The Role of Education in the Social and Legal Position of Women in Roman Society

Rena VAN DEN BERGH
(*University of South Africa*)

Summary

In this article I shall first give a brief overview of the three periods in Roman education, that is the purely national stage which lasted until approximately the middle of the third century BC, the period of Hellenisation which lasted until 148BC, and the last period during which education was basically Greek as coloured and influenced by the Roman character and aims. I shall also discuss the four stages in Roman education, namely firstly the pre-elementary stage during which the child received his or her education from the parents, secondly that of the elementary school, thirdly that of the grammar school, and fourthly that of the rhetorical school. Attention will be paid to the level and nature of education received by Roman girls as can be deduced from ancient sources. Finally a few Roman institutions will be discussed briefly with reference to the legal impediments they initially placed on women as well as the ways and probable reasons why these impediments were gradually bypassed in practice and finally abrogated.

Education at Rome was shaped by what was commonly felt as to what the children should become as citizens. For almost five centuries, as long as Rome remained a small Italian state, education was aimed at the development of those virtues and capacities, which were recognised as valuable in daily life. The *mos maiorum* set the

ideal standard[1]. According to Cicero "(t)he children of the Romans ... are brought up that they may one day be able to be of service to the fatherland, and one must accordingly instruct them in the customs of the state and in the institutions of their ancestors". No system of teaching by outsiders was needed to maintain this tradition, the discipline and example of the home could do all that was required. The state was not in any way concerned with this basic education given to the Roman youth. Initially, therefore, education lay in the hands of the parents, who were deemed to be quite capable of fulfilling this very important function. As time went by, however, great changes came about. These were caused by contact with foreigners, especially the Greeks. Eventually Greek methods, Greek models and Greek ideals were dominant in Roman education.

During the first period of Roman education, the purely national stage which lasted until approximately the middle of the third century BC, there was very little outside influence. According to Pliny[2] "(i)t was the custom of old that we should learn from our elders, not only through our ears, but through our eyes as well, what we should presently have to do". Cicero[3] says that "with regard to the training of boys of free birth ... our ancestors held that there should be no fixed system, laid down by our laws, or set forth by authority, or the same for all". During this period education was simply that which a child was given by his home-life, citizenship and the observance of ancestral tradition. Sons and daughters were supposed to follow in the footsteps of their parents. The child was first trained by the mother and thereafter by the father. This conception was the direct result of the father's *patria potestas*[4]. Since the father had, by law, the absolute right of regulating the life of his children, he also had control of their education, and the state could not encroach on his authority.

---

[1]WILKENS, *Roman Education,* Cambridge 1905, 3; MARROU, *A History of Education in Antiquity*, London 1956, 231 ; RAWSON, *"The Roman Family"* in *The Family in Ancient Rome*, Rawson (ed), London 1986, 39. See also Suetonius, *De Rhetoribus 1* : "Our ancestors established what they wished their children to learn and what schools they wanted them to attend. The present innovations, which go against the custom and tradition of our ancestors, do not meet with our approval."

[2]*Epistulae*, 8.1.4.6. See also Tacitus, *Dialogus*, *8*. Cf. GWYNN, *Roman Education from Cicero to Quintilian,* Oxford 1926, 14.

[3]*De Republica*, 4.3.3.

[4]GWYNN, *op. cit.,* 12.

During a child's earlier years, the mother took charge of its training and education. A Roman *matrona*, especially during the Republic, enjoyed a high status in society and shared the rule of the house with her husband. In her own sphere she was acknowledged as his equal and the *mos maiorum* accorded her authority equal to her husband's[5]. The traditional characteristics of a Roman woman were purity, dignity, gravity, industry and a devotion to her family and country. This made her a fit person to be head of the household and to bring up worthy citizens[6]. Further elementary teaching of both boys and girls, that is reading, writing and simple calculations as were needed for business purposes, were taught by the father[7].

Although Livy[8], Dionysius[9], and Plutarch[10] refer to schools, it is doubtful whether there were indeed public schools in Rome at that early stage. No precise date for the first elementary Roman schools can be pinpointed, but Marrou is of the opinion that there can be no doubt that it must have been current in Rome long before the fourth century BC[11]. There are references to schools where students were taught to read and write during this early period[12] and there were probably a considerable number of elementary schools where children were taught by slaves or freedmen prior to 303BC at Rome[13]. It is, however, possible that children were more generally

[5]Cf. the formula used in marriage: "*Ubi tu Gaius, ego Gaia*". See also LAURIE, *Historical Survey of Pre-Christian Education,* New York 1970, 310 ; MARROU, *op. cit.,* 232.

