them permission to make decisions. Eventually he went along with their choice, although he was less than enthusiastic about the specific candidate and would have preferred somebody else as son-in-law.[34]

There were other spheres in which paternal powers in traditional law constituted a mere potential that a father would use only in extraordinary circumstances. It is very doubtful that the *paterfamilias* could enforce marriage against the will of a son or a daughter. And it was certainly unacceptable, at least socially, to bring about the dissolution of a marriage by the sheer exercise of *patria potestas*.[35]

Similarly, although a father had a very wide flexibility in the transmission of property upon his death, there were legal and above all conventional limits. The alienation of vital family property and especially the disinheritance (*exheredatio*) of children was also subject to restrictions and was rather uncommon. For example, sons in their father's legal power (*in potestate*) had to be instituted heirs or they had to to be explicitly disinherited by name. If a father failed to observe these and other formal rules, his will was null and void.[36] Moreover, disinheritance of this kind was regarded as appropriate only in extreme cases. To be cut out of inheritance in this way was a disgrace, a punishment for bad behavior.[37] The normal expectation was that the *paterfamilias* instituted all his descendants as heirs – above all, those who under the law of intestacy, the substance of which was already laid down in the Twelve Tables, would come first in the order of succession. "His own heirs" (*sui heredes*) included those who became independent of paternal authority on his death: his sons and daughters, his grandchildren by predeceased sons, and his wife, if she had been under his legal control (*in manu*).[38] All these family members, male or female, were to take equal shares.

Intestacy, it is true, was avoided among the properted classes, and wealthy *patresfamilias* left wills in order to distribute their estates unequally (e.g., among sons and daughters), to take account of other kin than just the nearest blood relatives, and to specify all sorts of other legacies. In fact, the legal instrument of disposing of the patrimony by will was vital for the particularly flexible Roman patterns of transmitting property to the next generation. Testation as a legal system, as well as the underlying culturally conditioned "strategies of heirship," became even more varied through the social recognition of kinship bonds through women as wives and mothers, which resulted in a gradual broadening of potential heirs to include in-laws (*cognati*) and in other changes with respect to women's position in the law of succession.[39] However, even if actual practices and, as a consequence, the law of succession had become very complex by the end of the Republic, the circle of "his own heirs" (*sui heredes*) and their share in a patrimony remained at the center of legal and moral notions about succession and about the general standards of equitable division of estates.[40]

Patriarchal control and power relations within marriages were also less straightforward than the traditional law would have us believe. By the end of the Republic, the old form of marriage (*cum manu*) had almost completely been replaced by another type of marriage in which the wife did not transfer to her husband's control.[41] This practice involved far-reaching legal as well as practical consequences. The wife – according to Cicero (*Top.* 14), a "mere *uxor*," not a *materfamilias* in the strict sense – did not become a member of her husband's *familia* but retained her place in her natal kin group, as a daughter (*filiafamilias*) under the legal control (*potestas*) of her own father, or else remained legally independent (*sui iuris*) if he had died or had emancipated her. In the former case, she continued to participate in the property regime of her original *familia*, in particular as a potential heiress. It was also a consequence of this legal situation that children born to this type of marriage did not become members of the woman's *familia* but automatically, by coming into the *potestas* of their *pater* on birth, belonged to the husband's kin group. In other words, these mothers and their children, though the children were born in legal wedlock, could never legally belong to the same *familia*.

There were other consequences with respect to property and inheritance. It was a well-established convention that a legal marriage (*matrimonium iustum*), in whatever form it was contracted, was accompanied by the transfer of a dowry (*dos*) from the bride or her *paterfamilias*

to the husband.[42] The scale of the dowry naturally depended on the wealth of the parties involved. In any case, the dowry was not just a kind of wedding present but could be considerable and could include, for example, substantial sums of cash and landed property. In the non-*manus* form of marriage, however, the dowry did not pass into the full ownership of the husband (or, again, of his *paterfamilias*) – he remained in control of the dowry only for the duration of the marriage. The whole amount, except for a fraction for the children, had to be returned to the woman if the marriage was dissolved either by divorce or by the death of the husband, or to her family in case of her own death. Any other, nondotal property that the wife received – for example, through inheritance from her father – remained in her ownership. And if she was *sui iuris*, she then had a completely independent right to dispose of such property, which could be enormous among the upper classes.

