

SPECVLVM IVRIS: Female visibility and regulation in Republican Rome

1. Plaut. *Merc.* 817–29.

Ecator lege dura vivont mulieres / multoque
iniquiore miserae quam viri. / nam si vir scortum
duxit clam uxorem suam, / id si rescivit uxor,
impunest viro; / uxor virum si clam domo egressa est
foras, / viro fit causa, exigitur matrimonio. / utinam
lex esset eadem quae uxori est viro; / nam uxor
contenta est, quae bona est, uno viro: / qui minus vir
una uxore contentus siet? / ecator faxim, si itidem
plectantur viri, / si quis clam uxorem duxerit scortum
suam, / ut illae exiguntur quae in se culpam
commerent, / plures viri sint vidui quam nunc
mulieres. (Plaut. *Merc.* 817–29).

By Castor, *mulieres* (women) live by a hard *lex* (law), much more unequal, *miserae* (miserable women), than men. For if a man takes a *scortum* (sex worker) unknown to his *uxor* (wife), and the *uxor* finds out about it, the man is unpunished. If an *uxor* departs the house unknown to her husband, the man thereby gets cause, and she is expelled from the marriage. If only there was the same *lex* for the husband as the wife. For an *uxor*, if she is good, is content with one husband: why shouldn't a husband be content with one *uxor*? By Castor, if husbands were punished in the same way, whenever a husband takes a *scortum* unknown to his *uxor*, just as they [wives] who bring cause upon themselves are expelled, there would be now more divorced men than *mulieres*.

2. *Senatus Consultum de Bacchanalibus*, ll. 7–14, 19–22 = *CIL* X 104

Bacas vir nequis adiese velet ceivis Romanus neve
nominus Latini neve socium / quisquam, nisei pr.
urbanum adiesent, isque [d]e senatuos sententiad,
dum ne / minus senatoribus C adesent quam ea res
cosoleretur, iousiset. Ce[n]suere. / Sacerdos nequis vir
eset; magister neque vir neque **mulier** quisquam eset;
/ neve pecuniam quisquam eorum comoine[m
h]abuisse ve [I] et; neve magistratum, / neve pro
magistratu[d], neque virum [neque **mulierem**
quiquam fecise velet; / neve post hac inter sed
conioura[se nev]e comvovise neve conspondise /
neve conpromesise velet, neve quisquam fidem inter
sed dedise velet. [...] Homines plous V oinvorsei
virei atque **mulieres** sacra ne quisquam / fecise velet,
neve inter ibei virei plous duobus, mulieribus plous
tribus / arfuisse velent, nisei de pr. urbani senatuosque
sententiad, utei suprad / scriptum est.

Let no man, neither Roman citizen, nor anyone of the Latin name, nor anyone of the allies, consent to attending [a meeting of] *Bacae* (Bacchic women) unless they have approached the urban praetor and he gives permission on the basis of the Senate's recommendation, as long as no fewer than 100 senators are present when this matter is debated. They declared (their approval). Let no man be a *sacerdos* (priest), let no man or *mulier* (woman) whatsoever be a *magister* (official), let none of them consent to having money in a common fund, let no one consent to appointing either a man or a *mulier* as a *magistratus* (magistrate) or an acting *magistratus*, henceforth let them not be disposed to exchange oaths or pledges or pacts or promises amongst each other, nor let anyone consent to make a contract amongst themselves. [...] Let no more than a total of five persons, men and *mulieres*, consent to performing rituals, nor should there be more than two men or more than three *mulieres* present, unless by authority of the urban praetor and by decision of the senate, as is written above.

3. *Fragmenta Clusina* (a) = *CIL* I² 597 = Crawford 1996, 221–5, esp. 223 (n. 9)

[---] quei stipulatum eius[---] / [--- facit]oque utei ea fiant primo [quoque die ---] / [--- bo]neis praedibusve eius ex
[h(ac) l(ege) vendundeis ---] / [---]t quodque **uxorei** matr[imonii causa ---] / [---] quouis eorum o]pera maxume eum
reum [condemnatum esse constiterit ---] / [---]t eique eam pequniam p[---] / [---] quioius h(ac) l(ege) quaestio erit
co[---] / [---] quoi]ve ipse parens sit quove [natus sit ---] / [---] p]equnia quae de ea re ex <h(ac)> [l(ege) ---]

4. *Tabula Heracleensis*, ll. 62–5 = Crawford 1996, 355–91, esp. 365 (n. 24)

Quibus diebus **virgines Vestales** re[gem] sacrorum
flamines plostreis in urbe sacrorum publicorum
p(opuli) R(omani) caussa / vehi oportebit quaeque
plostra triumphi caussa quodie quisque triumphab[er]it
ducei oportebit quaeque / plostra ludorum quei
Romae aut urbi Romae publice feient inve pompam
ludeis circiensibus ducei agei opus / erit qu[od] minus
earum rerum caussa eisque diebus plostra interdiu in
urbe ducantur agantur e(ius) h(ac) l(ege) n(ihil)
r(ogatur).