[6]Cf. Tacitus, *Dialogus* 28.4. It should also be noted that if tutors were employed at home, the role of the mother could continue way beyond the age of six or seven : Cf. Pliny, *Epistulae* 3.3, who mentions Corellia Hispulla, who educated her son in such conditions until the age of fourteen, and Tacitus, *Agricola* 4, where Julia Procilla who supervised her son Agricola's education is mentioned. Cornelia, the mother of the Gracchi brothers (Plutarch, *Tiberius Gracchus* 1 ; Cicero, *Brutus* 104 ; Quintilian, *Inst.or.*1.1.6; Tacitus, *Dialogus* 28) ; Caesar's mother Aurelia and Augustus' mother Atia (Tacitus, *Dialogus* 28) should also be mentioned in this regard.

[7]See MARROU, *op. cit.,* 232 and especially 233 : "It was with a strong sense of duty that the Roman *paterfamilias* applied himself to his job as an educator." Cf. Quintilian, *Inst.or.*2.2.4.

[8]3.44 ; 5.25 ; 5.27.

[9]11.14.

[10]*Rom* c 6.

[11]*Op. cit.,* 250.

[12]Cf. Livy, 3.44.

[13]See also Livy, 5.27.

taught at home, and this would explain why reading and writing, for purposes of utility, were so widely known among Roman citizens.

As from the second century BC elementary schools in Rome, and their methods and subjects of education, were based on the Greek models, which were imported along with the teachers. It should be noted that whereas earlier, basic education might have been limited and narrow, it had been the same for all classes in Roman society. Higher education, that is, school education, was, however, almost exclusively limited to the higher classes[14]. This exposition of the course of education is therefore that which was common with children (boys and girls) of the more privileged classes.

When a child in a wealthy home reached the age of seven, he or she was placed under the charge of a *paedagogus*[15] who was to look after his or her manners and morals, and to guide him or her safely to and from his or her school. Children from the middle and poorer classes, however, might also have attended elementary schools (unaccompanied by *paedagogi*!) in Rome and the bigger centres where such schools existed[16]. There is some doubt as to whether these schools were attended by both boys and girls. According to ancient sources[17] girls had the same kind of instruction as boys, although this does not necessarily mean that it was given at school: it might have been given at home. Friedlaender[18], however, asserts that schools had been communal. The *ludus* or elementary school thus seems to have enrolled boys as well as girls at the age of six or seven, and taught them until they reached the age of twelve or thirteen. Reading and writing remained the main subjects and use was made of textbooks. Attention was also given to the study of arithmetic, and it was regarded as such an important part of the syllabus that in many cases special teachers were appointed to teach it. It is possible that some

[14]WILKINS, *op. cit.,* 29. Most of the authorities only refer to the education of children of these classes.

[15]Sometimes the word *pedisequus* (attendant), or *comes* (companion), or *rector* (governor) or *custos* (guardian) was used.

[16]Cf. Martial, *Epigrammaton* 9.68.2. See also FRIEDLAENDER, *Roman Life and Manners under the Early Principate* 1, London, 230.

[17]Cf. eg. Sallust, *Catilina* 25 and Pliny, *Epistulae* 5.16 ; Horace, *Satirae* 1.10.91 ; Ovid, *Tristia* 2.369-370; Juvenal, *Saturae* 14.209 ; Martial, *Epigrammaton* 3.69.8, 8.3.15-16 and 9.68.2.

[18]*Op. cit*., 457; RAWSON, *op. cit*., 40. See also Quintilian, *Inst.or.*1.1.15-18 ; and Juvenal, *Saturae* 14.10.

calculatores[19] even had schools of their own. Most children therefore left the elementary schools with a thorough training in arithmetic.

