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ADOPTÉES AND EXPOSED CHILDREN  
IN ROMAN DECLAMATION: COMMODIFICATION,  
LUXURY, AND THE THREAT OF VIOLENCE

NEIL W. BERNSTEIN

INTRODUCTION: THE “GIFT” CHILD AS COMMODITY

ROMAN DECLAMATION generally presents a negative view of attempts to commodify adoptive relationships. The following excerpt from the elder Seneca derisively portrays a hypothetical Roman adoption in the terms of a straightforward market transaction. If the would-be adopter is found to possess adequate capital, both material (*bona*) and social (*maiores*), and offers an adequate price (*satis magno*) for the transaction, then the prospective adoptee will permit himself to be legally relocated from one family to another (Sen. *Controv.* 1.6.6):

aliquis in adoptionem iuvenis petitur: si volet ire, quaerat senex ille qui petit quales et quot habeat maiores, quanta bona, an satis magno se possit addicere. aliquis capere orbos senes vult et suas spes in alienas mortes diffundere: excutiat testamenta, scrutetur census.

A youth is being requested for adoption. If he wants to go, he should enquire how many ancestors the old man who seeks him has, what rank they are, what the old man's wealth—whether he can knock himself down at a sufficient price. Another man wants to make a prey of childless old men, to rest his hopes widely on the deaths of others; he should pore over wills, examine income returns. (trans. Winterbottom 1974)

The declaimer's comparison of such a transaction to *captatio*, a socially disapproved practice, show that he regards this narrative as the wrong way to conceptualize a Roman adoption. The prospective adoptee's inquiries regarding the would-be adopter's wealth and ability to pay show that he has ignored the aristocratic conventions of exchange and inappropriately applied the paradigm of market transaction instead.

The elder Seneca attributes this excerpt of a declamation to Julius Bassus, who speaks in the character of a son defending his choice to remain married to the dowerless daughter of a pirate chief rather than divorce her in order to marry an orphan in accordance with his father's wishes. Fictional scenarios of this kind have traditionally prompted condemnation of the declamatory

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genre from both ancient and modern critics.<sup>1</sup> Though the declamatory scenarios themselves may be fictional, their themes enable the speakers to address the social concerns of the Roman upper class.<sup>2</sup> The audiences of declamation rarely interacted with pirate chiefs, and the *orba* was accommodated differently under Roman law than the Greek *epikleros*. Yet when Bassus presents adoption and *captatio* as foils for the son's behavior, he discusses practices that were a familiar part of his audience's social life.<sup>3</sup> Both the *captator* who exploits a testator's need for honor and posterity and the prospective adoptee who overtly measures the social status of his would-be adopter engage in behavior that runs contrary to aristocratic ideals of Roman kinship and friendship. Many of the declamatory texts examined in this paper represent adoption as a practice that risks deforming the normal conventions of thought and behavior that should obtain between aristocratic Roman family members and friends. This paper examines two conventions of thought regarding the commodification of adoptees and exposed children in Roman declamation: the involvement of members of the adoptive triad in discourses of luxury (section 1) and the subjection of the exposed child to the threat of subsequent violence from his fostering family (section 2).

The producers and consumers of Roman declamation were members of the Roman upper class, from the emperor whose attendance is remarked upon by Seneca (*Controv.* 2.4.12–13) to the schoolboy who may have used this literature as pedagogical material. The explicit comparison of the adoptee to a purchased luxury good reflects the experiences of the social class that exclusively consumed such goods. The comparison of adoption to an imitation of nature (as at, e.g., Seneca *Controv.* 2.1.10–13, discussed in detail below) evokes the villa owner's attempt to improve upon nature through elaborate architectural, landscaping, and artistic programs.<sup>4</sup> The upper-class audience of declamation applied well-defined conventions of thought to their exchanges (whether material, political, literary, or symbolic), which could not be confused with market transactions without incurring social disapproval.<sup>5</sup> In a

1. For a review of complaints regarding declamatory scenarios and a defense of the genre, see Gunderson 2003, 1–25. Scholars have observed that practice with fictional rather than real situations confers certain pedagogical advantages. Rather than being diverted into legal or historical research, the student can focus directly on persuasive techniques. He can also master the strategies of convincing an audience that may not be expert in the law and may be inclined in a given case to emphasize *aequitas* over *ius*. See Bloomer 2007; 1997, 58; Winterbottom 1982. For an example of the emphasis on *aequitas* over *ius* relevant to the subsequent discussion, see Sen. *Controv.* 2.1.19, where a young man who refuses to be adopted claims *dico licuisse mihi recusare adoptionem; dico, ut non licuerit, recte tamen recusasse: et quod iure fit [verum est] et quod sine iure, quod quidem rationem habeat, recte fit* ("I say that it was permitted for me to refuse adoption; I say that if it was not permitted, nevertheless it was right for me to have refused; and what is done by law and what is not done by law, if it has a good reason, is done rightly").

2. See Corbeill 2007; Migliario 1989. For discussion of the practice of declamation as a transition to manhood, see Richlin 1997.

3. For *captatio*, see Champlin 1991, 87–102.

4. For literary conceptions of the villa owner's improvement of nature, see Myers 2005; Pavlovskis 1973.

5. Sen. *Controv.* 2.7 provides a good example of declamatory criticism of the people who actually engage in market transaction. A merchant damages the reputation of a faithful wife by leaving her his property even though he adds the *elogium: pudicam repperi* ("I found her chaste," *Controv.* 2.7, pr.). See Lentano 1998, 111–15.

market transaction, participants strive to secure the greatest possible advantage in the exchange and do not expect to create an ongoing relationship through their interaction. By contrast, the exchanges between Roman aristocrats motivated by *amicitia* produce ongoing relationships of obligation, and asymmetric exchanges with dependents could give rise to long-term patronage relationships. Koenraad Verboven summarizes the difference between *amicitia* and market transaction as follows: "Relations of *amicitia* were always mutually advantageous, but they were very much different from market relations relying on payment. The difference resided mainly in the fact that in *amicitia* a package of mutual favours was exchanged, in which a clear connection between specific favours was either absent or rejected."<sup>6</sup>

Roman adoption resembles other forms of aristocratic exchange in that the participating families similarly hope to create long-term, affective relationships. As in other exchanges, the act of giving in adoption between Roman aristocrats requires the participants to proceed without direct reference to their economic interests. The participants may be fully aware of the economic opportunities attendant on the exchange but deliberately choose not to make it part of their discourse. The narratives that describe adoptions therefore appeal to other motives: parents give their children in adoption in order to secure alliances between families, to enable the perpetuity of a name, to enable the child to enter a higher social class, and so forth.<sup>7</sup> When declamatory texts accuse the members of an adoptive triad of attending primarily to economic interests, therefore, they run counter to the aristocratic ethic of exchange and reveal the asymmetries of power underlying an adoptive transfer.

The exchange of a child between families differs from a market transaction in numerous respects.<sup>8</sup> In the first place, the narrative dynamics of an adoption differ from those structuring an exchange of property. The exchange that relocates the adoptee (*qua* "gift" child) from one family to another cannot be reversed in the same way as an exchange that transfers property to a new owner. While property may continue to be exchanged between multiple owners, a normative Roman adoption is a onetime and nonreversible exchange. Furthermore, the fact of exchange does not make an adoptee into human property. Even under a new father's *patria potestas*, adoptees retain greater legal rights than slaves, and may hope to form affective relationships with their nurturers. They do not expect to be sold into another *familia*, or executed in the event of a slave's crime, or to be

6. Verboven 2002, 351. See also Griffin 2003. Coffee (2006) persuasively applies aristocratic paradigms of exchange to a reading of Roman epic.

7. See, among others, Kunst 2005; Dixon 1999; and Corbier 1991.

8. Studies of modern adoption also emphasize both the power of the market and legal, social, and rhetorical attempts to conceal its role. Yngvesson (2002) discusses the function of "donations" to adoption agencies, designed in part to counter the perception of a "baby market." Herman (2002, 339) observes in reference to the development of legislation against "baby farms" in early twentieth-century America that "child adoption was an exchange governed by an unstable combination of profitability, benevolence, and upward mobility. Modernizing child adoption depended on sharp contrasts between commercial, sentimental, and professional ways of making families up."

subjected to the threat of violence (though see section 2). Their rights and expectations are comparable, if not entirely identical, to those of birth children.<sup>9</sup> Unlike birth children, however, adoptees may retain affective connections to other families. The intentions and perspectives of adoptive and birth parents regarding the adoptee may also change over the period of the child's maturation. Evidence of conflict between these groups over the adoptee's custody, services, benefits, and future courses of action appears in Roman legal and literary sources.<sup>10</sup> Such conflicts show that the various participants hold different views of the originary adoption exchange. Arguments that the original exchange may be undone, superseded, or ignored again mark its difference from a market transaction.<sup>11</sup>