In real life, the legal status of dowries and of other property in marriage became relevant only when a separation was pending.[43] In the first century, B.C., a divorce was a straightforward business and easy to bring about, either by mutual agreement or by unilateral repudiation. In neither case did it involve recourse to the law, unless there was a dispute about the restitution of the dowry. It could be initiated by either party, husband or wife, by an action as simple as giving notice by "sending a messenger" (*nuntium mittere*).

It is generally accepted, however, that this apparently rather extraordinary state of things was the result of a long and complicated historical process. According to tradition, in earlier times, only the husband (or, again, his *paterfamilias*) had the right to divorce his wife, especially for adultery and other transgressions. If a transgression was involved, the husband was entitled to keep the dowry. If, however, a wife was divorced for no valid reason, her husband would be subject to sanctions, and he had to restore her dowry. From the mid-Republic onward, as non-*manus* marriages became customary, the return of the dowry became the rule in any case. The widespread use of the new open marriage allowed the possibility of a divorce initiated by the wife or by her *paterfamilias*. This development, in turn, eventually made it possible for a wife (who was neither *in manu* nor *in potestate* but completely *sui iuris*) actually to divorce her husband on her own initiative and unilaterally.

There was yet another paternal right, the exclusive hold on any family property, which would seem particularly awkward and oppressive, especially in the everyday life of adult sons if they were members

of the social and political élite. The great historian of Roman law David Daube described the situation as follows:

> Suppose the head of a family was ninety, his two sons seventy-five and seventy, their sons between sixty and fifty-five, the sons of these in their forties and thirties, and the great-great-grandsons in their twenties, none of them except the ninety-year-old Head owned a penny. If the seventy-five-year-old senator or the forty-year-old General or the twenty-year-old student wanted to buy a bar of chocolate, he had to ask the *senex* for the money.[44]

Apart from the fact that such a succession of generations appears a bit too quick even by Roman standards, this scenario is patently at variance with all we know about social realities and the everyday life of the upper classes in the late Republic. Sons in Cicero's letters do not appear as suppliants asking for a little pocket money to cover trivial expenses. To a large extent, the fact that they did not have to beg for money was due to social pressures. A senatorial father was simply expected to provide for his son and prospective heir in a style appropriate to his son's and his own status. Upper-class education included some traveling to Greece, and embarking on the usual political career involved substantial spending. In Cicero's day, a sufficient allowance could be as much as a knight's minimum annual income. After all, quite a few ambitious young men would put themselves up in temporary lodgings at exorbitant rents. But living on the Palatine or elsewhere near the Forum, the hub of political and social life, was definitely worth it.[45]

There was yet another, more formal means of mitigating the legal proprietary incapacity of an adult son (*filiusfamilias*) – the peculiar institution called the *peculium*. The *peculium* was a fund or even a piece of landed property that was granted by a *paterfamilias* to his adult son and that the latter managed on his own to generate income for use in business and in public affairs. Although the *peculium*, as well as any annual allowance, was revocable at the discretion of the *paterfamilias*, the upper-class son de facto enjoyed some financial independence that enabled him, for example, to establish a separate household and have a residence of his own, especially when he got married.[46]

Last but not least, there were certainly many fathers and sons who were on good terms, and the emotional bond between them would preclude rows over money. The ideologically inspired archetype of the old-style "severe father" was counterbalanced by the concept of the

benevolent and caring "indulgent father." This ideal and its comple-
ment, the virtue of filial respect enshrined in the typically Roman
concept of *pietas*, play a prominent part in the Roman system of social
values and code of behavior.[47] This is also true for the general senti-
mental ideal of family life, which included not only parental love but
also the expectation of conjugal affection and of a companionate (not
necessarily equal) marriage.[48] Even upper-class arranged matches could
lead to such a relationship. Strangely enough, in spite of an age differ-
ence of about thirty years, Pompey and Caesar's daughter Iulia were
known to be an extraordinarily happy couple. However, this particular
case (and the way it became the talk of the town) also shows that this
degree of marital accord was extraordinary. It is certainly true that the
reality of family life was characterized by a "complex mixture of love
and frustration, discipline and leniency, devotion and independence,"
as it was in other times.[49] In Roman society, as we shall see, these ideals
were rather difficult to live up to.