It is quite possible that many children of wealthier families received elementary instruction at home by an educated slave or a visiting *litterator*, rather than at an elementary school. Education at home by a private tutor was very popular amongst the aristocracy as from the third and the second centuries BC. In families with sons and daughters, mention is usually only made of the sons being educated by private tutors. This does not necessarily mean that daughters were not included. References to educated girls from wealthy, upper-class families seem to indicate that girls were educated with their brothers. There are, in fact, references to families without sons who employed teachers for the education of their daughters : Cicero mentions his friend Atticus who kept a slave *paedagogus* for his daughter's elementary education, and a freedman *grammaticus* for her education in grammar[20], and Pliny mentions Minicia Marcella and her sister, the daughters of a friend, who had their own *paedagogi* for their elementary education and *praeceptores* for grammatical education and the liberal arts[21]. Even at the end of the first century and the beginning of the second century AD private education still enjoyed tremendous prestige[22].

It not only depended on the wealth and status of the family whether a child, and especially a daughter, was educated. In urban centres there were usually local schools, and it was therefore fairly easy for children to attend these schools. In country districts and smaller towns, which did not have schools, affluent families sent their boys to bigger centres with schools, or they were educated privately if the family had adequate means. Daughters were, however, not sent away, and could thus only be educated if the family was wealthy enough to employ private teachers. It follows that children in bigger centres and Rome had more opportunities for education.

This traditional system and methods of education came to be influenced and modified by the infiltration of Greek culture into Italy. Although there was indeed contact between these two cultures at a very early stage, it was only in the middle of the third century BC that

[19]See Martial, *Epigrammaton* 10.62.
[20]*Atticus* 12.33.
[21]*Epistulae* 5.16.
[22]See Quintilian, *Inst.or.*1.2 and Pliny, *Epistulae* 3.3.3.

Hellenism really became a factor to be reckoned with. Along with the economic and social changes caused by the Punic War, civilised life in Rome was transformed radically. Rome not only wished to be acknowledged as a supreme political force, but also as a civilised state and as such part of the civilised Greek world since it was recognised as being a superior civilisation. Many men in public positions learned Greek: at first of course also guided by practical needs. But knowledge of Greek was also an introduction to Greek literature. This, in turn, especially the historical and mythological parts of it, motivated Roman patricians to write historical narratives explaining Rome's role in world history. These narratives, written in Greek, were written for Greek readers in order to establish Rome's position as a world power. At the same time, however, there was also a desire to create an own, Latin, literature.

The second period then was that of the Hellenisation of Roman education[23]. This became a major issue after the fall of Tarentum in 272 BC when a large number of highly educated Greek slaves were brought to Rome and subsequently served as teachers in the households of the wealthy. These teachers were very effective and the children of the wealthy benefited much — not only did they learn the Greek language and literature, but broad literary and intellectual activities were fostered, and critical thought and discussion were encouraged. During this period, which extended until the middle of the first century BC, elementary, grammar and rhetorical schools developed much according to Greek educational policies.

Greek tutors and masters educated children in aristocratic homes. Greek schools with Greek masters taught Roman children. Since the Greek teachers made use of the works of the greatest Greek authors as textbooks this meant that the Romans based their culture on the study of literature in a foreign language. The Latin language could only be studied in this way once literary texts in Latin were available. The development of a national literature dates from this time and the creation of a Latin literature gave rise to Latin schools, where Roman children could at last be educated in their own language (although children from the civilised classes were usually bilingual). In approximately 240 BC Cn. Naevius of Campania wrote a historical poem on the First Punic War, and he also wrote dramas and epigrams

[23]SMITH, *Ancient Education*, New York 1969, 186.

based on Greek literature. Livius Andronicus, who died in 203 BC, translated the *Odyssey* into Latin, and Quintus Ennius, who was born in 240 BC, wrote the first Roman epic, namely the *Annals*. It should, however, be noted that Latin had taken shape before this time, and that traditionally fables, public records, and the Twelve Tables were used in educating Roman children[24]. The Roman youth thus used the Twelve Tables as a textbook, and the laws had to be learnt by heart and chanted in class[25]. To a Roman citizen the law was very important. It should also be kept in mind that Roman justice was very formalistic, and that previous judgements were regarded as important. The teaching of law consequently formed an important part of the education of a Roman child[26]. According to Smith[27] the primary aim of Roman education was to train a disciplined member of the family.

