The *Lex Scantinia* and the Public Response to *Stuprum*[*]

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Sometime prior to the year 49 BCE a popular assembly passed the *lex Scantinia*, the earliest known Roman law explicitly addressing sexual misconduct among citizens.[1] Of particular interest to later commentators, both ancient and modern, was the law's apparent condemnation of actions involving sexual intercourse between male Romans, and its ties to circulating fears that masculinity and the state it ostensibly upheld were in jeopardy. For historians, the *lex Scantinia* represents a conundrum of sorts.

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1 — The actual date of the *lex Scantinia* is unknown. Modern scholars tend to date the law to the late third or early second century BCE based on two factors: (1) contemporary changes to Roman criminal law; and (2) two events involving members of the Scantinius family. All that can be said with certainty is that the law was in place by 50 BCE. The issue of dating the law will be addressed in greater detail below. There is also a question whether the law was named the *lex Scantinia* or the *lex Scatinia*; modern scholars generally prefer the former. For the name of the law, see Christ 1727: 8–9; Stroppolatini 1899–1900: 49–51.

On the one hand, this law was actively (if only periodically) enforced by various Roman officials and familiar enough among the people to be referenced several times in popular literature. At the same time, little is known about the specifics of the law itself.

One contributing factor to the concurring perceptibility and obfuscation of the *lex Scantinia* may have been the passage of a new law addressing sexual misconduct sometime between 18 and 16 BCE: *the lex Iulia de adulteriis coercendis*.[2] The *lex Iulia* seems to have augmented the *lex Scantinia* at first, focusing primarily on cases of adultery—cases involving married or marriageable Roman women. The new law effectively criminalized adultery in Roman society by establishing a permanent court (*quaestio perpetua*) to hear cases and encouraging a greater range of citizens to bring charges. By the third century CE the *lex Iulia* appears to have subsumed all cases of sexual misconduct, which would have made the *lex Scantinia* extraneous from a strict legal perspective.[3] It was at this point when the majority of the surviving legal sources were written, which would explain the prominent place of the *lex Iulia* and the absence of any discussion of the *lex Scantinia*. The origins and evolution of the *lex Iulia* highlight a continued public interest in morality and sexuality, and the ongoing conversations taking place within Roman society.[4] These conversations most likely helped to perpetuate the memory of the *lex Scantinia* even as the law itself became less relevant over time.

Central to both the popular and legal discussion of sexual mores in Roman society was the concept of *stuprum*. Respectable Roman citizens, both men and women, were expected to adhere to "proper" standards of sexual conduct. For women, "proper" conduct meant only engaging in sexual activity with one's husband. For men, it meant refraining from sexual encounters with respectable Romans—women or men—other than one's wife AND not allowing oneself to be sexually penetrated. Social norms permitted a Roman man to have intercourse with "non-respectable" individuals, male or female, including prostitutes, the poor, the enslaved and foreigners, so long as he was the insertive partner.[5] In its

2 — The *lex Iulia de adulteriis coercendis* was passed soon after the *lex Iulia de maritandis ordinibus* of 18 BCE. On dating the *lex Iulia de adulteriis coercendis*, see Spagnuolo Vigorita 2013; Buongiorno 2013.

3 — Rizzelli 1997, esp. 262–67; McGinn 1998: 140–41; Williams 2010: 132–36.

4 — According to Cassius Dio, Augustus sponsored this legislation in the face of popular discontent with the growing immorality of younger Romans (54.16).

5 — Here it is important to note the conceptual heavy lifting being done by the idea of "respectability." Ideally, a citizen man or woman would adhere to the expectations of proper conduct. However, the behavior of non-elite citizens was less of a concern for politicians and authors, effectively creating a sub-category of "non-respectable" citizens for whom the standards of sexual conduct did not necessarily apply. For example, Valerius Maximus includes a story about a famous *primus pilus* who was imprisoned for having intercourse with a freeborn Roman young man. The centurion did not deny the relationship but defended himself (albeit unsuccessfully) by claiming that the young man openly lived as a prostitute (6.1.10). However, the link between citizenship and respectability was often reinforced by stripping "disreputable" Romans (especially prostitutes) of

most general sense, *stuprum* denoted conduct that violated established sexual norms. While an author might use the term to characterize any type of shameful sexual behavior, it predominantly indicated the illicit penetration of a Roman citizen, male or female.[6]