Lifestyles and Life Cycles

We certainly have to allow for a broad range of variants with respect
to familial and residential arrangements. Many aged parents could and
probably had to live with their married children (or vice versa), espe-
cially if they did not belong to the affluent élite and could therefore not
afford separate accommodation or full-scale households with slaves and
attendants. Even some upper-class families, it is true, continued to live
in old-style patriarchal households in the late Republic. There was not
only the example of the autocratic Ap. Claudius Caecus. There was also
young M. Crassus (later famous for his wealth, if not for his political and
military aptitude), brought up in the "modest house" of his father, who
had been consul in 97 B.C. and was a general honored with a triumph
and a censorship. The father's two older sons also continued to live
there, even after they had married – and they all used "to dine at the
same table" (Plut. *Crass.* 1.1). Caesar's mother Aurelia, a widow who
did not remarry, seems to have lived with her son and his second wife
Pompeia.[50] Equally famous was the case of the brothers Aelii, no fewer
than sixteen of them at one time, who all lived in a very "little house"
(*domuncula* is Valerius Maximus' word), together with their wives and
a great many children, and jointly owned another property in the *ager
Veiens* – one that needed "fewer labourers than it had owners."[51]

However, the pure type of the multigenerational extended and
co-resident family was certainly not representative of lifestyles and

domiciliary habits in the late Republic. At least in the urbanized populations of the western part of the empire, the residential family will usually have consisted of the basic nuclear unit – husband/father, wife/mother, young children, and possibly nubile daughters until they married.

This statement, in turn, needs some explanation and qualification.[52] On the one hand, we should remind ourselves that under any circumstances, traditional or modern, the nuclear family is never static, because it necessarily moves through various stages, from the founding couple, to the couple with children growing up, to the couple whose adult sons and daughters have married and left their parents' household. On the other hand, the demographic factors mentioned previously – fertility, average age at marriage, and life expectancy – deeply influenced the life cycles and indeed lifestyles of individuals as well as families.

Plausible calculations on the basis of the assumptions described previously lead to some fairly clear, if general, results. As men married relatively late and their life expectancy was limited, the proportion of fatherless children at each age must have been rather high by modern standards. Probably up to one-third of young Romans had already lost their fathers at the age of fifteen, when upper-class girls usually entered marriage, and about half at age twenty, when all women typically married. Roughly two-thirds of Romans had no living father at age twenty-five, when upper-class young men customarily married and were generally considered to be fully competent to manage property. More than two-thirds were fatherless at thirty, when all men were married and the privileged few among them usually embarked on a senatorial career. When senators in their early forties competed for the highest magistracies, possibly not more than one in fifteen had a father alive.[53]

Conversely, however, infant and child mortality, as well as the many other vicissitudes of life, could also lead to middle-aged or older men being left without living issue. Consequently, adoption of promising youths with a good family background and sometimes even of adult men of proven standing was not uncommon among the political class. *Adoptio*, the transfer of a (young) man still *in potestate* to another family with the consent of his natural father, and *adrogatio*, the act by which a man who was legally independent (*sui iuris*) placed himself under the *potestas* of another man by his own will, were elaborate legal procedures. They served to secure the continuity of the *familia* and the transmission of a great name, its cults, and its wealth.[54] A well-known familial tragedy illustrates both sides of the coin. After one son of L. Aemilius Paullus, the famous victor of Pydna, had been adopted by the Cornelii

Scipiones and another by the Fabii Maximi (cf. Fig. 5.1), their natural father, Aemilius, lost his remaining sons, and his own line became extinct.[55]

There are several conclusions to be drawn from these considerations: First, beyond the legal and social constraints mentioned previously, the practical relevance of *patria potestas* must have been rather limited for objective reasons. Many Romans were already orphaned before adulthood, and quite a few women and most men were legally independent (*sui iuris*) when they married for the first time. Second, Daube's image of the consul holding *imperium* and commanding armies but still legally subject to his father did not, therefore, have much to do with social realities. This is obviously also true for the model of the patriarchal three-generation household: most Romans simply cannot have experienced living together under an aged autocrat.