The third educational period began in 148 BC[28], and after this time Roman intellectual life and education cannot really be regarded as specifically Roman at all[29]. Education was now basically Greek as influenced and coloured by the Roman character and aims. The rapid progress which education made during this period can partly be ascribed to the fact that the Hellenic schools of Italy and the Mediterranean cities which now became part of the Roman empire, already had a recognised scheme of culture and this had a great influence on Latin schools and educational methods and programmes.

Most children's education ceased when they left elementary school. No technical or commercial education existed for the poorer classes (except, perhaps, for practical instruction given by the father to his son), and girls from the poorer classes usually left to take over household duties and to marry, for the legal age for a valid marriage was twelve. But everybody who could afford it proceeded from the elementary schools of the *litteratores* to the higher instruction of the

[24]LAURIE, *op. cit.,* 324f.
[25]Cf. Cicero, *De Legibus* 2.59.
[26]MARROU, *op. cit.,* 240f.
[27]*Op. cit*., 183.
[28]The second period ended with the death of Cato in 148 BC. His *De Libris Educandis* illustrates the very practical character of Roman educational conceptions, and indicates a reaction and protest against Hellenic innovations. Cicero's question "*(q)uid esse igitur censes discendum nobis* ?" was still answered by "*(e)as artes quae efficiant ut usui civitati simus*".
[29]LAURIE, *op. cit.,* 330.

grammatici[30]. Roman education on this level first appeared in the middle of the third century BC after the start of Roman literature[31]. This was, however, a mere beginning, and it was only in the time of Augustus that it emerged on an equal footing with Greek education on the same level.

Relatively few children reached this level since Roman society was still rather aristocratic and education on this advanced level was seen as a privilege of the wealthy and higher classes[32]. In these grammar schools boys and girls continued to study together[33], and it is noted by Roman authors that from the time of the Republic[34] to the late Empire[35] many highly educated aristocratic women are mentioned[36].

With reference to the next level of education, that of rhetorical schools, it should only be noted that the elements of rhetoric were initially taught by ordinary schoolmasters (*grammatici*), but by the time of Quintilian it was taught only in special advanced rhetorical schools conducted by the rhetoricians[37]. It seems as if only boys attended these schools, since they required knowledge of rhetoric for participation in public life, whereas women played no active role in public life. Higher instruction was given in the rhetorical schools, where young men studied rhetoric and all the arts, which could make an effective orator. Attention was also given to literature and the law[38].

Another reason why Roman girls probably did not attend these rhetorical schools, was that they married early : the legal minimum

[30]See Apuleius, *Florida* 20.
[31]MARROU, *op. cit.,* 251.
[32]MARROU, *op. cit.,* 274.
[33]Ovid, *Tristia* 2.369f. ; Martial, *Epigrammaton* 3.16.
[34]Cicero, *Brutus* 211 ; Sallust, *Catilina* 25.2.
[35]Claudius, *Fescennina* 232ff.
[36]Cf. Martial *Epigrammaton* 7.69 ; Pliny, *Epistulae* 1.16.6 ; 4.19.2-3 ; and 5.16.3 (Pliny's wife Calpurnia surely needed an education — and not only wifely devotion — to take the interest she did in his writings and career) ; and Quintilian *Institutio Oratoria* 1.1.6 (Hortensia). Cf. also Juvenal 6.185-193, 242-245, 398-412 and 434-456 who did not like the educated woman who was fluent in Greek and could rival men in her knowledge of the law, current affairs, literature and rhetoric. Quintilian (*Inst.or.*1.1.6), however, recommended that both fathers and mothers should be as educated as possible.
[37]WILKENS, *op. cit.,* 77.
[38]MARROU, *op. cit.,* 284-291.

age was twelve, and upper class girls usually married between this age and their late teens, whereas other girls married somewhat later, that is in their late teens or early twenties[39]. Since formal education usually stopped once the girl married, it seems logical that girls who married younger, that is at twelve or thirteen, at a stage when they had not yet completed their grammar school education, were not as well educated as their much older husbands. However, not all girls got married so early, and many would therefore indeed have completed their grammar education by the time they eventually got married. In many cases their education continued after marriage: Some might have received further education from their husbands[40] or by a private teacher[41] and it is also possible that women from the higher classes made use of private libraries[42]. As result of the high social status Roman women enjoyed in society, it is also possible that their husbands discussed business matters with them, and since Roman women joined their men at social functions where financial transactions must invariably have been discussed, they will have learned much in this way too. There are no indications that the education of girls differed substantially from that of boys : in the elementary and grammar school stages of Roman education they probably received the same education as boys, whilst the third stage, that of rhetorical training, was enjoyed only (or mainly) by boys[43].