The problematic nature of *stuprum* was grounded in Roman gender norms, especially assumptions about masculinity and power. Most significantly, lawmakers and moralists constructed the crime of *stuprum* around the idea of a Roman acting in the insertive role.[7] Here, they did not differentiate between the penetration of a male or female partner.[8] This meant that a man could commit *stuprum* in two distinct ways—either sexually penetrating a Roman citizen or being the one who was penetrated. The latter case was especially concerning, because the offender was violating not only the boundaries of ethical conduct, but also the boundaries of Roman manhood. Being the penetrated partner marked a Roman man not only as being "womanly," but also as citizen willing to be dominated and thus unfit to lead.

From the Republic to the late Empire, the *lex Scantinia* acted as a touchstone of sorts for Romans to discuss issues related to gender, sexuality, and status within their society. Recognizing this, modern scholars have worked for centuries to recover details about the law's coverage and procedure.[9] However, there are two important aspects of the law that I believe have not been fully appreciated: its legacy and implementation. There is something to be gained by looking at these issues alongside one another. Intriguingly, the offhand way that the *lex Scantinia* was evoked in ensuing centuries seems to undercut the gravity of the law and its enactment. This tension matters because the divergence between the law's presumably laborious enactment and its uneven legacy illuminates the furthest boundaries of Romans' commitment to a widely held assumption: that Rome's success rested upon the gendered and sexual virtue of its citizens. Only when looking at both legacy and origin together

certain citizen rights. See Edwards 1993: 70–1; McGinn 1998: 21–69. Within this context, a Roman man's marital status was essentially inconsequential: a married man having sex with a prostitute would have been generally unproblematic according to both social convention and Roman law. See Fayer 2005: 190–92; Langlands 2006: 5–32; Williams 2010: 18–19.

6 — See Gardner 1986: 121–25; Fantham 2011; Rizzelli 1997: 171–267; Langlands 2006, esp. 21–24; Williams 2010: 103–36, *Stuprum* originally appears to have denoted any type of disgraceful conduct, but over time became associated primarily with sexual activity, specifically intercourse (Adams 1982: 200–01; Fantham 2011: 117–18; Williams 2010: 108). By the third century CE, jurists, in their attempts to clarify both legal meanings and procedures, had developed more technical definitions/categories for specific acts of *stuprum* (Rizzelli 1997: 202).

7 — Boehringer 2021: 188-89. Sex between women could also be denigrated and construed as problematic but does not appear to have fallen under the rubric of *stuprum* (Rizzelli 1997: 220 n.181; Dalla 1987: 215–21).

8 — Williams 2010: 109–10.

9 — For example, the German academic Johann Friedrich Christ wrote a history of the *lex Scantinia* in 1727.

can we understand not only the commitment to moral norms in Roman society, but also exactly how and when this commitment was prioritized.

Lex Scantinia: Evidence and Legacy

The earliest surviving reference to the *lex Scantinia* appears in a pair of letters written in 50 BCE from Marcus Caelius in Rome to Cicero, who at the time was serving as proconsul in Cilicia. In the first (8.14 [97]), Caelius follows his report on the current state of affairs between the factions of Pompey and Caesar with a few other choice pieces of gossip. He highlights two legal events that he finds worthy of laughter: Drusus—most likely Marcus Livius Drusus Claudianus[10]—has been trying offences under the *lex Scantinia* and Appius—almost certainly the censor Appius Claudius Pulcher—has brought a legal suit regarding certain art objects. There appears to have been a well-known allegation that Appius Claudius had built his collection by despoiling public buildings throughout Greece.[11] Thus it would have been laughably ironic for such a man to introduce a legal action related to the ownership of art. The parallel structure of Caelius' "humorous" statement suggests that Drusus may have been similarly well-known for purportedly violating the terms of the *lex Scantinia*. Caelius, however, does not mention the subject of the law, relying on Cicero's presumed familiarity.

In the second letter (8.12 [98]), which appears to have been written a month later, Caelius describes how his political enemies, including the same Appius Claudius Pulcher and the former consul, Lucius Domitius Ahenobarbus, sought to bring legal action against him. According to Caelius, the two struggled to find an offense for which they could charge him, and ultimately decided to employ one Servius Pola to prosecute him under the *lex Scantinia*.[12] Caelius, however, claims to have turned the tables by accusing Appius under the same law. He deems his efforts to have been an absolute success (*quod melius caderet nihil vidi*), seemingly because of the public embarrassment (*fama*) imposed on Appius. The outcome of these reciprocal accusations is unknown.