The demographic realities mentioned previously had further ramifications, especially as they were inextricably linked with other cultural practices. Although juridical texts and ideological constructs suggest the stability of the ideal-type *familia* over time and with respect to its composition, the actual situation must again have been very different. In reality, the core unit of the nuclear family was rather fragile, as it was subject to disruption and recomposition.[56] On the one hand, the combination of low life expectancy and the practice of late male and early female marriage necessarily led to many women being widowed when still young and in their childbearing years; on the other hand, many men were widowed as a result of a notorious risk of premodern societies: the death of young women in childbirth.

There was yet another common cause of the dissolution of marriages, namely divorce, which was easy to obtain under the law and in practice. Evidence abounds for dozens of divorces in the relatively well-documented decades in the middle of the first century B.C., with an abundance of interesting details about possible motivations and actual moves, more or less public scandals, and omnipresent gossip whenever particularly prominent people like Sulla, Pompey, Lucullus, and Caesar were involved. It is, however, far from clear whether divorce was really extraordinarily frequent, at least among the urban élite of the late Republic and in comparison with the practices of other societies. Even a comprehensive compilation of all examples does not allow us to draw conclusions in terms of statistics, and we are still left with the problem of how to define "frequency."[57]

At any rate, we do know that remarriage – of widowers and widows as well as divorcees of both sexes – and even "serial marriage"

(div. = divorced; dec. = deceased; $\overset{86}{\infty}$ = date of marriage)

P. Antistius
(aed. ? 86)

L. Cornelius Sulla (4) ∞ (2) Caecilia Metella (1) ∞ M. Aemilius Scaurus
(dict. 82–79)   (cos. 115, dec. before 88)

(1) $\overset{86}{\infty}$ Antistia

(2) $\overset{82}{\infty}$ (2) Aemilia (1) ∞ M'. Acilius Glabrio
(div. 82; cos. 67)

M'. Glabrio

Q. Mucius Scaevola ∞ (2) ? (1) ∞ Q. Caecilius Metellus Nepos
(cos. 98)

Q. Celer   Q. Nepos
(cos. 60)   (cos. 57)

Cn. Pompeius Magnus
(cos. I 70, dec. 48)

(3) $\overset{ca.\,80}{\infty}$ (1) Mucia (2) $\overset{ca.\,60}{\infty}$ M. Aemilius Scaurus
(div. 62)   (praet. 56)

Cn. Pompeius   Sex. Pompeius   Pompeia   M. Scaurus

P. Cornelius Scipio Nasica
= Q. Caecilius Metellus Pius Scipio Nasica
(cos. 52)

M. Licinius Crassus
(cos. I 70)

C. Iulius Caesar
(cos. I 59)

(4) $\overset{59}{\infty}$ (1) Iulia
(dec. 54)