The introduction of an adoptee changes not only the composition of a family but also the way that all family members think about their roles, purposes, and identities. Adoptees and exposed children are outsiders brought into the family who must continually justify their presence both to biological relatives and to external observers. Their situation resembles that of the stepmother, another popular character in declamatory scenarios. Similarities between the declamatory stepmother and adoptee include the following: (1) they are brought in as the result of the father's personal choice; (2) they catalyze conflict within the biological family; and (3) they test assumptions about the function and meaning of biological ties between parents and children. The declaimers universally attribute to the stepmother a narrowly biological conceptual paradigm of relatedness. In their view, as in Roman literature generally,<sup>12</sup> the stepmother will always be hostile to her stepchildren because they are not her "blood." Thus the stepmother is presumed guilty until (rarely) proven innocent in cases of conflict, while biological mothers are compared to stepmothers when their maternal behavior deviates from the culturally prescribed norm.<sup>13</sup> The stepmother is precluded from establishing even the facsimile of normal maternal relationships with her stepchildren in declamatory scenarios: when she is not plotting her stepchildren's destruction, she is engaged in incestuous relations with her stepson.<sup>14</sup> The possibility of desiring and properly enacting fictive parenthood, therefore, rests only with fathers. Substitute fathers (whether adoptive fathers, foster fathers, or the rarely viewed stepfather) are permitted a rhetorical option unavailable to the stepmother. They can argue that an adequate performance of paternity compensates for the absence of a biological tie. They lay claim not only to full legal rights over their children (already granted to them in Roman and

9. See Gardner 1998, 117–26, for the legal rights of adoptees.

10. See Kunst 2005, 265–89.

11. Modern adoption again offers a parallel. Modell (1994) provides a detailed discussion of American perceptions of the adoptive arrangement as precarious, unstable, and inferior in affective terms to the connections created through biological relatedness.

12. For the declamatory stepmother's affinity with tragic models, see Casamento 2002a, 101–24; for a survey of the stepmother's role in classical literature, see Watson 1995.

13. E.g., Sen. *Controv.* 2.4.9, 4.6, 7.6.12. For a lone exception, see [Quint.] *Decl. Min.* 388.31.

14. For examples of the stepmother's murder, attempted murder, or framing of her stepchildren, see Sen. *Controv.* 7.1, 9.5, 9.6; [Quint.] *Decl. Mai.* 1, 2; *Decl. Min.* 246, 327, 350, 381; Calp. *Decl.* 12, 35. For incestuous relations, see Sen. *Controv.* 6.7; [Quint.] *Decl. Min.* 335.

declamatory law) but also to a relationship that closely resembles a biological one in both its moral and affective dimensions.

Choice and agency rest with the prospective adoptee in many declamatory scenarios. It is the young man's decision in the excerpt quoted above from Seneca's *Controversiae* 1.6 whether to respond positively to the would-be adopter's request. Though Bassus' suggestion that he conduct appropriate inquiries before taking this important step may be part of a derisive comparison, the action itself clearly is not imagined to lie outside of the young man's capacity. This narrative frame reflects the fact that most attested Roman adopters chose to adopt adult persons who were related to them,<sup>15</sup> an essential contrast with the patterns of adoption practiced by the contemporary Western middle class. Yet it should not obscure the fact that Roman adoptees were still by and large the subordinate members of the adoptive triad. A legal adoption, furthermore, was a highly formalized process that could not be undertaken by all Romans.<sup>16</sup> As such, it was not the only form of relationship in the Roman world that involved both nurture and a strong sense of relatedness and entitlement on the part of a biologically unrelated caregiver. Other forms of the fostering relationship included "quasi-adoption" (informal fostering arrangements) and the nurture of exposed children.<sup>17</sup> The exposed children who appear in declamatory texts have even less control over their situation than the adoptees because they are transferred as infants. As such, they are even more subject to the threats of commodification and violence discussed in the following sections.

#### 1. ADOPTÉES, COMMODIFICATION, AND ROMAN DISCOURSES OF LUXURY

In *Controversiae* 2.1, the elder Seneca presents excerpts of declamations attributed to seventeen separate speakers on the theme of "the man to be adopted after three disowned sons."<sup>18</sup> A rich man disowns his three birth sons and proposes to adopt a poor man's son in their stead. The poor man's son refuses and is disowned by his birth father as the result of his disobedience. As presented by Seneca, most of the declaimers speak in the character of the son. These speakers describe the proposed adoption as a needless exchange with questionable motives.<sup>19</sup> Few suggest that the rich man may be attempting to benefit the poor man's family; many more imply that he is trying to pressure his birth sons into a reconciliation, or seeking to acquire a luxury commodity, or presumptuously attempting to supersede the works of nature, or all of the above. All agree that, whatever the rich man's true motives, he does not contemplate the proposed adoption out of the need to

15. See Gardner 1998, 115.

16. For the legal capacity to adopt, see Gardner 1998, 145–65.

17. For "quasi-adoption," see Nielsen 1987, 1999. For the nurture of exposed children, see Harris 1994 and Boswell 1998.

18. *adoptandus post tres abdicatos* (Sen. *Controv.* 2.1, pr.).

19. For discussion of the role of *vituperatio* as a means of passing moral judgment on the behavior of opponents and rhetorically effecting their separation from the wider community, see Arena 2007 (who does not, however, examine declamatory texts).

find an heir in the absence of living sons, as he has already rejected three living birth sons as unfit for that role.<sup>20</sup> As such, the declaimers describe the rich man's behavior not as a response to a necessity but as the result of a moral and mental disorder, the disease of luxury. The few speakers who choose to assume the character of the poor father who accedes to the rich man's request (*Controv.* 2.1.17–18) generally shy away from discussing the adoption on its own terms and instead defend the rich man's moral right to possess his wealth and put it to use. Only Porcius Latro observes historical precedents for the adoption, such as Scipio's adoption of Aemilius Paullus, and claims that "adoption is the remedy for misfortune."<sup>21</sup> The applicability of this precedent is questionable, as Scipio did not engage in serial *abdicatio* before adopting Paullus; and Latro's second historical *exemplum* may be equally problematic for other reasons, as no adoptions are attested between the Fabricii and the Metelli. The case against adoption, furthermore, is made much more strongly. Pompeius Silo, for example, claims that the adoption is "shameful, useless, and dangerous."<sup>22</sup> Speaking as the son, he describes adoption as a loss of his birth family rather than the creation of a link to a new family: "Even if I were not being disowned, I was about to lose my father [through adoption]."<sup>23</sup>

Some of the declaimers in *Controversiae* 2.1 employ language typically applied to the exchange of property in describing the proposed adoption and make explicit comparisons between the adoption and property transactions. Vibius Rufus assumes that the rich man's intent in proposing the adoption is to pressure his birth sons to reconcile with him. Once this reconciliation has been achieved, the adopted son will have served his limited purpose. He will be handed back to his father once there is no further need for him. The prospective adoptee is accordingly made to protest at the conclusion of Rufus' excerpt: "I do not refuse to be adopted but to be hired out (*commodari*)."<sup>24</sup> In its sense "to lend or hire out," *commodare* can be applied to various forms of property, including slaves, buildings, and animals.<sup>25</sup> As a freeborn individual, the son objects to this instrumental deployment of his person. The adoption is not for the sake of creating a new family but for the purpose of indirectly reconstituting an old family. The prospective adoptee will not become a permanent part of his new family, but will be no different from a slave rented or borrowed from his owner and returned soon after. Arellius Fuscus *pater* makes explicit the comparison between the adoption and the sale of a slave: "If you were selling a slave who was dear to you,

20. In commenting on the "extraordinary" number of declamatory scenarios where disowning occurs without context, Fantham (2004, 80) observes that adoption often appears in combination with disowning, "as if the basis for every declamation was a mathematical addition or subtraction of sons between families."

21. *adoptio fortunae remedium est* (Sen. *Controv.* 2.1.17).

22. *turpem esse adoptionem, inutilem esse, periculosam esse* (Sen. *Controv.* 2.1.20).

23. *etiamsi non abdicarer, perditurus fui* (Sen. *Controv.* 2.1.16 [exc.]).

24. *ita non adoptari sed commodari recuso* (Sen. *Controv.* 2.1.2). The biological father accepts this characterization of the relationship at *Contr.* 2.1.32. Further examples of commodity language occur, for example, in the son's invitation to evaluate the rich man's character (*quod magni aestimas*, *Controv.* 2.1.3).

25. Slaves: Mart. 8.52; Catull. 10.26. Buildings: *Rhet. Her.* 4.64; Juv. 7.40. Horses: Val. Max. 8.2.4. See OLD, s.v. *commodo* 1.

you would ask whether the buyer was vicious.”<sup>26</sup> In addition to the legally and socially subordinate position of slaves, their anonymity and inability to form affective relationships with their masters occasion further opportunities for indignation from the declaimers as they contemplate the son’s predicament (cf. *Controv.* 2.1.26). In a normative adoption, as implied by these excerpts, an adoptee is never temporarily “borrowed” and returned, but is taken in as a full, permanent member of the family. As such, he can never be confused with human property.