Perhaps the best source for the actual content of the *lex Scantinia* is Juvenal's second satire (c. 100 CE). In this piece, Juvenal's speaker excoriates those individuals who make a public show of being staunch defenders of morality but engage in immoral practices behind closed doors. He heaps particular scorn upon those who publicly pretend to abhor the very behavior that they are secretly engaging in, writing:

10 — Broughton 1952: 248.

11 — Cic. *Dom.* 111.

12 — Caelius labels Pola as an "*accusator*," which may imply that he was a sort of (unofficial) expert or professional prosecutor. See van der Blom 2016: 31.

frontis nulla fides; quis enim non vicus abundant
tristibus obscenis? castigas turpia, cum sis
inter Socraticos notissima fossa cinaedos?
hispida membra quidem et durae per bracchia saetae
promittunt atrocem animum, sed podice levi
caeduntur tumidae medico ridente mariscae.
rarus sermo illis et magna libido tacendi
atque supercilio brevior coma. verius ergo
et magis ingenue Peribomius; hunc ego fatis
imputo, qui vultu morbum incessuque fatetur.
horum simplicitas miserabilis, his furor ipse
dat veniam; sed peiores, qui talia verbis
Herculis invadunt et de virtute locuti
clunem agitant. "ego te ceventem, Sexte, verebor?"
infamis Varillus ait, "quo deterior te?"
…
Non tulit ex illis torvum Laronia quondam
clamantem totiens "ubi nunc, lex Iulia, dormis?"
atque ita subridens: "felicia tempora, quae te
moribus opponunt. habeat iam Roma pudorem:
tertius e caelo cecidit Cato. sed tamen unde
haec emis, hirsuto spirant opobalsama collo
quae tibi? ne pudeat dominum monstrare tabernae.
quod si vexantur leges ac iura, citari
ante omnis debet Scantinia. respice primum
et scrutare viros: faciunt peiora, sed illos
defendit numerus iunctaeque umbone phalanges.
magna inter molles concordia. non erit ullum
exemplum in nostro tam detestabile sexu (2.8-22, 36-48).

There's no trusting appearances. After all, isn't every street packed with grim-looking perverts? Do you criticize disgusting behavior when you yourself are the most notorious digging-hole among Socratic *cinaedi*? Shaggy limbs and stiff bristles all over your arms promise a spirit that's fierce, but your arsehole is smooth when the laughing doctor lances your swollen "figs." Among that kind, conversation is infrequent: they have a marked urge for silence and hair well above the eyebrows. My conclusion? Peribomius behaves more frankly and honorably than they do. This is a man who admits his disease in his look and his walk; his behavior I attribute to fate. The openness of such people arouses pity and their madness itself grants them forgiveness. Much worse are people who attack such conduct in the words of Hercules and who swing their bottoms after talking about virtue. "Shall I be in awe of you, Sextus, when I see you wiggling your arse?" says the notorious Varillus. "How am I worse than you?"

> …
> Laronia could not stand one of those grim individuals who kept on shouting, "In whose bed are you now asleep, Julian law?" and, smiling, this is what she said: "What happy times, that set you up as the enemy of corrupt morality! Let Rome now develop her sense of shame: a third Cato has tumbled from the sky! But, by the way, where did you buy this balsam perfume which wafts from your shaggy neck? Don't be embarrassed to point out the shop-owner. But if it's a matter of waking up laws and statutes, it's the Scantinian law which should be summoned before all the rest. Look at men first, subject them to scrutiny. They behave worse, but they've got safety in numbers and in their phalanxes, with shield overlapping shield. The solidarity between effeminates is enormous. (Loeb translation with small changes)