It might be asked why women were educated. There seems to be a number of answers to this question, the first, and most important, being moral education. They were educated to possess the virtues of a Roman *matrona* : modesty, *pietas* and self-restraint. Moral education played an important role in the education of both boys and girls and they were taught, in various ways, virtues such as self-control, love and respect for parents, unselfishness, industry, prudence and

[39]HEMELRIJK, *Matrona Docta: Educated Women in the Roman Elite from Cornelia to Julia Domna*, London 1999, 9.
[40]See HEMELRIJK, *op. cit.,* 31-36.
[41]See HEMELRIJK, *op. cit.,* 36-41.
[42]Varro's wife Fundania must have used her husband's impressive library if she were actually to read some of the treatises on agriculture he advised her to consult, and it can fairly safely be assumed that Pliny's wife Calpurnia did the same for her literary studies. Cf. Cicero, *Ad Familiares* 9.4 ; Varro, *Rerum Rusticarum Libri* 3.5.9 ; and Pliny *Epistulae* 2.17 and 4.19.
[43]Hemelrijk, *op. cit.,* 29.

veracity[44]. C Musonius Rufus[45] argued that daughters and sons should receive the same education since women are capable of the same virtues as men. Plutarch, too, placed emphasis on the moral purpose of education in his *Praecepta Coniugalia*[46]. A thorough education, comprising literature, philosophy and some mathematics therefore seems to be recommended for girls. The purpose of this education was to make her a chaste wife, a prudent manager of the household and a good mother and grandmother[47]. The second purpose of the education girls received was to the ideal of educated motherhood. A famous example of such an educated woman was Cornelia, the mother of the Gracchi. A highly educated woman, she brought up her children and gave them an excellent education — apparently without a tutor. Roman mothers were, moreover, expected to be strict disciplinarians who were supposed to supervise the moral and intellectual education of their children and grandchildren[48]. There is enough literary evidence to deduce that women were expected to be well educated in order to be able to supervise the education of their children. A third purpose of education was the social role of the upper-class *matrona*, and a fourth education as a mark of status[49].

Although women, in theory, had a very inferior legal status, they enjoyed considerable independence in practice from early on, and a few Roman institutions will now be discussed briefly as examples[50].

The first institution is that of marriage. Virtually all women married, and this meant that most upper class women became *matronae*. As a wife and future mother a woman enjoyed a position of authority in her house and took part in all social activities. Legally, however, she suffered several handicaps as result of her gender. Initially there was only one form of marriage, that is the marriage *cum manu*, in which a woman became a member of the family of her

[44]Cf. Quintilian, *Inst.or.*1.8.4 where the young are advised to read morally elevating texts ; Horace, *Epodes* 2.1.139ff. where the link which was felt to exist between culture and conduct is discussed ; and Apuleius, *Metamorphoses* 10.2 where a young boy who was well instructed in literature was also deemed to have a strong sense of duty and modesty.
[45]Fragment 4.
[46]48.
[47]Cf. HEMELRIJK, *op. cit.,* 63f.
[48]Cf. Tacitus, *Dialogus* 28 and also *Agricola* 4.2-3.
[49]See in this regard HEMELRIJK, *op. cit.,* 71-75.
[50]RAWSON, *op. cit.,* 8.

husband and she came under the *potestas* of her husband or his father[51]. Although juridically speaking this placed her in the position of a daughter of the family, she enjoyed an important social position as *materfamilias*. The wife *in manu* had no proprietary capacity, and everything she acquired went to the *paterfamilias*. A woman who had, before her marriage, been a *filiafamilias* and thus had had no proprietary capacity, also lacked that capacity if she became an *uxor in manu*. If she had, however, been *sui iuris*, she lost her proprietary capacity and all her property went to her husband (or his *paterfamilias*)[52].