The rich man’s resources form a further target for hostile criticism of his motives in becoming an adoptive parent. According to the declaimers of *Controversiae* 2.1, the rich man already has a generous supply of birth sons and will find it easier than the poor man will to adopt more. Cestius Pius points out that by having three adult sons, the rich man was favored in terms both of natural reproduction and of the survival of his children to adulthood: “He brought up three sons; he was able to give one in adoption.”<sup>27</sup> Albius asserts that if the poor man were to refuse to give his son in adoption, the rich man would have many other choices of prospective adoptees: “He replied as if it were not possible for a rich man to be lacking a son.”<sup>28</sup> By contrast, as Pompeius Silo observes, poor men cannot afford to offer such resources, and thus are unattractive to prospective adoptees: “It will not be easy for [the poor man] to adopt.”<sup>29</sup> As a result of the facility with which he may acquire children through adoption, however, the rich man is tempted to view children as disposable. Silo continues: “They say that these rich men have many vices, and this is the most serious one: they don’t love their own children.”<sup>30</sup> From the rich man’s perspective, children are easily replaced through adoption, and thus no familial relationship (whether with a birth child, an adoptee, or, as we shall see immediately below, a wife) need be viewed as unique, irreplaceable, or permanent.

Conflicts between rich and poor families are common in the declamatory corpus.<sup>31</sup> Speakers in the character of poor fathers or their children frequently claim that rich men’s economic circumstances discourage them from attaching too much affect to any single familial relationship. In comparison to poor men, rich men enjoy an increased ability to purchase or rent the sexual labor

26. *si carum tibi servum venderes, quaereres numquid saevus emptor esset* (Sen. *Controv.* 2.1.5).

27. *tres sustulit; poterat unum in adoptionem dare* (Sen. *Controv.* 2.1.3). The opening phrase emphasizes the rich man’s satisfaction of the requirements for the *ius trium liberorum* through natural reproduction, rather than, for example, through imperial petition (as at, e.g., Plin. *Ep.* 2.13, 10.2). See Migliario 1989 for a discussion of multiple connections between Senecan declamation and Augustan legislation. Whether upper-class fertility was actually sufficient for replacement remains a subject of debate: see, e.g., Frier 1994; Garnsey and Saller 1987, 141–45. The perception among early imperial aristocrats was, however, that their peers rarely chose to have many children: see, e.g., Plin. *Ep.* 4.15.3; Tac. *Ann.* 2.37–38.

28. *respondit, tamquam non posset diviti deesse filius* (Sen. *Controv.* 2.1.31).

29. *tibi non erit facile adoptare* (Sen. *Controv.* 2.1.20).

30. *aiunt multa vitia divites habere istos et hoc gravissimum: suos non amant* (Sen. *Controv.* 2.1.21).

31. Other conflicts between *dives* and *pauper* occur at Sen. *Controv.* 5.2, 5.5, 8.6, 10.1; [Quint.] *Decl. Mai.* 7, 9, 11, 13; [Quint.] *Decl. Min.* 247, 257, 269, etc.; Calp. *Decl.* 7, 11, 17, etc. For the conventional nature of the theme, see Petron. *Sat.* 48. For a full list of cases, see Sussman 1994, 147; for discussion, see Tabacco 1978. In Calp. *Decl.* 53, a rich man murders the son whom he received in adoption from a poor man as a means of striking back at him.



of other human beings. Thanks to their felicitous economic circumstances, they can also remarry more easily than the poor, bring up a greater number of children, and attract prospective adoptees without difficulty. As a result, according to the poor characters impersonated by Roman declaimers, they do not love their children or their wives as well as poor men do, as they can expect to compensate more readily in case of bereavement or disaffection. Though the rich man in Pseudo-Quintilian's *Minor Declamation* 337 is not an adopter, this declamation's account of the effect of wealth on normative familial relationships provides a conceptual connection to Silo's account in Seneca's *Controversiae* 2.1. The speech delivered by the poor man against the rich man develops the theme of luxury as a perversion of normative familial behavior in a similar way to the declaimers' condemnation of the adoption proposed by the rich man. According to the poor man, the rich man's response to the death of his wife marks him as the kind of person who does not choose to develop truly intimate relationships because he knows that he can always substitute purchased ones ([Quint.] *Decl. min.* 337.14):

sed uxorem perdidisti. ne in hac quidem tibi multum desiderii est. quomodo enim vos, divites, reficitis matrimonia! reficitis? aliae vos rapiunt voluptates, illa ministeria, illi imitati feminas pueri; inde fit ut ne liberos quidem ametis. ergo te possunt multa <ad vitam> hortari. praeterea subeunt solacia: et uxorem tibi inuenire facile est et liberos tibi alios educare facile est. non relinquunt dolori locum tot circumfusae voluptates.

But you lost your wife. Even in her you don't miss much. For how you rich men remodel your marriages! Remodel? Other pleasures carry you off, those servants, those boys imitating women. So it comes about that you don't even love your children. Thus many things can encourage you <to live>. Besides, consolations come: it's easy for you to find a wife and it's easy for you to bring up other children. So many pleasures all around you leave no room for sorrow. (trans. Shackleton Bailey 2006)

The poor man measures affect in terms of response to bereavement (*desiderium, dolor*). He returns persistently to the theme of *voluptas*. In the poor man's account, the rich man's *voluptates*, specified as the sexual services of his slaves, provide the consolation for his loss of his wife. The rich man chooses to replace the "natural" relationship of marriage with a commodified relationship, his interaction with purchased human beings.

In itself, the sexual exploitation of slaves may not have provoked much adverse comment from the contemporary audience of declamation.<sup>32</sup> From an aristocratic perspective, the rich man's failures lie rather in his refusal to participate in the conventions shared by the highly literate producers and consumers of declamation. The consolatory literature of the late Republic and early Empire directs the bereaved individual to console himself through philosophical therapy, not sexual overindulgence. Whether in the form of

32. An excerpt from the declaimer Labienus' condemnation of rich men's use of their slaves for sexual services, however, offers a more extreme example of the conjunction of commodification and violence (Sen. *Controv.* 10.4.17 [exc.]): *principes, inquit, viri contra naturam divitias suas exercent: castratorum greges habent, exoletos suos ut ad longiorem patientiam impudicitiae idonei sint amputant* ("Distinguished men use their wealth to combat nature: they own troops of castrated youths, they cut their darlings, to fit them to submit to their lusts over a longer period," trans. Winterbottom 1974).

personal letter, philosophical essay, or poem, the same literature conventionally refers to the circulation of written texts as the favored means of consolation for this class.<sup>33</sup> The rich man in this declamation has disengaged from the network of literary exchange at a moment of particular importance for the reaffirmation of ties of *amicitia*. The limitations of the poor man's characterization (though he may be impersonated by one, he is not himself a highly literate aristocrat) mean that he can only directly express the effects of luxury on the rich man's attitude toward his family. An upper-class audience, however, would note that the rich man's choice to console himself through *voluptates* marks him as perverse in his attitudes not only toward his family but also toward his friends and the other members of his class.

Roman authors traditionally condemn uses of wealth that disfigure normative social relationships. *Controversiae* 2.1 commences with a typical *locus* from the Roman diatribe against the manifestation of luxury. The traditional examples of old-fashioned Roman morality, such as Tubero and Fabricius (*Controversiae* 2.1.8), knew the virtues of the simple life, but excessive wealth led latter-day Romans to fight civil wars: "As poor people we had quieter times; we fought civil wars once the Capitol was gilded."<sup>34</sup> The most fully developed declamatory treatment of adoption as a symptom of luxury occurs in sections 10–13 of this *controversia*. Papirius Fabianus speaks in the character of the son in this famous and much-discussed excerpt.<sup>35</sup> He sharply criticizes the rich man's proposal of adoption, describing it as an attempt to acquire an unnecessary and morally corrupting luxury. While Fabianus does not describe the exchange explicitly as a market transaction, he still regards the adoptee as a commodity available for purchase. The rich man's adherence to a luxury ethic, expressed through his attempt to commodify his fellow human beings, reflects poorly on his virtue. The length and hyperbole of Fabianus' speech led Stanley Bonner to criticize its conclusion disparaging adoption as "a superb example of anti-climax."<sup>36</sup> Adoption might indeed appear, at first glance, to be a *ridiculus mus* when compared to civil war or the feats of landscape engineering that Fabianus describes as similar manifestations of the luxury ethic. Roman authors, however, typically employ hyperbolic descriptions of the effects of luxury. They associate the pernicious effect of luxury with the creation of limitless desire. Today the luxurious man manifests his perverse tendencies in an unnecessary adoption, tomorrow he may wish to engage in the relocation of the land and sea. Each is a predictable result of his refusal to be satisfied with what an ordinary level of consumption can provide for him. Luxury disrupts the normal conventions

33. Personal letters: e.g., Cic. *Fam.* 4.5–6, 5.16. Essays: e.g., Sen. *Marc.*, *Polyb.*, *Helv.* Poems: e.g., Stat. *Silv.* 2.1, 2.6, 5.2. See Wilcox 2005 on the exchange of consolatory texts as an arena for competition between aristocrats.

34. *quietiora tempora pauperes habuimus; bella civilia aurato Capitolio gessimus* (Sen. *Controv.* 2.1.1).