In this selection, the immorality highlighted by the speaker is a Roman man's disregard for masculine norms, which included a desire to be sexually penetrated. The prototypical individual associated with this behavior was the *cinaedus* (taken from the Greek κίναιδος), referenced in line 10.[13] Juvenal's speaker, like other critics, associates the sexual desires of *cinaedi* with effeminate appearance and conduct. But the speaker complains that even worse than the *cinaedi* are those who do not look the part—those who appear as decent Roman men in public, decrying so-called sexual depravity, but in private seek to be penetrated themselves. This judgment fits with the purported theme of *Satire* 2: moral hypocrisy. A key example of this hypocrisy is one man bemoaning the lack of trials under the Julian law—clearly the *lex Julia de adulteriis coercendis*. His complaint belies a concern that contemporary Roman women have not suffered retribution for engaging in extra-marital sexual activity. But Laronia replies that if any law needs to be awoken, it is *lex Scantinia*, a law that the complaining man has apparently violated. From this episode, it seems clear that the *lex Scantinia*, at the very least, provided for the prosecution of Roman men who allowed themselves to be sexually penetrated.

The association of the *lex Scantinia* with the sexual misconduct of Roman men is echoed by the remaining sources that mention the law by name. According to Suetonius (c. 120 CE), Domitian condemned several men from the senatorial and equestrian orders under the *lex Scantinia* as part of his moral reform program.[14] Although he does not explicitly name the alleged offenses committed by these men, Suetonius lists them between a case involving adultery and the unchaste behavior (*incesta*) of

13 — For the *cinaedus*, see Richlin 1993; Williams 2010: 191–200; Kamen and Levin-Richardson 2015: 453–55.

14 — For Domitian as a moral reformer, see Langlands 2006: 361–63.

Vestals (*Dom.* 8.3). In his essay on monogamy (c. 210 CE) the Christian apologist Tertullian discusses the need for both bishops and the laity to follow divine decrees. He notes that some bishops, based on the privilege of their position, may claim to be above the law, such as the Bishop of Uthina who supposedly did not fear the *lex Scantinia* (*nec Scantiniam timuit*, 12.3). Again, there is no specific description of the *lex Scantinia* itself; Tertullian, like Suetonius, assumes that his readers will both be familiar with the behavior proscribed by the law and will view this behavior as antithetical to episcopal life.

The next surviving source to mention the *lex Scantinia* is an epigram by Ausonius (99 Green, c. 360 CE).

> *Iuris consulto, cui vivit adultera coniunx,*
> *Papia lex placuit, Iulia displicuit.*
> *quaeritis, unde haec sit distantia? semivir ipse*
> *Scantiniam metuens non metuit Titiam.*
>
> A jurist, who had an adulterous wife, approved of the *lex Papia*, but disapproved of the *lex Iulia*. Where does this difference in opinion come from, you ask? A *semivir* ("half-man") himself, he feared the *lex Scantinia* but not the *lex Titia*.

Ausonius begins with an apparent contradiction: how can a man knowledgeable about the law be in favor of one piece of "pro-marriage and family" legislation—the *lex Papia Poppaea* which penalized men who failed to get married and produce children—and opposed to another—the *lex Iulia de adulteriis coercendis* which punished adultery?[15] The answer is that he was a *semivir*, a term pejoratively applied to men perceived as defective and/or effeminate, who feared the *lex Scantinia*.[16] The implication is that the jurist had no interest in sexual intercourse with his wife but instead wished to be penetrated by another man. Through an adulterous relationship, however, his wife might conceive children, not

15 — Given the nature of the quip, it seems likely that Ausonius is referring to the *lex Iulia de adulteriis coercendis*. It is possible that he is referring to the *lex Iulia de maritandis ordinibus* (18 BCE), the original law that the *lex Papia* augmented in 9 CE. However, since by the time of Ausonius jurists essentially treated the two as a single statute (the *lex Iulia et Papia*), this seems doubtful given the preceding reference to the *lex Papia*.

16 — For the characteristics of a *semivir* compared to those of a *vir*, see Williams 2010: 183–84; De Cristofaro 2022: 172. None of the *leges Titae* known to modern scholars seem to make sense in this context. The best candidate is the *lex Iulia et Titia* which gave provincial governors the ability to appoint tutors for young men lacking a guardian. For example, Dalla suggests that this law fits the humor of the epigram because it speaks to the jurist's desire for the company of young men (1987: 85). Alternatively, Voigt connects the *lex Titia* referenced by Ausonius to an unnamed law mentioned by Plautus concerning men who conceive a child with an unmarried woman (1890: 276–78). Hottentot, in turn, suggests reading *lex Titia* as a double-entendre based on a possible obscene meaning of *titos* found in Persius (1984); cf. Green 1991. But none of these explanations are entirely satisfying.

only freeing him from the strictures of the *lex Papia* but perhaps also obscuring his own precarious behavior as a *semivir*. The *lex Iulia*, then, would have been especially problematic because it not only forbade adultery, but compelled husbands to divorce their adulterous wives. Given the reference to adultery in the first part of the epigram, the unlawful behavior associated with a *semivir* in fear of the *lex Scantinia* almost certainly must mean being penetrated sexually.