Although the marriage *cum manu* was the rule in early times, the Twelve Tables had already provided for a regulation which prevented the husband from acquiring manus[53] and a marriage *sine manu*, that is "free of power", was possible. There were various factors which contributed to this development. It usually happened where a woman *sui iuris* contracted a marriage. She would in this case be under *tutela*, exercised by her nearest collateral agnatic relatives. If she would have contracted a marriage *cum manu*, all her property would have gone to her husband or his *paterfamilias* automatically, and her relatives, who were her future heirs so long as she remained *sui iuris*, would consequently lose their expectance of future heirship. They therefore only consented to the marriage on condition that she did not enter her husband's *manus*. It does, however, also link up with Roman family relationships: ties between members were not as close as they used to be, and the woman more and more assumed a self-reliant and independent position in society. Increasingly she obtained the same legal rights as her male counterparts[54]. Later this kind of

[51]Cf. Gaius 1.108-113. See KASER, *Das Römische Privatrecht* I[2], Munich 1971, 79, 322ff. ; THOMAS, *Textbook of Roman Law*, Cape Town 1981, 446f. ; VAN WARMELO, *'n Inleiding tot die Studie van die Romeinse Reg*, Cape Town 1965, 72ff. ; VAN ZYL, *Geskiedenis en Beginsels van die Romeinse Privaatreg*, Durban 1977, 96f. ; BUCKLAND, *A Textbook of Roman Law from Augustus to Justinian*, Cambridge 1963, 118 ; SOHM, *The Institutes: A Textbook of the History and System of Roman Private Law*, Oxford 1935, 452-454 ; SCHULZ, *Classical Roman Law*, Oxford 1961, 103f.

[52]KASER, o*p. cit.,* 80, 330 ; SCHULZ, *op. cit.,* 118 ; SOHM, *op. cit.,* 462f. ; THOMAS, *op. cit.,* 446 ; VAN WARMELO, *op. cit.,* 72 ; VAN ZYL, *op. cit.,* 97.

[53]In 6.4 the rule was recognised that *usus* (the regulation one year period) was regarded as interrupted when the wife absented herself from her husband's house during the *trinoctium* (three consecutive nights). Cf. also Gaius 1.111.

[54]VAN WARMELO, *op. cit.,* 74f. ; VAN ZYL, *op. cit.,* 97.

marriage became the rule, and by the time of Justinian the marriage *cum manu* had disappeared altogether, and only the marriage *sine manu* was known.

The next institution to be discussed, is that of *perpetua tutela mulierum* or tutelage of women. In terms of this institution women *sui iuris*, even if they were of full age, had tutors. This institution was clearly in the interest of the tutor although he was not necessarily the nearest heir of the woman[55]. The principal design was to keep the property in the family. The *tutores legitimi* were the woman's *heredes ab intestato*, and they could prevent her from reducing her estate. A will made by her without their *auctoritas* was void at civil law[56]. The tutor's original power over both person and property, as well as his conduct of her affairs, started diminishing early on. The woman administered her property herself, and there consequently arose no liability on the part of the tutor[57]. The requirement of *auctoritas* was seen as merely a matter of necessary form[58], and provided no protection to the woman nor did the tutor incur any responsibility. Although Gaius says that *tutela* was due to the lightmindedness of women[59], he later admits that there is no real reason why an adult woman should be in *tutela*[60]. It was clearly a historical survival, which no longer related to any principle. Officially *tutela* over women, however, continued to exist throughout the classical period, it was still in force under Diocletian, and only abrogated in the fourth or fifth century[61]. It is interesting to note that this institution existed so long in spite of the high social position of

[55]Gaius 1.192 : "*Eaque omnia ipsorum causa constituta sunt, ut, quia ad eos intestatarum mortuarum hereditates pertinent, neque per testamentum excludantur ab hereditate neque alienatis pretiosioribus rebus susceptoque aere alieno minus locuples ad eos hereditas perveniat*." See also KASER, *op. cit.,* 86.
[56]Gaius 3.43.
[57]Gaius 1.191.
[58]Gaius 1.190 : "*dicis causa*".
[59]1.144 : "*Veteres enim voluerunt feminas, etiamsi perfectae aetatis sint, propter animi levitatem in tutela esse*." See also Cicero, *Pro Murena* 12.27 ; Valerius Maximus 9.1.3 ; Seneca, *Ad Marciam* pr.
[60]1.190 : "*Feminas vero perfectae aetatis in tutela esse fere nulla pretiosa ratio suasisse videtur*".
[61]See in this regard KASER, *op. cit.,* 367-369 ; SCHULZ, *op. cit.,* 180 ; THOMAS, *op. cit.,* 463f. ; BUCKLAND, *op. cit.,* 165 ; SOHM, *op. cit.,* 490 ; VAN WARMELO, *op. cit.,* 100 ; and VAN ZYL, *op. cit.,* 114f.