35. See Casamento 2002b; Migliario 1989, 527–33; Fairweather 1981, 272–75; Bonner 1949, 58–59.

36. Bonner 1949, 58. For the length of Fabianus' *narrationes* and other distinctive qualities of this speaker, see Casamento 2002b, 118–19. Lengthy as it is, however, this passage has already been truncated through Seneca's editorial strategy of providing excerpts rather than entire declamations. Accidents of the manuscript tradition may also have contributed. See Fairweather 1981, 27–49.

that hold family and society together as the need to acquire and display luxury goods takes priority over social relationships.<sup>37</sup> The starting point of Fabianus' excerpt, civil war, is typically framed in Roman luxury discourse as the ultimate consequence of the social disruption caused by the luxury ethic.<sup>38</sup>

One of the manifestations of luxury, specifically condemned by Fabianus in the conclusion of the excerpt, is the desire to imitate or supersede nature (Sen. *Controv.* 2.1.13):

quis enim tam pravis oblectare animum imitamentis possit si vera cognoverit? videlicet <haec illis placent> ut infantibus quae tangi comprehendique manibus aut sinu possunt; nam magna non capit exigua mens. . . . adeo nullis gaudere veris sciunt, sed adversum naturam alieno loco aut terra aut mare mentita aegris oblectamenta sunt. et miraris <si> fastidio rerum naturae laborantibus iam ne liberi quidem nisi alieni placent?

For who could delight his mind with such debased imitations if he knew the reality? I suppose they love these things as children love things they can touch, take in their hands and clutch to their laps. Small minds have no room for great things. . . . For truly they do not know how to enjoy anything real, but in their sickness they need unnatural fakes of sea or land out of their proper places to delight them. Do you still wonder that, in their disdain for the natural, they now don't even like children—except those of others? (trans. Winterbottom 1974)

The excerpt concludes by associating adoption with the desire to relocate things out of their natural place. To move a son out of his birth family into another is as perverse, in Fabianus' view, as to move the sea into the space that ought to be occupied by the land, or vice versa.<sup>39</sup> Both activities are undertaken by people who are not satisfied with "the nature of things" (*rerum naturae*) because they are suffering from the illness of luxury (*aegris, laborantibus*). According to a later reader, the elder Pliny, Fabianus was an authority on this subject: he was "most expert in the nature of things."<sup>40</sup>

Fabianus' criticism is familiar, in the sense that opponents of adoption often describe the practice as instituting an "unnatural" arrangement. An adoption is an attempt to create a legally and socially recognized family by reference to other principles than biological relatedness. Societies such as ancient Rome or modern America define biologically related families as normative and families constructed along other principles as exceptional. In other societies, by contrast, the biological paradigm does not exclusively predominate in conceptions of relatedness, and fostering arrangements both occur more frequently and are more socially accepted.<sup>41</sup> Where biologism

37. As Migliario (1989, 532) observes, "se la ricchezza corrompe il rapporto dell'uomo con la natura, vuole dire Fabiano, come può non corrompere il rapporto tra padri e figli?"

38. See, e.g., Sall. *Cat.* 10; Luc. 1.160–82, etc.

39. For contemporary complaints about the extension of villas into the sea, see Sall. *Cat.* 20.11; Hor. *Carm.* 2.18.17–22, 3.1.33–40; Petron. *Sat.* 120.87–89; Vell. 2.33.4, etc. See also Migliario 1989, 532 n. 21; Nisbet and Hubbard 1978, ad Hor. *Carm.* 2.18.21. For complaints about other forms of excessive construction, see Edwards 1993, 137–72.

40. *Papirius Fabianus, naturae rerum peritissimus*, Plin. *HN* 36.125.

41. See Schneider 1980 and Modell 1994 on modern American conceptions of relatedness. For accounts of (mostly) European fosterage practices, see Corbier 1999. For the construction of alternative paradigms of relatedness in societies such as Madagascar and Melanesia, see the essays collected in Carsten 2000. See Goody 1982 and 1988 on fostering practices in various West African societies.

predominates and adoption is a minority practice, however, members of the adoptive triad and their external observers are pressured to redefine their concepts of the “natural” and its foil the “unnatural.” The biologically related family becomes the “natural” model toward which the adoptive family is expected to conform, though this is impossible in many respects. Adoptive children may not look like their adoptive parents, for example, and may have strong affective ties with their birth parents. A ready example of such rhetorical pressure is visible in sources that criticize or explicitly forbid the adoption of an older person by a younger one because such arrangements do not follow the pattern of the birth family, in which parents are necessarily older than their birth children.<sup>42</sup> Fabianus’ condemnation of adoption as the “unnatural” symptom of an illness both develops the association with luxury, which is typically framed in Roman literary sources as a mental and moral disorder, and points to a wider social prejudice against the practice.

Seneca supports Fabianus’ claims regarding the pernicious effects of luxury in the preface to the entire work: “There is nothing so deadly to our spirits as luxury.”<sup>43</sup> Through his editorial comments and presentation, he places Fabianus’ condemnation of adoption as a symptom of luxury in a narratively privileged position. The excerpt stands out among the others collected for this *controversia* in terms of its length and internal coherence. The excerpt of Fabianus’ speech is similar in length to the other lengthy excerpt in *Controversiae* 2.1, that ascribed to Arellius Fuscus *pater* in sections 4–8, but it is a single fragment of connected discourse, whereas the other is a discontinuous collection of *sententiae*. Furthermore, the preface to Book 2, which immediately precedes the *controversia* in which Fabianus’ speech appears, provides a laudatory account of Fabianus’ career as philosopher and style as declaimer. Seneca presents Fabianus as an instructive example to be emulated by his son Mela. Though his writings are lost to us except for a small number of excerpts, Fabianus appears to have been an important figure in contemporary literature.<sup>44</sup> Seneca further advertises Fabianus’ *sententiae* as particularly desirable (*Controv.* 2, pr. 5). Though some alternatives to Fabianus’ position are proposed in the course of *Controversiae* 2.1, his views are never directly negated, and they receive the editorial and critical support of Seneca.

The lengthy excerpt attributed by Seneca to Papirius Fabianus focuses exclusively on the symptoms of luxury as exhibited by the prospective adopter. The son’s refusal of the temptations of wealth reflect positively on his virtue. Roman declaimers, however, also considered the effect of the

42. Cicero condemns the adoption of Clodius (*Dom.* 34) on the grounds (among others) that his adopter is a younger man than his adoptee and that Clodius already has children of his own. The *Institutes* of Justinian declares *minorem natu non posse maiorem adoptare placet: adoptio enim naturam imitatur et pro monstro est ut maior sit filius quam pater* (“It is approved that a younger person not be able to adopt an older: for adoption imitates nature and it is an unnatural thing that a son be older than his father,” Just. *Inst.* 1.11.4).

43. *nihil enim tam mortiferum ingeniis quam luxuria est* (Sen. *Controv.* 1, pr. 7).

44. For the younger Seneca’s praise of Fabianus, see *Brev. vit.* 10.1; *Ep.* 40.12 (*Fabianus, vir egregius et vita et scientia et, quod post ista est, eloquentia quoque*), 100.1–6; Fairweather 1981, 272–76.

luxury ethic on the adoptee. *Declamation* 11 of Calpurnius Flaccus (*Damnati adoptivi*) proposes the examination of the effects of growing up in a luxurious household on a group of sons adopted by a rich man. After narrating how a poor man gave his three sons in adoption to the rich man, the theme details the subsequent crimes of two of these sons: "One was caught in adultery and killed, the other was charged with plotting tyranny and condemned."<sup>45</sup> These are conventional symptoms in Roman discourses of luxury: limitless desire manifests itself in the impulse to sleep with other men's wives and to dominate a formerly free state.<sup>46</sup> While Calpurnius Flaccus' treatment does not develop the theme in as much detail as Fabianus', it does at least make clear the corrupting force of the adoptive father's luxury ethic. In seeking the return of the third, as yet ostensibly uncorrupted son, from the rich adoptive father, the poor birth father observes that "riches are the greatest danger for unstable minds," and claims that he is "already afraid because [his birth son] has begun to love riches."<sup>47</sup> The poor man criticizes the adoptive father's inappropriate use of his *patria potestas* by observing that "for unruly behavior allowed free rein, the main safeguard is parental authority coupled with control."<sup>48</sup> As Lewis Sussman concludes, "the poor man seems to be calling attention to the rich man as a parent: the youths have been spoiled by wealth and indulgence."<sup>49</sup>

The adopters and adoptees so far examined have been unrelated to one another, and the adoptions have been the focus of conflicts between rich men and poor men. Yet the majority of attested Roman adoptions, as observed above, occurred between family members or members of the same social class. The declaimers have chosen to invent scenarios that do not reflect typical behavior, adoption conflicts between unrelated persons from different social classes, partly in order to explore the social and moral consequences of the luxury ethic.<sup>50</sup> The theme of luxury nevertheless continues to appear even when declamatory texts examine cases of intrafamilial adoption. Seneca's *Controversiae* 2.4 and Calpurnius Flaccus' *Declamation* 30 both concern a grandfather's adoption of his grandchild, the son of a prostitute (*nepos ex meretricio susceptus*).<sup>51</sup> The grandfather's other son, the adoptee's uncle, accuses his father of insanity. In the treatments of the declaimers, the adopting grandfather's prior life is held up as a contrast with his present de-

45. *unus in adulterio deprehensus est et occisus, alius affectatae tyrannidis reus factus est damnatus* (Calp. Decl. 11, pr.).