On any days it shall be appropriate for the *virgines Vestales* (Vestal Virgins), the *rex sacrorum*, or the *flamines* to ride in carts in the city for the sake of the public rites of the Roman people and whatever carts it shall be appropriate to lead for the sake of a triumph, on whatever day anyone shall triumph, and whatever carts it shall be necessary to bring or drive, (for the sake) of games, which shall be publicly celebrated within (the city of) Rome (or nearer) the city of Rome (than one mile) or for the procession at the *ludi Circenses*, to the effect that carts may not be led or driven in the day-time in the city for the sake of those matters and on those days, nothing of it is proposed by this *lex*.

5. *Lex Coloniae Genetivae*, CXXXIII = CIL I² 594 = Crawford 1996, 393–454, esp. 417 (n. 25)

Qui col(oni) Gen(etivi) Iul(ienses) h(ac) l(ege)
sunt erunt, eorum omnium **uxo-/res**, quae in
c(olonia) G(enetiua) I(ulia) h(ac) l(ege) sunt, eae
mulieres legibus c(oloniae) G(enetiuae) I(uliae)
<iu>-/rique parento iuraque ex h(ac) l(ege),
quaecumque in/ hac lege scripta sunt, omnium rerum
ex h(ac) l(ege) haben-/to s(ine) d(olo) m(alo).

Whoever are or shall be colonists of *Genetiva Iulia* according to this *lex*, the *uxores* (wives) of them all, who are in the *colonia Genetiva Iulia* according to this *lex*, those *mulieres* (women) are to obey the *leges* of the *colonia Genetiva Iulia*, and they are to have according to this *lex* in all matters their *iura* (rights) according to this *lex*, whatever things are written down in this *lex*, without wrongful deceit

6. *XII Tabulae*, X, 4 = Cic. *Leg.* 2.59, 64 = Crawford 1996, 555–721, esp. 582, 706 (n. 40)

Iam cetera in duodecim minuendi sumptus sunt
lamentationisque funebris, translata de Solonis fere
legibus [...] nostis, quae sequuntur; discebamus enim
pueri duodecim ut carmen necessarium; quas iam
nemo discit. [...] tollit etiam lamentationem.
'**mulieres** genas ne radunto neue lessum funeris ergo
habento'. hoc veteres interpretes Sex. Aelius, L.
Acilius non satis se intellegere dixerunt, sed suspicari
vestimenti aliquod genus funebris, L. Aelius lessum
quasi lugubrem eiulationem, ut vox ipsa significar,
quod eo magis iudico verum esse, quia lex Solonis id
ipsum vetat. haec laudabilia et locupletibus fere cum
plebe communia; quod quidem maxime e natura est,
tollit fortunac discrimen in morte. [...] de lamentis
vero expressa verbis sunt: '**mulieres** genas ne
radunto neue lessum funeris ergo habento'.

There are other [laws], too, in the Twelve Tables, which provide for the limitation of the expense and the mourning at funerals, borrowed in the most part from the laws of Solon. [...] You know what follows, for we learned the Twelve Tables in our boyhood as a required formula; though no one learns it now. [...] The mourning is also limited: '*mulieres* (women) are not to mutilate their cheeks or hold a *lessum* for the purpose of holding a funeral'. The older interpreters, Sextus Aelius and Lucius Acilius, admitted that they did not fully understand this, but suspected that it referred to some kind of a funerary garment. Lucius Aelius thought a *lessum* was a sort of sorrowful wailing, for that is what the word would seem to signify. I incline to the latter interpretation, since this is the very thing which is forbidden in Solon's *lex*. [...] On mourning, they [the *decemviri*] have followed his [Solon's] wording exactly [in the Twelve Tables] '*mulieres* are not to mutilate their cheeks or hold a *lessum* for the purpose of holding a funeral'.

7. *Lex Voconia de mulierum hereditatibus* = Cic. *Verr.* 2.1.107–9; *Balb.* 21; *Rep.* 3.17.

Voconia lex te videlicet delectabat. Imitatus esses ipsum illum C. Voconium, qui lege sua hereditatem ademit nulli neque virgini neque mulieri: sanxit in posterum, qui post eos censores census esset, ne quis heredem **virginem** neve **mulierem** faceret. In lege Voconia non est 'fecit fecerit', neque in ulla praeteritum tempus reprehenditur nisi eius rei quae sua sponte tam scelerata et nefaria est ut, etiamsi lex non esset, magnopere vitanda fuerit.[...] Cedo mihi leges Atinias, Furias, Fusias, ipsam, ut dixi, Voconiam, omnis praeterea de iure civili: hoc reperies in omnibus statui ius quo post eam legem populus utatur (Cic. *Verr.* 2.1.107–9).

Tulit apud maiores nostros legem C. Furius de testamentis, tulit Q. Voconius de **mulierum** hereditatibus; innumerabiles aliae leges de civili iure sunt latae (Cic. *Balb.* 21).