Finally, there is the commemoration of the martyrdom of St. Romanus written by the Christian poet Prudentius (c. 405 CE). As he undergoes torture at the hands of the prefect Asclepiades, Romanus attempts to prove the superiority of Christianity by deriding traditional Roman religious beliefs, focusing on the moral failings of the classical deities (*Perist.* 10). Among the litany of faults, Romanus states:

> *sed, credo, magni limen amplectar Iovis.*
> *qui si citetur legibus vestris reus,*
> *laqueis minacis implicatus Iuliae*
> *luat severam victus et Scantiniam.*
> *te cognitore dignus ire in carcerem* (201-5).
>
> But, I suppose, I should cleave to the abode of great Jupiter, who if he were summoned for trial under your statutes would be caught in the toils of the menacing Julian law, and convicted under the stern Scantinian law too and pay its penalty, and you as judge would find him worthy to go to prison (Loeb translation).

Like Juvenal, Prudentius juxtaposes the *lex Scantinia* and the *lex Iulia* in categorizing the crimes of Jupiter. However, he makes no mention of the offending acts themselves.

The few glimpses of the *lex Scantinia* that appear over the course of four and one-half centuries of Latin literature provide some insight into how people in Rome viewed the law but no concrete details about the law itself—or the particular behaviors it may have addressed. The fact that a variety of non-legal sources reference the law with little to no description of its contents suggests an assumption of basic common knowledge among the Roman people; these authors expected their readers to be aware of the law and to associate it with certain types of conduct. There are a few noticeable patterns in the surviving evidence that have led modern scholars to speculate on the nature of the *lex Scantinia*. All the examples involve men's behavior, and, in the case of Juvenal and Ausonius, men characterized as deviant and/or effeminate, who were typically associated with a desire to be sexually penetrated. Authors frequently juxtapose the *lex Scantinia* and the *lex Iulia*, highlighting a

perceived gendered parallel between the two laws: the *lex Scantinia* is to men as the *lex Iulia* is to women. Furthermore, Jupiter's presumed liability to the law suggests that the *lex Scantinia* may have applied not only to Roman men who allowed themselves to be penetrated, but also those men who penetrated male Romans.[17] The *lex Scantinia* would have paralleled the *lex Iulia* in this respect, which punished both adulterous women and the men who engaged in affairs with them. All in all, it seems quite likely that the *lex Scantinia* addressed cases of sexual misconduct (*stuprum* broadly construed) involving the penetration—or attempts to solicit the penetration—of male Romans. Apart from this, however, there is almost nothing else that can be said with any confidence about the content of the law and the specific behaviors that it addressed.[18]

One thing that the literary legacy of the *lex Scantinia* does demonstrate conclusively is a popular awareness of the law that stretched centuries, quite possibly longer than the effective lifespan of the legislation itself. Authors expected their non-specialist audiences to recognize the *lex Scantinia* and associate the law with sexual misconduct, especially acts involving the penetration of freeborn males. Regardless of the law's original focus, the *lex Scantinia* remained a cultural touchstone for illustrating some men's deviance from sexual and gender norms. But perhaps even more interesting is the seeming lack of concern about the law and the behavior that it addressed. Several of the examples suggest that the *lex Scantinia* was not consistently active or applied: Caelius mentions a special court convened by Drusus, Laronia alludes to the "sleeping" of the *lex Scantinia*, and Suetonius remarks that Domitian needed to revive the law. And while no author or character actually condones the "abnormal" behavior associated with the law, neither does anyone represent it as a particularly serious matter; it is something more

17 — Jupiter himself is never portrayed as being sexually penetrated in Greco-Roman mythology. Instead, he (and his counterpart Zeus) has a penchant for kidnapping and raping young men and women.