Roman women in society. Various factors contributed to this,[62] but in practice the effect of this institution became smaller and smaller and the emperors frequently gave dispensation by granting the *ius liberorum* as a privilege which completely exempted freeborn women with three and freedwomen with four children from tutelage[63]. This does, of course, mean that the woman's *infirmitas* or *imbecillitas* or *levitas* could not be a fact, for in that case it would not be possible to remove it by granting the *ius liberorum*. The basis of continued formal Roman tutelage of women should rather be sought in Roman custom.

A woman, subject to the guardianship of her tutor, could not bind herself nor could she enter upon any *negotium juris civilis* without her tutor's *auctoritas*. But as early as the classical period the woman could compel the tutor to give his *auctoritas* if he did not do so voluntarily[64]. She could, moreover, choose her own tutor, and if she was not quite satisfied with him, she could apply for another[65]. Although a woman was prevented from concluding certain specific legal acts without her tutor's *auctoritas in praesenti*, there were many other legal acts which she could commit without any such authority[66].

One of the unforeseen results of the Second Punic War was that in a large number of wealthy houses the male line became extinct and the family estate was concentrated in the hands of women, who then also had to take charge of the management of the family property. Although women *sui iuris* required a *tutor* to represent them in court and to countersign their documents, most of the *tutores* were but *pro forma* appointments and these women became in fact free to manage their affairs as they pleased[67]. In 169 a tribune called Voconius carried a measure to limit the amount of real estate that might be devised to women. Under the *lex Voconia* women could not be instituted heirs to an estate worth more than hundred thousand sesterces[68] nor receive legacies greater in amount than what went to

[62]SCHULZ, *op. cit.,* 180f.
[63]Gaius 1.145 and 1.194.
[64]Gaius 1.190.
[65]Gaius 1.115.
[66]See, eg., BUCKLAND, *op. cit.,* 167; THOMAS, *op. cit.,* 464.
[67]CARY, *A History of Rome down to the Reign of Constantine*, London 1967, 264.
[68]Gaius 2.274 : "*Item mulier, quae ab eo qui centum milia aeris census est per legem Voconiam heres institui non potest, tamen fideicommissio relictam sibi hereditatem capere potest*."

the heir or heirs[69]. The *lex Voconia* restricted the agnatic succession of females temporarily[70] for according to the interpretation of this law the only female agnates who, later, were considered to be entitled to succeed in the second class of heirs *ab intestato* were the *consanguineae*, or agnatic sisters, of the deceased. In practice this law was simply evaded by nominal transfers of land to collusive trustees. Lawyers permitted a *fideicommissum hereditatis* in favour of women, which differed only technically from *institutio heredis*. And although women still very much required a tutor to countersign their legal documents and to represent them in court, they took care to have tutors appointed who would sign on instruction, and this meant that Roman women in fact gradually became free to manage their property as they wished. Women very often had their own *procuratores*, usually lawyers who acted as councillors and confidants[71].

This discussion about the nature, level and generality of the education of Roman girls from very early on seems to point to a number of conclusions : Girls received the same cultural education as boys, which means that they were trained to be of service to their country, to be worthy and responsible citizens. Moreover, on pre-school, elementary and even grammar school level girls received the same education as boys. By the time they married, usually during or after completion of their grammar school education, they were as literate, and knew as much about arithmetic and the law as any boy. In practice this meant that when women had to step in and take charge of legal and financial matters on behalf of the family, they were as well prepared as their male counterparts. The fact that a thorough study of the Twelve Tables and the set of legal precedents which had crystallised by then was part of the school syllabus, contributed much to their being able to cope with the demands of public life. As the social status and education of women increased, it would logically follow that they were granted more rights and responsibilities. Legal restrictions based on gender were gradually side-stepped and eventually abrogated, placing women juridically on par with men.

---

[69]Gaius 2.226.
[70]Gaius 3.14 ; PS 4.8.20.
[71]FRIEDLAENDER, *op. cit.,* 237.