Genera uero si uelim iuris, institutorum, morum consuetudinumque describere, non modo in tot gentibus varia, sed in una urbe, uel in hac ipsa, milliis mutata demonstrarem, ut hic iuris noster interpretis alia nunc Manilius iura dicat esse de mulierum legatis et hereditatibus, alia solitus sit adulescens dicere nondum Voconia lege lata; quae quidem ipsa lex utilitatis virorum gratia rogata in mulieres plena est iniuriae. Cur enim pecuniam non habeat **mulier**? Cur **virgini Vestali** sit heres, non sit **matri** suae? Cur autem, si pecuniae modus statuendus fuit **feminis**, P. Crassi filia posset habere, si unica patri esset, aeris milliis salva lege, meatriens non posset (Cic. *Rep.* 3.17)?

It appears that the *lex Voconia* enjoyed your approval [Verres]. You might well have followed the example of Quintus Voconius himself, then: for his law did not deprive any *virgo* (virgin/girl) or *mulier* (woman) of her inheritance if she had it already; it merely enjoined that no one, registered after the year of the censors named, should make a *virgo* or *mulier* his heir in future. In the *lex Voconia* we do not find 'Has done or shall do'; nor in any law is a past action made subject to censure, except such as of their own nature are criminal and vile, so that they ought to have been avoided at all costs even if no *lex* forbade them. [...] Show me the *leges Atinia, Furia, Fusia, Voconia* itself, as I have said, and all the others that are concerned with *ius civile* (civil/citizen law): in all of them you will find the same thing, provisions that are to be binding on the People after the *lex* comes into force.

Before our ancestors, Caius Furius proposed the *lex de testamentis*, Quintus Voconius [the *lex*] *de mulierum hereditatibus*; and innumerable other *leges* were passed regarding *ius civile*.

But if I wished to describe the types of *ius* (right), and the principles, customs, and habits, not just differences in all the different nations, but in a single city, even in this [city] itself, I could show you a thousand changes, such that our Manilius here, an interpreter of *ius*, would say something different about the *ius* of women regarding legacies and inheritances from that which he was accustomed to say as a youth, before the *lex Voconia* was passed, indeed that *lex* itself, rogated for the sake of the utility of men, is full of injury for *mulieres* (women). For why should a *mulier* not have property/money? Why may a *virgo Vestalis* (Vestal Virgin) have heirs, and her *mater* (mother) may not? Why, on the other hand, if a limit was to be set on the property a *femina* (woman) could have, should the *filia* (daughter) of Publius Crassus be able to have, if she were the only one [child] of her father, *aeris milliis* safely by *lex*, while mine cannot have *triciens*?

8. *Senatus Consultum* on the Vestal Licia in 123 BCE = Cic. *Dom.* 136–7.

Sed ut revertar ad ius publicum dedicandi, quod ipsi pontifices semper non solum ad suas caerimonias sed etiam ad populi iussa adcommodaverunt [...] cum Licinia, **virgo Vestalis** summo loco **nata**, sanctissimo sacerdotio praedita, T. Flaminio Q. Metello consulibus aram et aediculam et pulvinar sub Saxo dedicasset, nonne eam rem ex auctoritate senatus ad hoc conlegium Sex. Iulius praetor rettulit? cum P. Scaevola pontifex maximus pro conlegio respondit, QVOD IN LOCO PVBLICO LICINIA, GAI FILIA, INIVSSV POPVLI DEDICASSET, SACRVM NON VIDERIER. Quam quidem rem quanta <tractaverit> severitate quantaque diligentia senatus, ex ipso senatus consulto facile cognoscetis. Videtisne praetori urbano negotium datum ut curaret ne id sacrum esset, et ut, si quae essent incisae aut inscriptae litterae, tollerentur? [...] senatus in loco augusto consecratam iam aram tollendam ex auctoritate pontificum censuit neque ullum est passus ex ea dedicatione litterarum exstare monumentum.

But let me return to the public *ius* (right) to dedicate, that which the pontiffs themselves have invariably adapted not just to their own rituals, but also to decrees of the People. [...] When Licinia, a *virgo Vestalis* (Vestal Virgin), high-ranking *nata* (daughter), possessed of the most sacred of priestly offices, dedicated an altar, shrine, and ritual couch below the Saxum [on the Aventine] in the consulship of Titus Flaminius and Quintus Metellus, did not Sextus Iulius the praetor, on the senate's authority, refer the matter to this college? On that occasion Publius Scaevola, the pontifex maximus responded on behalf of the college that 'THAT WHICH LICINIA, DAUGHTER OF GAIUS, HAD DEDICATED IN A PUBLIC PLACE WITHOUT THE CONSENT OF THE PEOPLE IS NOT CONSIDERED SACRED.' You will have no difficulty in realizing, by an examination of the Senate's actual decree, how severely and how diligently they dealt with the matter. [Decree is read]. You see, do you not, that the urban praetor has the function assigned to him of seeing that nothing sacred attached to what had been dedicated, and that any letters that had been engraved or inscribed thereon should be erased? [...] The Senate decreed that an altar which had already been consecrated at a revered spot must be removed by the authority of the pontiffs, and did not permit a single letter upon what had been dedicated to stand as a monument.

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