18 — Over the years, scholars have suggested more narrow focuses for the *lex Scantinia* and/or have tried to identify specific acts prohibited by the law. These have included pederasty (*stuprum cum puero*), rape/forceable sexual assault (*stuprum per vim*), and the penetration of Roman men (*stuprum cum masculo*)—all of which anticipate later typologies of *stuprum* that develop in Roman law (see Rizzelli 1997: 146 n.85, 176 n.26, 202, 249 n.295). For example, see Dalla 1987: 95; Fantham 2011: 137–38; Cantarella 1992: 106–10; Richlin 1993: 569–71; Lovisi 1998: 277–79; Jalet 2016. In the end, however, the surviving evidence does not allow for a conclusive answer. For a detailed survey on the evolution of the various scholarly opinions regarding the behavior addressed by the *lex Scantinia*, see De Cristofaro 2022: 175–80. It also bears noting that the law may have addressed *stuprum* in general rather than only *stuprum* with males. Calling attention to the similar treatment of sexual misconduct in cases involving women and men, Williams argues that, given the long history of "undifferentiated" treatment of *stuprum* in both literature and law, it would have been unusual for the *lex Scantinia* to focus solely on men (2010: 131–32). Williams contends that the one major case of differentiated treatment—the creation of the *lex Iulia de adulteriis coercendis*—stems from the unique legal relationship between husbands and wives (assuming marriage *sine manu*).

laughable, pitiable, and shameful than dangerous. This is certainly a product of genre and the literary goals of the authors. But even in the case of Caelius, which is both a representation of actual events and closest in time to the passage of *lex Scantinia*, the law—and by extension the behavior associated with it—is trivialized. In his first letter, Caelius pokes fun at a judicial inquiry being held by a magistrate allegedly notorious for violating the law. In the next, he dismisses the charges levied against him as a political maneuver, one chosen seemingly out of ease and convenience. Caelius reinforces this insubstantiality both by his quick efforts to charge Appius under the same law and his declaration of victory with the damage done to his opponent's reputation. In the end, a situation that may represent a concerted effort to use the *lex Scantinia* to regulate perceived misconduct—the establishment of a magistrate-led tribunal, multiple charges against important political figures—loses some of its weight. Of course, this may have been Caelius's goal all along.

The Origins of the Lex Scantinia

The Roman people developed a robust legal apparatus for addressing sexual misconduct during the Republican era that either predated the creation of the *lex Scantinia* or else operated independently alongside the law. The family—and more specifically the *paterfamilias*—was the primary mechanism for curtailing and punishing sexual offenses. The *paterfamilias* possessed both legal authority over and responsibility for the behavior of his dependents. There was a general expectation that a *paterfamilias*, with the assistance of a "family council," would act in accordance with social convention, taking decisive yet restrained action when necessary.[19] There was an implicit assumption in this model that a *paterfamilias* would have had a vested interest in actively enforcing sexual norms, as misconduct had to potential to damage the reputation of not only the participants, but also the family as a whole.

It is also likely that a household would have used the remedies provided by Roman private law to obtain restitution. Even in the absence of legislation explicitly referencing *stuprum* or sexual misconduct individuals almost certainly would have been able to seek redress by means of more general statutes. For example, sources from the late classical era indicate that sexual relations—especially cases of sexual assault—could fall under the charge of personal injury (*iniuria*), a core element of Roman law first established in the Twelve Tables.[20] Furthermore, praetors had the ability to supplement existing legislation through the issuance of their edict, which acknowledged particular offenses for which they were prepared to

19 — Fayer 2005: 197–200; Perry 2015.
20 — *Dig.* 47.10.9.4, Ulpian; 47.10.10, Paul.

grant legal remedies. The edict allowed for a certain flexibility to use the existing broad legal framework to address more specific issues. For example, by the time the praetor's edict became fixed during the reign of Hadrian, it included a provision classifying as *iniuria* any attempt to improperly proposition or pursue a woman or adolescent.[21] Given the structure of early Republican law and the examples found in later sources, it is certainly reasonable to assume that families could use existing law to address cases of *stuprum*, even though no specific examples of such cases from the Republic have been preserved.