46. See Edwards 1993, 91–92. For a declamatory example of this conceptual parallel, see Sen. Controv. 1.7.7: *ubi est patrimonium tuum illud quod tyrannos instruit, quod adulteros facit?*

47. *divitiae inconstantium animorum [in] summa perniciēs . . . iam timeo, quod divitias amare coepit* (Calp. Decl. 11).

48. *permissae licentiae magna securitas est potestas cum moderatione* (Calp. Decl. 11, trans. Sussman 1994).

49. Sussman 1994, 128.

50. I am grateful to one of the anonymous referees for this observation.

51. According to Seneca, Latro placed himself in an embarrassing situation while declaiming on this theme before the emperor Augustus, who at the time was contemplating adopting Agrippa's sons (Sen. Controv. 2.4.12–13). See Fantham 2004, 80–82; Gunderson 2003, 101–4.

cline into luxury: "He hated luxury, he chastised vices. Will you think that such a severe old man is sane if I show him to you in a brothel?"<sup>52</sup>

Some of the declaimers in Seneca's *Controversiae* 2.1 are willing to defend the rich man and his wealth (e.g., *Controv.* 2.1.17–18). In Seneca's presentation, however, they are in the minority amid the numerous voices condemning him. Attitudes toward luxury consumption, however, are in flux in the literature of the early empire. The long tradition of condemning luxury continues apace even as some contemporary genres of Roman literature accept and even promote such consumption as the means to asserting distinction. As Noelle Zeiner has shown, upper-class Romans competed with their peers through ideologically approved displays of luxury goods and architectural construction.<sup>53</sup> The praise of baths, villas, landscape engineering, and art objects in texts such as Statius' *Silvae* and Pliny's *Letters* permit a rhetorical alternative to the traditional attack on luxury. In contrast to the attacks on the luxurious prospective adopter made by Papirius Fabianus and other declaimers, Statius' *Silvae* 2.1 provides an example of how acquiring a foster child as a luxury object can be a praiseworthy act. Atedius Melior, one of Statius' patrons, both regards himself as the father of his "quasi-adoptee" freedman Glaucias and displays the boy to his friends as a luxury object. The young freedman's funeral, as described by Statius, is an occasion for a monumental display of wealth.<sup>54</sup> In describing the proposed adoption as an "unnatural" form of luxury, then, Papirius Fabianus has not merely recycled the familiar *loci de divitiis* (cf. Sen. *Controv.* 1, pr. 23); he has also contributed to a contemporary debate on the proper role of consumption. In his treatment and the other declamatory texts, the adoption scenario provides speakers with a means of talking not only about familial behavior but also about proper performance in other spheres of aristocratic life. The commodification of human beings is only one manifestation of a vicious pattern of overconsumption, which can be easily associated with a general failure or refusal to engage in socially approved modes of exchange.

## 2. EXPOSED CHILDREN, COMMODIFICATION, AND THE THREAT OF VIOLENCE

The fates of exposed children in the Roman world differ considerably from those given in adoption. The intentions of birth parents who expose their children contrast with those of birth parents who relinquish their children to adoptive parents. In modern terminology, Roman adoptions were "open." Birth parents know the people who receive the children that they relinquish and can accordingly make assumptions about the kind of nurture that their child may experience. Exposing parents, however, do not know if their children will be found by fosterers and may not indeed hope for their children's

52. *oderat luxuriam, vitia castigabat. hunc tam severum senem putabitis sanum si vobis in lupanari ostendero?* Sen. *Controv.* 2.4.9. See Kunst 2005, 72–73; Gunderson 2003, 131.

53. See Zeiner 2005, 13–43.

54. See Bernstein 2005.

survival. While exposed children tend to be infants or very young children, adoptees in the Roman world, as mentioned above, tend to be older children or full adults. Furthermore, a class differential needs to be taken into account. William Harris argues that financial pressures (actual or perceived) were an important motivating factor for child exposure.<sup>55</sup> On this view, a much smaller percentage of upper-class children would have been exposed than poor children, and a much greater percentage of upper-class children would have been given in adoption rather than exposed. One of the most salient differences between exposed children in declamatory literature and their non-fictional counterparts is their universal discovery of both fosterers and birth parents. We must assume far higher mortality rates for exposed children in real life and far less likelihood of a later encounter with birth parents.<sup>56</sup>

The narrative dynamic of the exposed child's migration between families takes a significantly different form from the adoptee's. In comparison to exposed infants, adult adoptees tend to possess greater agency at the time of adoption as well as more developed relationships with their birth families. The case of the poor man's son in *Controversiae* 2.1, discussed in the previous section, provides a ready example of the greater agency exercised by an adult adoptee in comparison to an abandoned infant. The young man is fully aware of the rich man's attempt to adopt him and attempts to contest it legally. Birth parents of Roman adoptees in turn possess greater claims on their children's custody, services, and future courses of action. Exposed children, however, are typically transferred shortly after birth, and therefore can only begin to form conscious, affective relationships with their birth parents at the later moment of discovery. This moment may not come until the exposed children are adults who have passed their entire childhood with their fostering parents. The absence of shared familial experience and the potential hostility against the birth parents who endangered their lives through abandonment result in quite different relationships of affect and obligation between exposed children and their birth parents.

A common declamatory situation establishes the relationship between exposed children and their newly discovered birth parents as a commodified one. Following a declamatory law, birth parents may reclaim their exposed children from the fosterer if they pay the costs of nurture (*solutis alimentis*). The example of Seneca's *Controversiae* 9.3 is discussed below.<sup>57</sup> The declamatory scenarios involving exposed children, then, feature a dynamic of commodification similar to the one found in the adoptive scenarios. A child is again viewed as a form of human property to be exchanged (whether directly or indirectly) between birth parent and fostering parent, and declaimers make similar comparisons to the sale of slaves. Some important differences, however, can be found in the number, occasions, and direction

55. See Harris 1994, 13–14; for a declamatory example, see [Quint.] *Decl. Min.* 306.24 (*exponentium paupertas*).

56. See Boswell 1998, 124.

57. See also Quint. *Inst.* 7.1.14, 9.2.89; [Quint.] *Decl. Min.* 278, 338, and 376. For connections between this law and Roman practice, see Bonner 1949, 125–27; Lanfranchi 1938, 268–71.

of the exchanges. In an exposure scenario, the original exchange between birth parent and fosterer is indirect and occurs between strangers, rather than after a period of negotiation between members of the adoptive triad who are known to one another. Furthermore, a second exchange may take place after the fortuitous appearance of the previously unknown birth parent, should he choose to pay the costs of *alimenta*. In that case, the child returns to the birth parent, a form of exchange that (as discussed in the previous section) would be viewed as an unacceptable outcome in a normative adoption. The perception that the relationship is temporary and bound to be disrupted by the returning birth parent discourages the creation of strong, “familylike” affective ties between fosterer and foster child. These comparisons indicate, then, that relationships between exposed children and their fosterers are viewed not only as subordinate to birth relationships but also to adoptive relationships.<sup>58</sup>

In declamation, as in real life,<sup>59</sup> exposed children are subject to violence from their nurturers. They may have their hands struck off, as in Pseudo-Quintilian’s *Minor Declamations* 358 and 372, or be crippled and forced to beg in order to enrich their nurturer, as in Seneca’s *Controversiae* 10.4. Furthermore, foster children have traditionally been victims of sexual exploitation by their fosterers, as the result of their dependent position within the family and the tendency to view nonbiological kin as excluded from the incest taboo.<sup>60</sup> In Roman culture, the exposed child occupies a conceptual category that overlaps with both the birth child and the slave. Masters are licensed to harm or kill their slaves because their society grants them the right to treat them as exchangeable property rather than as full legal subjects endowed with the right to bodily integrity. Like members of other slaveholding societies, Romans associate the commodification, exchange, and alienability of a person’s body and labor with servile status. Legal and literary sources indicate a concern to distinguish freeborn children (whether biological or adoptive) from slaves, as both fall under the *patria potestas* of the *paterfamilias*.<sup>61</sup> The principal markers of the distinction are the slave’s greater subjection to the threat of violence and his or her alienability as

58. See Modell 1994, 36–57, on the different perceptions of American adoptive and fosterage relationships.

59. See Harris 1994 on the enslavement of exposed children. Scheidel 1997 argues on demographic grounds that exposed children cannot have provided a significant source of slaves in comparison to natural reproduction.

60. [Quint.] *Decl. Min.* 292 presents an instance where such victimization is indirectly contemplated. In this scenario, a beautiful young Olynthian refugee hangs himself the day after he takes shelter with an Athenian host, and the presumption is that the Athenian attempted to rape him. The Athenian claims in his own defense, however, that far from attempting to rape the young man, he intended to adopt him as his son: *habiturum me putabam qui veniret in locum liberorum* (“I thought I would have someone who could stand in place of my children,” [Quint.] *Decl. Min.* 292.6). The fact of the Olynthian’s suicide suggests that the would-be fosterer was indeed in search of a sexually exploitable dependent. Olynthians are also objects of “declamatory scandals” involving homosexual rape at Sen. *Controv.* 3.8 and 10.5. See Gunderson 2003, 91; Winterbottom 1984, 409–10. For discussion of sexual abuse in American foster care, see Faller 2003, 199–205.