(5) $\overset{52}{\infty}$ (2) Cornelia (1) ∞ P. Licinius Crassus
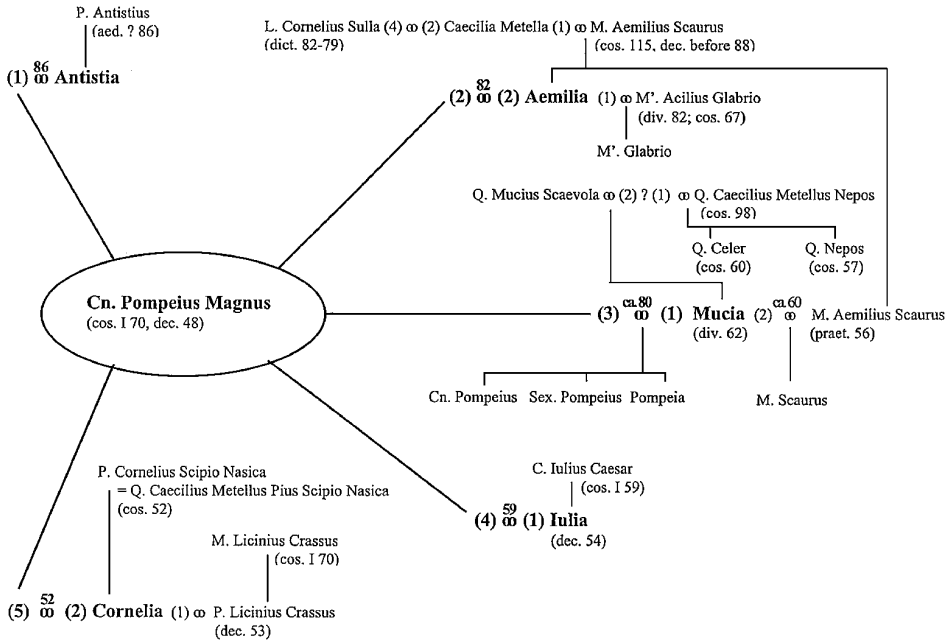(dec. 53)

FIGURE 5.3. "Serial marriage": Pompey and his five wives.

were usual by any standard, in spite of the cultural ideal of the woman who had only one husband during her life (*univira*).[58] Pompey's five marriages are a well-known case in point (Figure 5.3). After divorcing his first wife Antistia in 82 B.C., Pompey married Aemilia in a match arranged by the dictator Sulla, who was keen to cement the alliance with the young man (Pompey was about twenty-four at the time). Aemilia was Sulla's stepdaughter by his fourth wife, Caecilia Metella, who had been the widow of M. Aemilius Scaurus, consul in 115 B.C. and influential *princeps senatus*. Before the marriage could take place, however, Aemilia also had to divorce her spouse, M. Acilius Glabrio (the future consul of 67 B.C.), although she was pregnant by Glabrio. Soon after her new marriage and her move into the new household, Aemilia gave birth to a son and died. A year or two later, Pompey married Mucia, another lady with an aristocratic background, who was well connected in more than one direction. Descended from a line of consuls, this daughter of the consul of 95 B.C. was also closely related to the famous Caecilii Metelli. In due course, probably in the early 70s B.C., Mucia bore Pompey two sons – Gnaeus and Sextus – and

a daughter. After his return from his Eastern campaigns in 62 B.C., however, Pompey divorced her (for her alleged adultery during his absence). About three years later and after abortive attempts to strike a marriage deal with the younger Cato, Pompey married Iulia, Caesar's only daughter. It was her first marriage, and she was probably still in her teens. Her engagement to another man had to be canceled to make possible a match that was to seal the alliance between her father and her husband, who was by now in his late forties (and six years older than his new father-in-law). This union lasted only five years, until Iulia died in childbirth in 54 B.C. Finally, two years later, Pompey married Cornelia, daughter of his colleague in the consulship of 52 B.C., just widowed through the death of her first husband P. Licinius Crassus, who was the younger son of Crassus the triumvir and had been killed in his father's ill-fated Parthian campaign. Cornelia must have been about thirty years Pompey's junior. This marriage ended when Pompey was killed in 48 B.C.[59]

Even if Pompey showed more "conjugal mobility" than other men of his class and standing, the pattern of remarriage was certainly not altogether unusual among the social and political élite.[60] Sulla and Mark Antony were also married five times each; Caesar three times; and a less prominent figure, a certain Statius Abbius Oppianicus, a knight from Larinum, had no fewer than six wives.[61] Mark Antony's third wife Fulvia had previously been married (and widowed) twice. Her first husband had been the famous tribune P. Clodius Pulcher, and her second the equally famous C. Scribonius Curio, tribune in 50 B.C. and Caesarian commander in the Civil War. Matches like these often served rather immediate political ends. They were obviously meant to seal alliances between prominent figures and their families – alliances that were sometimes as fragile and ephemeral as the marriages themselves.[62]