In some exceptional circumstances, cases of *stuprum* (broadly conceived) or even attempted *stuprum* might be judged by the Roman people as a whole. This procedure, known as *iudicium populi*, arose in order to adjudicate capital offenses or wrongdoings that harmed the entire Roman citizenry (as opposed to a conflict between individual citizens).[22] A magistrate, acting as a representative for the people, prosecuted the accused in a series of public hearings, with judgement rendered via a vote in a popular assembly. Livy records three cases of possible sexual misconduct investigated and settled by *iudicium populi*, with dates ranging from 328 to 213 BCE. The earliest account references a man acquitted of committing *stuprum* with a married woman (*mater familias*); the next two involved groups of women (*matronae*) convicted and fined for the crimes of *stuprum* and *probrum* respectively.[23] Valerius Maximus describes three additional cases of individuals being brought to trial for sexual impropriety before the people of Rome. The first two took place in the third century BCE and concerned men who allegedly attempted to persuade a younger Roman man to commit *stuprum*.[24] The last example concerns the attempted seduction of a married woman, and most likely took place in

21 — Lenel 1927: 400. The exact date when this clause was first introduced into the edict is unknown, although sometime in the second century BCE seems most likely. However, this codification would not preclude the existence of earlier legal actions against this offense. See Dalla 1987: 124–25; Cantarella 1992: 100; De LaPuerta Montoya 1999, esp. 49–53; Williams 2010: 131–33; Birks 2014: 221–46, esp. 227–28.

22 — For the development and operation of the *iudicium populi*, see Kunkel 1962: 51–57; Bauman 1996: 7–8; Lintott 1999: 149-57; Lintott 2009.

23 — Livy 8.22.3 (328 BCE); 10.31.9 (295 BCE); 25.2.9 (213 BCE). Valerius Maximus seems to describe the first case as well (8.1.abs. 7). Authors often used *probrum* in the same sense as *stuprum*, referring to a disgraceful and/or illicit sexual act (Adams 1982: 200–01; Fantham 2011: 117–18). Regarding the latter two episodes, Rizzelli rightly notes that the defendants were not necessarily accused of the exact same offenses; the women may have been convicted for a variety of shameful acts, which Livy collectively describes as cases of *stuprum*/*probrum* (Rizzelli 2008: 87–88).

24 — 6.1.11 (292-290 BCE?); 6.1.7 (226 BCE?). In the first case, a Military Tribune was accused of attempting to seduce his adjutant (*cornicularius*); in the second a Tribune of the Plebs of attempting to seduce the son of a colleague (Valerius describes the son as an *iuvenis*). Dionysius of Halicarnassus also mentions the first case (*Ant. Rom.* 16.4), and Plutarch the second (*Marc.* 2.3-4). Another story involved a *primus pilus* being detained by a Triumvir Capitalis for committing *stuprum* with a freeborn Roman young man (150 BCE?, 6.1.10; mentioned in n.5 above).

88 BCE.[25] These public trials suggest a belief that sexual misconduct was not simply a private transgression between individuals, but also was (or at least could be) construed as a crime against the Roman people as a whole. It is notable that many of the examples of *stuprum* tried by *iudicium populi* seemingly took place without the existence of any law explicitly condemning sexual misconduct.[26]

From these surviving accounts it is not entirely clear why magistrates chose to try alleged offenders in a public setting instead of allowing families to resolve the situation internally or through the mechanisms of private law.[27] A key factor almost certainly would have been the status of one or both of those involved. The involvement of a well-known member of the political elite would have increased both the perceived stakes of the offense and the popular support necessary for a successful *iudicium populi*. Furthermore, the highly visible nature of these public proceedings would have been a desirable byproduct for individuals seeking to attack the reputation of the offender or repair the reputation of a victim. Choosing to pursue *iudicium populi* would have ensured that the accusations and punishments were well known throughout Roman society. Other contributing factors may have been the perceived seriousness of an offense and the belief individual citizens could not (or perhaps would not) handle the matter appropriately.

There was seemingly no shortage of options for dealing with sexual misconduct in Roman society. The *paterfamilias* possessed both the authority and means to police the behavior of family members. Roman private law—specifically the law of personal injury and insult—provided an accessible and viable option for families seeking redress from outside individuals. Finally, *iudicium populi* both allowed the state to intervene when deemed necessary to social welfare and presented a forum to publicly rebuke undesirable conduct. Given the available choices, why was it deemed advantageous to create a new law?