61. See Garnsey 1997; Saller 1994, 102–53. Corbeill (2007) observes that declamatory texts do not question the institution of slavery. The declaimer Gallio points to the socially marginal position of exposed children in response to the question of whether the state is harmed by violence to them: *non in censu illos invenies, non in testamentis . . . ne laedi quidem potuit in eis quos non habebat* (Sen. *Controv.* 10.4.14).



human property. The freeborn child is further distinguished from the slave in his or her role as the favored recipient of nurture and (in the case of males) a prospective perpetuator of the lineage. In declamatory literature, the exposed child appears subject to violence and alienability to a greater degree than the birth child and to a lesser degree than the slave. Speakers advance the claim that foster parents will do violence more willingly to dependents known to be biologically unrelated. Just as in the cases of conflict over custody, the declaimers' examinations of the meaning of *in loco parentis* in the context of violence once more reveal the legal bond as inferior to the bond of blood. The exposure scenarios thereby bring to the fore the threat of violence always latent in any commodified relationship.

Seneca's *Controversiae* 9.3 turns on a perversion of the recovery scenario. A parent who exposed his twin boys seeks to recover them from their fosterer. The fosterer, however, strikes a bargain in which he will only reveal the children's whereabouts in return for retaining one of them as his own son. Most of the *controversia* examines the fosterer's violations of the declamatory laws: whether his agreement remains valid if it was made "through force and fear" (*per vim metumque*, *Controv.* 9.3, pr.), and whether it violates the law that awards children to their birth parent upon the repayment of *alimenta*.<sup>62</sup> As considerations of *aequitas* typically prevail over the (specious) declamatory laws, however, the declaimers are also required to present their views of the most equitable familial arrangement. In doing so, they re-examine normative definitions of paternity. As discussed in the preceding section, Romans view a relationship of biological descent as superior to any other form of relatedness. In the view of the birth parent, as voiced by several speakers, a blood relationship takes precedence over a nurturing arrangement between unrelated persons. The birth parent additionally claims that he has rights to both sons not only under the declamatory law but through the strength of the fraternal bond as well. Even auctioneers who deal in human property recognize that brothers should not be split up: "Though it may be hostile, the auctioneer's spear does not divide brothers in an auction."<sup>63</sup> The blood tie supersedes any sort of commodified relationship, whether the sale of slaves or a fostering arrangement that can be dissolved upon repayment of costs. The foster father, on the other hand, claims that he has performed the "work" of paternity over a long period.<sup>64</sup> He characterizes his relationship with his fostered children in terms of strong affect and long duration. The birth father may be entitled to call himself a father through his biological relationship, but the fostering father is equally entitled to do so as the result of his performance as a father.

There are certain similarities between the criticisms leveled at the fostering arrangement in this *controversia* and the proposed adoption in *Contro-*

62. See Bonner 1949, 114–15; Lanfranchi 1938, 268–71.

63. *in auctione fratres quamvis hostilis hasta non dividit* (Sen. *Controv.* 9.3.3 [exc.]).

64. For the creation of relatedness in the absence of a biological link through the "work" of parenthood in modern America, see Modell 1994, 13, 200–221; through cohabitation and the sharing of food in various societies, see Carsten 2004, 31–56; through multiple forms of reciprocity over a long period in modern China, see Stafford 2000.

*versiae* 2.1. In both, the substitute parent is accused of excessive desire in acquiring or retaining an unrelated child. The birth father sardonically urges the fosterer of his exposed child to “forgive” him: “My opponent ought to forgive me for retaining my children, seeing that he desires (*concupiscat*) other people’s children.”<sup>65</sup> The would-be adopter of *Controversiae* 2.1 is similarly accused of concupiscence.<sup>66</sup> Speakers in both *controversiae* explicitly compare the transfer of the children to the exchange of slaves.<sup>67</sup> Important structural and narrative differences, however, separate the treatments of the two cases. Though the poor man’s son is able to speak on his own behalf in *Controversiae* 2.1, the children in the exposure case are not granted the opportunity to advance their own opinions regarding their transfer. These children are fully grown and presumably capable of voicing their own perspective on equitable familial arrangements. Yet they remain without voice and agency in Seneca’s treatment (though they are occasionally addressed as audiences, as at, for example, *Controv.* 9.3.7), as if they were still helpless infants at the moment of exposure. Furthermore, whereas the overwhelming majority of speakers in *Controversiae* 2.1 speak on behalf of the poor man’s son who resists the proposed adoption, Seneca has attributed detailed arguments and substantive treatments to speakers on both sides of the exposure case.

Though the birth father accuses the fostering father of excessive desire, the fostering father defends himself by appealing to his affective bond with the exposed children. The proper performance of fatherhood over a lengthy period ratifies the ostensibly “unnatural” kinship arrangement and becomes part of the argument in favor of continuing it. Rather than claiming an unchallenged victory as the result of his blood ties to his children, the birth parent is now made to seem like the one who would disturb a properly functioning family through his mercenary purchase of his birth children. It is he, as well as the substitute parent, who can also be accused of commodifying normal relationships: he is a thief who seeks to “snatch” (*eripere*) children away.<sup>68</sup> The claim that proper performance as a father (even in the absence of a blood relationship) is sufficient to constitute parenthood is set more successfully against the claim that the blood relationship is the *ne plus ultra*. The fostering father appeals to the traditional narrative of the Roman life cycle as part of an effort to arouse pathos at the prospect of his abandonment by his foster children: “Are you going to put up with this, my best of young men? I took you in when you were abandoned, I nurtured you, I sat by you when you were sick: you have made me an old man, and you are leaving me behind?”<sup>69</sup>

65. *ignoscere mihi adversarius debet meos retinenti cum ipse alienos concupiscat* (Sen. *Controv.* 9.3.4 [exc.]).

66. *dives concupisceret* (Sen. *Controv.* 2.1.1 [exc.]; *Controv.* 2.1.20 [exc.]). The rich man defends himself against the charge of concupiscence at *Controv.* 2.1.28 and 38.

67. Sen. *Controv.* 9.3.3 (exc.); see *Controv.* 2.1.5 and 10.4.17, both quoted and discussed above. Latro compares the exchange to the sale of a house in the *divisio* (*Controv.* 9.3.8).

68. Sen. *Controv.* 9.3.11. The same term is applied to the fostering father at *Controv.* 9.3.5.

69. *fertis hoc, optimi iuvenes? ego vos expositos sustuli, ego educavi, ego aegrotantibus adsedi; senem me fecistis, et relinquitis?* (Sen. *Controv.* 9.3.7).

In this adaptation of an ideal normatively associated by Romans with the biological family, parents nurture their young children and in return expect them to serve as companions, nurturers, and heirs at a later period in life.<sup>70</sup> According to the declamatory fostering father, members of a family need to perform these roles whether they happen to be biologically related or not.

Both fathers, then, accuse one another of treating the children as human property, exchanged or “snatched” away for inappropriate motives. The foster father, however, can additionally accuse the birth father of engaging in violence against his children through the original act of exposure.<sup>71</sup> In the remaining cases to be discussed, however, both fathers perpetrate violence against the exposed child: the birth father at the moment of exposure, where he risks the life of a helpless infant, and the foster father during his period of nurture, where he attacks an isolated person without defenders. Seneca’s *Controversiae* 10.4 presents a case in which “a certain person crippled exposed children, forced them to beg in their crippled state, and demanded a reward from them.”<sup>72</sup> The declaimers point to the paradox confronting the birth parents of these unfortunate children, who committed an act of violence when they exposed them and therefore cannot protest against this further violence without appearing hypocritical (*Controv.* 10.4.1). Their earlier choice to risk their children’s lives grants some legitimacy to the exploitative fosterer’s current claim that these children “would have perished” (*perissent*, *Controv.* 10.4.3, 4) had he not chosen to subject them to this arrangement. It is this claim that the various speakers must argue against. This case draws out a dynamic latent in all commodified relationships, where violent exploitation is a predictable consequence of viewing human beings as property.

Pseudo-Quintilian’s *Minor Declamations* 358 and 372 present violent conflicts over paternal authority and identity within fostering arrangements.<sup>73</sup> In both scenarios, an exposed child beats his foster father. In response, the foster father exercises a (fictional) paternal right granted to him by the declamatory scenario and cuts off the foster son’s hands. (Such an extraordinary penalty apparently did not occur in actual Roman practice, though it has cross-cultural parallels.)<sup>74</sup> The son then reveals the existence of his birth father and demands to cut off his foster father’s hands, following another (fictional) declamatory law that permits complete retaliation. In the *sermo* accompanying this declamation, the commentator (titled the “Master” by Winterbottom)<sup>75</sup> suggests that the son should argue that the fosterer was not

70. See Parkin 2003, 204–26.

71. Romanus Hispo, for example, “described the savagery of the exposer” (*et cum descripsisset saevitiam exponentis*, Sen. *Controv.* 9.3.11).