Results and Ramifications

Roman concepts and categories, with their emphasis on the law and on power relations, seem to be somehow at variance with the complex reality in which personal relations, bonds of family duty (*pietas*) and mutual obligation, ideals and norms, lifestyles, cultural habits, and social pressures are inextricably intertwined. Above all, the various meanings of *familia* and *domus* never fully coincided with the modern idea of the nuclear family. In many cases, concrete meanings were only clarified by particular contexts or were left ambiguous (often deliberately). Even if there was no precise Latin word for the nuclear family, the Romans

could and did distinguish the core group of a household by describing it as constituted through its individual members, once again typically in relation to its male head: a man with his wife and children (*uxor* or *coniunx liberique*).[63]

Much epigraphical and literary evidence as well as general considerations indeed suggest that the type of family in which most Romans lived for most of their lives consisted of this triad. However, such a statement needs to be qualified in several respects. First, this household nucleus was surrounded by a spectrum of other relations under the roof of a single *domus*, including other blood relatives and slaves of both sexes. Second and more importantly, even if the life of any individual Roman, male or female, was characterized by the basic experience of the "nuclear" constellation, that "nuclear" group was not only subject to change due to the natural life cycles of its constituent members but also to a change of these members that could be quite rapid, at least by modern standards. As premature death and divorce, remarriage, and relocation were common, many Romans successively formed, and lived in, several nuclear families.[64]

A middle-aged upper-class man might have had children by several wives and have raised all of them in his household. Their mothers – if still alive – might also have remarried and borne further children with their new husbands (who, in turn, might have children from previous unions). Many young Romans, therefore, grew up with a stepmother, sometimes not much older than themselves. When young Iulia married Pompey in 59 B.C., she became the stepmother of Sextus and Gnaeus, who were in their late teens by then (and whose mother Mucia had indeed married again and had another child; see Figure 5.3). If Iulia had had children herself, they would have grown up with their half-siblings in one household. At the same time, serial marriage created networks of familial relationships that extended well beyond the immediate household, as many individuals had blood relationships with people outside the nuclear group that they were actually living in at any given point of time. These included not only uncles, aunts, and cousins of their own age but also half-siblings. That is why the Romans eventually came to conceptualize the structure of the family, both agnatic and cognatic, as stretching up, down, and also sideways from each individual.

In the end, then, it is less surprising that the Romans did not themselves develop a clear-cut concept for the ideal nuclear triad, which indeed does not appear to define the basic feature of their complicated familial worlds. These worlds were characterized by an extreme fluidity and by a variety of possible combinations of elements of nuclearity and

other, more extensive associations. The Romans knew many different types of the "complex" family created by remarriage and of the "cognate" family (in the general sense of the concept),[65] which was centered on the individual and included kin in the male as well as the female line and also other persons linked to these relatives.