72. *quidam expositos debilitabat et debilitatos mendicare cogebat ac mercedem exigebat ab eis* (Sen. *Controv.* 10.4, pr.).

73. For discussion of conflicts between fathers and sons in declamation, see Casamento 2002a, 71–99; Sussman 1995.

74. See also Sen. *Controv.* 9.4, [Quint.] *Decl. Min.* 362. For a full discussion of these cases, see Gunderson 2003, 59–89; for the legal aspects, see Rayment 1952; Bonner 1949, 96–97; Lanfranchi 1938, 498–502.

75. For the role of the “Master” and speculations as to the identity of the author, see Gunderson 2003, 67–68; Winterbottom 1984, xi–xvi.

his “real” father. He was only a fosterer, in place of a father.<sup>76</sup> Therefore the son did not offend against a father’s majesty by beating him; the fosterer did not possess the paternal right to inflict the punishment; nor can the fosterer now claim impunity in avoiding the *actio talionis*. The son appeals to the spuriousness of their relationship in order to justify his commission of violence, both the initial beating and the proposed retaliation, and to expose the fosterer’s violence as illegitimate. Furthermore, the son attributes an affective dimension to “real” paternity. He argues that the foster father did not hesitate to mutilate him because he knew that he (the foster son) was not blood kin.<sup>77</sup> On this view, a biological father would not have undertaken such an inhuman punishment. As in the birth parent’s argument in Seneca’s *Controversiae* 9.3, as discussed above, the son reduces the definition of paternity to the biological connection.

The fosterer, by contrast, insists that he has the right to call himself a father as the result of his performance of fatherhood: “I was your father through my good actions.”<sup>78</sup> His claim that performance constitutes fatherhood is similar to that advanced by the foster father in Seneca’s *Controversiae* 9.3, as discussed above.<sup>79</sup> Yet this fosterer’s case is weaker than the Senecan one’s. Not only has he inflicted a horrendous punishment on his foster child, but he has also chosen to conceal the facts of his substitute paternity from his son. These declamations also represent substitute paternity as depending on a cruel asymmetry in knowledge. The foster father could have informed the dependent son of his identity as soon as he was old enough to understand it. Instead he chose to withhold such information even as the child grew into a young adult. (By contrast, the prospective adoptee in *Controversiae* 2.1 has full awareness of the proposed arrangement.) The foster father evidently makes the assumption that his claim to fatherhood based on performance is weak, and that he would lose the authority associated with paternity if the absence of a biological link with his foster son were to become common knowledge. Furthermore, the fosterer’s justification of his actions depends upon a tendentious interpretation of *patria potestas*. He points out that his choice to mutilate his son is only one of the violent options at a father’s legal disposal: “I was your father by the right of the present arrangement. Therefore I could disown you, I could kill you, I could exercise all of my *patria potestas* as if against a son.”<sup>80</sup> Such a claim invokes the caricature of the Roman father as a despot and *patria potestas* as the license for the cruel and arbitrary exercise of violence. Scholars have observed that the normative exercise of *patria potestas* was in fact far more moderate.

76. *quod quamvis educatorem, tamen patris loco* ([Quint.] *Decl. Min.* 358.1).

77. *at illum confestim tamquam de alieno non deliberasse sanguine* ([Quint.] *Decl. Min.* 358.3).

78. *sed meritis pater eram* ([Quint.] *Decl. Min.* 372.12). As Gunderson (2003, 64) observes: “His functional fatherhood remains at a pointed distance from the question of ‘real’ fatherhood. He is only in the place of a father.”

79. See also [Quint.] *Decl. Min.* 278.8: “he was born as the result of my good deed” (*ex meis ille beneficiis natus est*).

80. *pater tuus eram, iure praesentis condicionis. abdicare itaque potui, occidere potui, omnem potestatem tamquam in filio exercere* ([Quint.] *Decl. Min.* 372.11).

Moralizing stories of boundless *patria potestas* are set in an idealized past, and the actual Roman father often made decisions regarding his children's welfare in cooperation with a family *consilium*.<sup>81</sup> The fosterer of *Minor Declamation* 372 expresses "*desired* ideals of authority"<sup>82</sup> in the context of quite different formal law and actual practice.

### CONCLUSION

Adoptive and fostering arrangements involve their participants in the construction of alternative conceptual paradigms of parenthood. The performance of parental duties and roles, the construction of affective bonds, the sharing of experiences, the formality of legal transfer, and other expedients may all contribute to forming a sense of relatedness in the absence of a biological connection.<sup>83</sup> Such arrangements also typically lead their participants to question normative definitions of parenthood and to offer alternatives to the narrative of biological descent. Judith Modell's interviews with members of American adoptive triads present several examples of complex narratives of alternative parenthood constructed by "native informants." Modell observes that open adoption is the arrangement that most directly challenges traditional "cultural interpretations of kinship,"<sup>84</sup> as it enjoins two sets of parents to renegotiate their roles in dialogue with one another. Open adoption, the kind most frequently practiced in ancient Rome, is a particularly appropriate subject for Roman declamation, a literary genre that not only requires its participants to negotiate the fit between idealized social role and extraordinary circumstance but also makes the evaluation of paternal identity a central project.<sup>85</sup>

The declamations discussed above juxtapose contrasting definitions of fatherhood: fatherhood as biological fact is set against fatherhood as adequate performance of the paternal role.<sup>86</sup> The authors of declamatory collections present substitute fatherhood as a central conceptual paradigm of the genre as a whole. As Erik Gunderson has shown, the "Master" of the *Minor Declamations* performs the role of substitute father for his students.<sup>87</sup> The elder Seneca (who also seems to have given one of his birth children in adoption)<sup>88</sup> uses a metaphorical adoption to conclude the final preface to his work. He notes that the son of Clodius Turrinus emulates his father's Apol-

81. See Shaw 2001; Saller 1994, 102–32.

82. Shaw 2001, 71 (emphasis in original).

83. For discussion of the creation of relatedness in the younger Pliny's *Letters*, see Bernstein 2008.

84. Modell 1994, 225–38.

85. For discussion of declamation as an exploration of contradictions within the cultural code, see Lentano 1998, 9–23; Roller 1997, 112–13. Corbeill (2007, 82) emphasizes that "hierarchies remain stable and impermeable" within declamation, including the father's domination of his children (both birth and adoptive) and the master's domination of his slaves.

86. The declaimers' attention to the family as the locus of conflict has been well discussed by Bloomer, who observes that "political themes have been domesticated and moralized" (2007, 298) in declamation; the family serves as an "an argument magnet, drawing all topics back to itself" (304).

87. Gunderson (2003, 62–69) discusses several of the "Master's" symbolically paternal aspects, including his role as an *educator* (fosterer) and his fatherlike action of evaluating behavior and passing moral judgment.

88. The elder Seneca's son Novatus was adopted by Junius Gallio (Fairweather 1981, 10). Quintilian's son was adopted by a consular family (*Inst.* 6, pr. 13).

lodorean practice of careful but vigorless declamation even as he claims the young man as part of his own family.<sup>89</sup> Seneca remarks to his birth sons: "Thus also Turrinus' son, that is, my own son—for I have never distinguished him from you—possesses his father's care in speaking a *controversia*, by which he purposely weakens the force of his own genius."<sup>90</sup> We are not shown directly what Seneca's sons think about the addition of another brother to their family nor what Turrinus thinks about the impromptu appropriation of his son. In the first case at least, Seneca endeavors to prepare the ground: he introduces Turrinus in the preface addressed to his birth sons with the comment that Turrinus' "son is joined to you in brotherly love."<sup>91</sup> Whether this comment is accurate or aspirational, the case brought by the outraged brother in *Controversiae* 2.4 provides the example of one possible reaction to a father's adoption of another son. Seneca, however, has already presented himself as the ideal father and his sons as ideal students in the first and longest preface to his work, and thus has forestalled any assumption of comparable hostility in his own family. His sense of his own paternity is strong enough to allow him to issue paternal injunctions, to reassign *sententiae* to their proper "fathers," and to metaphorically appropriate other men's sons as his own.

The figure of the adoptee or exposed child provides the student an opportunity to practice with the development of an ambiguous and polyvalent *persona*.<sup>92</sup> These children may be alternately portrayed by speakers as dependent or independent; silent and helpless or combative and fully endowed with agency; mercenary in their search for wealth or able to approach aristocratic ideals in disclaiming financial motivation. The narratives of their transfer, nurture, discovery, solicitation for adoption, or conflict over custody enable participants to pass judgement on the character, judgement, and motives of both biological and substitute fathers. At each point in the narrative, the speaker evaluates the congruence of the actions under discussion with normative paradigms of familial behavior. The best result can only be an asymptotic approach, as an adoptive family can never be fully identical to a biological one. The more common result, as the preceding sections have shown, is the involvement of the participants in an arranged family in the destructive paradigms of commodification and violence. In a literary genre built on conflict, the "gift" child is revealed as the subordinate member of the family, the victim of violence, and the focal point of legal dispute.

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89. Fairweather (1981, 94) observes the parallel between the conclusion of Seneca's final preface and the tradition of ending a rhetorical work with the praise of an orator who has begun to show promise at the time of the dramatic date of the dialogue, as at Cic. *Orat.* 3.228–30 on Hortensius and Pl. *Phdr.* 278e–279b on Isocrates.

90. *inde filius quoque eius, id est meus—numquam enim illum a vobis distinxi—, habet in dicendo controversiam paternam diligentiam, qua vires ingenii sui ex industria retundit* (Sen. *Controv.* 10, pr. 16).

91. *cuius filius fraterno vobis amore coniunctus est* (Sen. *Controv.* 10, pr. 14).

92. On *fictio personarum*, see Bloomer 1997.

## LITERATURE CITED

- Arena, V. 2007. Roman Oratorical Invective. In Dominik and Hall 2007, 149–60.
- Bernstein, N. W. 2005. Mourning the *puer delicatus*: Status Inconsistency and the Ethical Value of Fostering in Statius, *Silvae* 2.1. *AJP* 126: 257–80.
- . 2008. Each Man's Father Served as His Teacher: Constructing Relatedness in Pliny's *Letters*. *ClAnt* 27: 203–30.
- Bloomer, W. M. 1997. Schooling in Persona: Imagination and Subordination in Roman Education. *ClAnt* 16: 57–78.
- . 2007. Roman Declamation: The Elder Seneca and Quintilian. In Dominik and Hall 2007, 297–306.
- Bonner, S. F. 1949. *Roman Declamation in the Late Republic and Early Empire*. Berkeley and Los Angeles.
- Boswell, J. 1998. *The Kindness of Strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance*. Chicago.
- Carsten, J. 2000. *Cultures of Relatedness: New Approaches to the Study of Kinship*. Cambridge.
- . 2004. *After Kinship*. Cambridge.
- Casamento, A. 2002a. Finitimus oratori poeta: *Declamazioni retoriche e tragedie senecane*. Palermo.
- . 2002b. Sen. *Contr.* 2.1.10: Una *narratio* del retore Fabiano fra suggestioni letterarie ed echi tragici. *Pan* 20: 117–32.
- Champlin, E. 1991. *Final Judgments: Duty and Emotion in Roman Wills, 200 B.C.–A.D. 250*. Berkeley and Los Angeles.
- Coffee, N. 2006. Eteocles, Polynices, and the Economics of Violence in Statius' *Thebaid*. *AJP* 127: 415–52.
- Corbeill, A. 2007. Rhetorical Education and Social Reproduction in the Republic and Early Empire. In Dominik and Hall 2007, 69–82.
- Corbier, M. 1991. Divorce and Adoption as Roman Familial Strategies (Le divorce et l'adoption "en plus"). In *Marriage, Divorce, and Children in Ancient Rome*, ed. B. Rawson, 47–78. Oxford.
- , ed. 1999. *Adoption et fosterage*. Paris.
- Dixon, S. 1999. The Circulation of Children in Roman Society. In Corbier 1999, 217–30.
- Dominik, W., and J. Hall, eds. 2007. *A Companion to Roman Rhetoric*. Malden, Mass.
- Edwards, C. 1993. *The Politics of Immorality in Ancient Rome*. Cambridge.
- Fairweather, J. 1981. *Seneca the Elder*. Cambridge.
- Faller, K. C. 2003. *Understanding and Assessing Child Sexual Maltreatment*. Thousand Oaks, Calif.
- Fantham, E. 2004. Disowning and Dysfunction in the Declamatory Family. *MD* 53: 65–82.
- Frier, B. W. 1994. Natural Fertility and Family Limitation in Roman Marriage. *CP* 89: 318–33.
- Gardner, J. F. 1998. *Family and Familia in Roman Law and Life*. Oxford.
- Garnsey, P. 1997. Sons, Slaves—and Christians. In *The Roman Family in Italy: Status, Sentiment, Space*, ed. B. Rawson and P. Weaver, 101–21. Oxford.
- Garnsey, P., and R. Saller. 1987. *The Roman Empire: Economy, Society, and Culture*. Berkeley and Los Angeles.
- Goody, E. 1982. *Parenthood and Social Reproduction: Fostering and Occupational Roles in West Africa*. Cambridge.
- . 1988. Parental Strategies: Calculation or Sentiment? Fostering Practices among West Africans. In *Interest and Emotion: Essays on the Study of Family and Kinship*, ed. D. W. Sabean and H. Medick, 266–77.
- Griffin, M. T. 2003. *De beneficiis* and Roman Society. *JRS* 93: 92–113.
- Gunderson, E. 2003. *Declamation, Paternity, and Roman Identity: Authority and the Rhetorical Self*. Cambridge.

- Harris, W. V. 1994. Child-Exposure in the Roman Empire. *JRS* 84: 1–22.
- Herman, E. 2002. The Paradoxical Rationalization of Modern Adoption. *Journal of Social History* 36: 339–85.
- Kunst, C. 2005. *Römische Adoption: Zur Strategie einer Familienorganisation*. Hennef.
- Lanfranchi, F. 1938. *Il diritto nei retori Romani*. Milan.
- Lentano, M. 1998. *L'eroe va a scuola: La figura del vir fortis nella declamazione latina*. Naples.
- Migliario, E. 1989. Luoghi retorici e realtà sociale nell'opera di Seneca il Vecchio. *Athenaeum* 67: 525–49.
- Modell, J. S. 1994. *Kinship with Strangers: Adoption and Interpretations of Kinship in American Culture*. Berkeley and Los Angeles.
- Myers, K. S. 2005. *Docta Otia*: Garden Ownership and Configurations of Leisure in Statius and Pliny the Younger. *Arethusa* 38: 103–29.
- Nielsen, H. S. 1987. *Alumnus*: A Term of Relation Denoting Quasi-Adoption. *ClMed* 38: 141–88.
- . 1999. Quasi-Kin, Quasi-Adoption and the Roman Family. In Corbier 1999, 249–62.
- Nisbet, R. G. M., and M. Hubbard, eds. 1978. *A Commentary on Horace: "Odes" Book II*. Oxford.
- Parkin, T. G. 2003. *Old Age in the Roman World: A Cultural and Social History*. Baltimore.
- Pavlovskis, Z. 1973. *Man in an Artificial Landscape: The Marvels of Civilization in Imperial Roman Literature*. Leiden.
- Rayment, C. S. 1952. Three Notes on the Roman Declamation. *CW* 45: 225–28.
- Richlin, A. 1997. Gender and Rhetoric: Producing Manhood in the Schools. In *Roman Eloquence: Rhetoric in Society and Literature*, ed. W. J. Dominik, 90–110. New York.
- Roller, M. B. 1997. Color-blindness: Cicero's Death, Declamation, and the Production of History. *CP* 92: 109–30.
- Saller, R. P. 1994. *Patriarchy, Property, and Death in the Roman Family*. Cambridge.
- Scheidel, W. 1997. Quantifying the Sources of Slaves in the Early Roman Empire. *JRS* 87: 156–69.
- Schneider, D. M. 1980. *American Kinship: A Cultural Account*. Chicago.
- Shackleton Bailey, D. R., ed. and trans. 2006. *[Quintilian]: The "Lesser Declamations."* Cambridge, Mass.
- Shaw, B. D. 2001. Raising and Killing Children: Two Roman Myths. *Mnemosyne* 54: 31–77.
- Stafford, C. 2000. Chinese Patriline and the Cycles of *Yang* and *Laiwang*. In Carsten 2000, 37–54.
- Sussman, L. A. 1994. *The Declamations of Calpurnius Flaccus*. Leiden.
- . 1995. Sons and Fathers in the *Major Declamations* Ascribed to Quintilian. *Rhetorica* 13: 179–92.
- Tabacco, R. 1978. Povertà e ricchezza: L'unità tematica della declamazione XIII dello Pseudo-Quintiliano. *Materiali e contributi per la storia della narrativa greco-latina* 2: 37–69.
- Verboven, K. 2002. *The Economy of Friends: Economic Aspects of Amicitia and Patronage in the Late Republic*. Brussels.
- Watson, P. A. 1995. *Ancient Stepmothers: Myth, Misogyny, and Reality*. Leiden.
- Wilcox, A. 2005. Sympathetic Rivals: Consolation in Cicero's Letters. *AJP* 126: 237–55.
- Winterbottom, M. 1974. *The Elder Seneca: Declamations*. Cambridge, Mass.
- . 1982. Schoolroom and Courtroom. In *Rhetoric Revalued: Papers from the International Society for the History of Rhetoric*, ed. B. Vickers, 59–70. Binghamton, N.Y.
- , ed. 1984. *The "Minor Declamations" Ascribed to Quintilian*. Berlin.
- Yngvesson, B. 2002. Placing the "Gift Child" in Transnational Adoption. *Law & Society Review* 36: 227–56.
- Zeiner, N. K. 2005. *Nothing Ordinary Here: Statius as Creator of Distinction in the "Silvae."* New York.