NOTES

1. Saller (1994, 72, 102); cf. Lacey (1986, 123–37); Thomas (1996, 228–40).
2. Dupont (1992, 105).
3. Cic. *Sen.* 37; cf. *Pro Cael.* 33–4; Val. Max. 8.13.5.
4. Val. Max. 4.4.7; cf. Cic. *Sen.* 56; Livy 3.26.8–12; Plin. *NH* 18.20.
5. Dixon (1992, 3–4, 21–4, 44–5); Saller (1994, 102–5).
6. Dixon (1992, 34); Saller (1994, 5); cf. Gardner (1997) on what can be known about lower-class families.
7. Cf. Bradley (1991, 177–204); Dixon (1988; 1997).
8. Cf. the collection of source material (in English translation, with short commentary) in Gardner and Wiedemann (1991); cf. also Hanson (1999, 43–58).
9. Saller and Shaw (1984) and Shaw (1984, 1987) remain fundamental; cf. also Clauss (1973); Hopkins and Burton (1983, 69–107); Saller (1986, 11–17); Parkin (1992, 5–19 and passim); Saller (1994, 1–69); Martin (1996, 42–9, 53–7, and passim); Parkin (1999).
10. Cf. especially the contributions by P. Laslett in Laslett and Wall (1972). Cf. also Wall, Robin, and Laslett (1983); Dixon (1992, 12–19; 1997).
11. The best general introductions into the whole field are Rawson (1986) and Dixon (1988, 13–40; 1992, 1–35). For more detailed discussions of particular problems, see the contributions in Rawson (1986, 1991); Andreau and Bruhns (1990); Kertzer and Saller (1991); Burguière et al. (1996); Rawson and Weaver (1997); see also Bradley (1991, 1993).
12. Saller (1984; 1986; 1994, 71–153); see also 1997 and 1999.
13. Cf. especially Saller (1994, 9–69); Martin (1996); Parkin (1999; contains further references).
14. Cf. also Syme (1987).
15. Saller (1984; 1994, 74–88); Garnsey and Saller (1987, 127–9); Dixon (1992, 1–3); Gardner (1998, 1–5).
16. Salway (1994, 124–8); Hanson (1999, 21–6).
17. Saller (1994, 74, 80–4; 1984, 336–7, 342–9).
18. Saller (1984, 349–55; 1994, 88–95); cf Wiseman (1987); Clarke (1991, 1–29); Dupont (1992, 90–102); Wallace-Hadrill (1994, 3–16 and passim); Flower (1996, 185–209); Nevett (1997); George (1997); Hanson (1999, 60–6); Patterson (2000, 259–67); Hales (2000).
19. Wallace-Hadrill (1994, 8–10).
20. Vitr. *De arch.* 6.5.1–3; Cic. *Off.* 1.138–39; *Att.* 1.18.1, 2.22.3; Sen. *Ep.* 21.6; Tac. *Dial* 6.2. Cf. Wallace-Hadrill (1994, 4–5); Saller (1994, 91–2); George (1997, 301–11 and passim).
21. Flower (1996, 16–59, 159–84, 185–222).
22. Plin. *NH* 35.7; cf. 35.6–8 passim. Cf. Wiseman (1987, 394–6).

23 The following definitions and descriptions are based on Crook (1967a, 98–113); Kaser (1971, 44–57); Lacey (1986); Rawson (1986, 7–9); Garnsey and Saller (1987, 126–9); Dixon (1992, 2–3, 40–5); Gardner (1998, 1–2); Saller (1994, 74–7; 1999, 184–93 and passim).

24 Cf. for details: Watson (1967, 19–25, 29–31; 1975, 9–19); Treggiari (1991a, 16–28).

25 Kaser (1938; 1971, 505); Watson (1967, 76–101; 1975, 40–51); Saller (1986; 1994, 114–32).

26 Cf. for details: Thomas (1984); Harris (1986); Saller (1994, 115–17).

27 Cf. Watson (1975, 117–19).

28 Cf. for details: Crook (1967b); Watson (1968; 1971; 1975, 52–70).

29 These accounts are fully discussed in Thomas (1984); Harris (1986, 82–9); Saller (1994, 115–17).

30 Cf. Eyben (1980–1981, 14–19 and passim); Harris (1982; 1994; contains further references); and now see Shaw (2001, 31–56) on the ritual of "raising the newborn."

31 Cic. *Leg.* 3.19; Dion. Hal. *Ant.* 2.15.2. Cf. Harris (1986, 94; 1994, 15–17).

32 XII Tab. 4.2 at Gai. *Inst.* 1.132–4; cf. Dion. Hal. *Ant.* 2.27.1–4 (another law of Romulus). Cf. for details and possible motives for this peculiar procedure: Gardner (1998, 10–13, 104–13).

33 Cf. Saller (1994, 119, 127–8); Dixon (1985); Treggiari (1991a, 125–45; 1991c).

34 Cic. *Fam.* 3.12.2; *Att.* 5.4.1, 6.1.19, etc. Cf. for the details: Treggiari (1991a, 127–34; contains discussion of the evidence).

35 Treggiari (1991a, 146–7, 459–61; 1991b, 33–4).

36 Cf. for details: Watson (1971, 41–5); Kaser (1971, 586–9).

37 Cf. Crook (1967b, 120–2); Champlin (1991, 107–11); Saller (1994, 122–3, 164).

38 *XII Tab.* 5.4–5. Cf. on *sui heredes* and intestate succession: Kaser (1971, 85–90, 580–5); Watson (1971, 41–2, 175–87).

39 Crook (1986); Moreau (1986); Dixon (1988, 41–70); Champlin (1991, 111–30); Garnsey and Saller (1987, 141–7); Saller (1994, 163–80); Gardner (1998, 209–52).

40 Cf. Crook (1967a, 118–25; 1986); Champlin (1991, 111–17, 126–30); Saller (1994, 119, 163–8). Cf. also Thomas (1996, 240–5); Gardner (1998, 15–34, 276–8).

41 Cf. Crook (1967a, 103–5); Treggiari (1991a, 32–6); Dixon (1992, 71–83).

42 Cf. for legal details and concrete practices: Watson (1967, 57–76); Treggiari (1991a, 323–64); Saller (1994, 204–24).

43 Cf. for different formal procedures of divorce: Watson (1967, 48–56). Treggiari (1991a, 435–73) provides the best treatment and full documentation.

44 Daube (1969, 75–6).

45 Saller (1994, 124–5), on Cic. *Att.* 12.32.2, 14.7.2, etc. Cf. also Bradley (1991, 163–4); Dupont (1992, 106).

46 Crook (1967b, 119–20); Saller (1986, 16–17; 1994 119, 123–5); Treggiari (1991a, 410).

47 Eyben (1991); Saller (1994, 102–14).

48 Dixon (1991, 1997).

49 Saller (1994, 7; cf. 5–8 passim); Dixon (1991, 111, 113).

50 Plut. *Caes.* 7.3, 9.3, 10.2; Suet. *Iul.* 13 (Caesar); cf. Dixon (1988, 200); Bradley (1991, 163).

51 Val. Max. 4.4.8; Plut. *Aem. Paullus* 5, 6–7.

52 Cf., for example, Treggiari (1991a, 410–13); Champlin (1991, 104–7).

53   Saller (1994 120–1).
54   Dixon (1992, 111–13); Gardner (1998, 114–208); Corbier (1991a, 63–76; 1991b, 135; 142–3).
55   Polyb. 31.28.1–3; Liv. 45.41.8–12; Plut. *Aem.* 5.5, 35.1–3, 39.10, etc.
56   Saller (1986, 15; 1994, 228–30); Rawson (1986); Bradley (1991, 125–49; 1993, 242, 249); Dixon (1992, 7–9, 10–11); Martin (1996, 45–59; contains a detailed critique of the straightforward "extended"/"nuclear" family dichotomy).
57   See Treggiari (1991, 473–82; 1991a) for details and documentation; Dixon (1992, 9–10, 66–9).
58   Humbert (1972); Moreau (1986); Bradley (1991, 156–76); Treggiari (1991a, 235, 500–2, and passim); Corbier (1991a, 49–63; 1991b, 128, 134–7); Thomas (1996, 254–8).
59   Haley (1985); Bradley (1991, 166–8).
60   Saller (1984, 342–9; 1994, 74, 95–6, etc.); cf. also Thomas (1996, 228–30, 235).
61   Moreau (1986); Bradley (1991, 136–8).
62   Dixon (1985); Dupont (1992, 111–12); Corbier (1991b, 136–42).
63   Saller (1984, 342–9; 1994, 74, 95–6, etc.); Treggiari (1991a, 411); Thomas (1996, 228–30, 235).
64   Treggiari (1991a, 411–12); Saller (1994, 81–3). Cicero (*Off.* 1.54, 1.58) and the famous jurist Q. Mucius Scaevola (Gell. *NA* 4.1.17) presuppose a distinction between parents and married couple: *pater, materfamilias,* and children on the one hand and (*tota*) *domus* (and the *familia* of slaves) on the other. Cf. also Dixon (1991, 9–11 and passim).
65   Shaw (1991, 71–2); cf. also Moreau (1986, 187); Bradley (1991, 169–72); Martin (1996, 58 and passim).