This basic question regarding the origin of the *lex Scantinia* becomes even more critical when considering the significant public investment and

25 — 6.1.8 (88 BCE).

26 — De Cristofaro suggests (with appropriate reservations) that the *lex Scantinia* may date as far back as the fifth or fourth century BCE and may have provided the legal grounds for these public trials. He bases this on the cases of sexual misconduct recounted by Valerius Maximus in 6.1; all four cases involving a Roman man accused of committing *stuprum* against a freeborn Roman were tried before the people. In comparison, the cases involving women or a young man of "dubious chastity" were usually judged by their *paterfamilias* (2022: 195–202). This is an intriguing proposition, although the fact that adult men would have been more likely to have been *sui iuris* (thus removing any option of paternal punishment) may also contribute to the imbalance. At the same time, the examples of sexual misconduct involving women tried by *iudicium populi* suggest that a formal law explicitly addressing *stuprum* was not necessarily a prerequisite for this procedure.

27 — It is possible that financial considerations motivated public prosecution. In one example, Quintus Fabius Gurges successfully prosecuted a group of women for adultery through *iudicium populi* and then used the collected fines to construct a temple to Venus (Livy 10.31.9).

effort required to enact new statuary legislation. To create a *lex*, one would first have to draft a bill and submit it to the Senate for review and discussion.[28] Once the proposed law earned the Senate's approval, it became available for discussion in public sessions, in part to help bolster support for the measure. Finally, a magistrate introduced the bill in a popular assembly for a yes/no vote; a positive vote resulted in the creation of a *lex*. Throughout the entire process, a series of rituals and procedures needed to be scrupulously observed.

Legislating a new *lex* required a great deal of time and attention, especially from members of the political elite. If the goal was simply to improve individuals' capacity to gain redress for acts of *stuprum*, it would have been easier to have the urban praetor issue an edict clarifying the possible legal remedies available to the wronged party.[29] Creating a new statute then was a deliberate choice made by political elite to address a particular issue in a very public manner.[30] The reality of legislation suggests two possible goals behind the creation of the *lex Scantinia*: (1) a significant change to legal policy; and (2) a forceful public statement on *stuprum* as a perceived social harm—especially acts of *stuprum* committed against men—and the role of the state in policing this behavior.

Regarding the first goal, it seems quite probable that the *lex Scantinia* codified certain acts of *stuprum* as criminal offenses, which in turn would have helped to establish a procedural pathway through the public courts. One intriguing, yet highly speculative, theory is that the *lex Scantinia* made these acts eligible for judgement via an inquisitorial commission (*quaestio*).[31] By the 2nd Century BCE, *quaestiones* had developed as an alternative to *iudicium populi* for trying public offenses.[32] *Quaestiones* first operated on an ad hoc basis, created either by statute or senatorial decree

28 — For the process of the legislating through the assemblies, see Williamson 2005: 62–128. *Leges* could be passed through any of the popular assemblies, including (after 287 BCE) the *Concilium Plebis*. The latter were technically *plebiscita* but were commonly called *leges* (since these statutes had the same force as those passed by the other citizen assemblies).

29 — For example, consider the case of propositioning/pursuit mentioned above.

30 — The traditional view among modern legal scholars is that the Roman people used legislation only infrequently to create new private law. For example, Daube deems legislation to be a "last resort" for amending private law due to the cumbersome nature of the process. He asserts that politics drove the creation of new legislation (1961: 4). Mantovani, however, makes a convincing argument that this apparent aversion to legislation is a mirage created by the surviving sources rather than a reflection of actual practice. He contends that the legislation of private law was much more common than previously thought, and that Roman legal experts such as Cicero viewed legislation as a critical aspect of Roman law. Mantovani agrees that legislation required significant public investment by the Roman people as a whole, but sees this more as desired byproduct rather than a hinderance (2012, esp. 711–21).

31 — De Cristofaro makes a similar claim in suggesting an earlier date for the *lex Scantinia*—that the law may have formalized the procedure of trying cases of *stuprum* against males via *iudicium populi* (see n.26 above).

32 — For the development and operation of *quaestiones*, see Lintott 2009: 147–62.

to address a matter of significant concern.[33] The magistrate heading the *quaestio*, working with a chosen panel of assessors, had the authority to investigate and render judgement regarding a specified offense. The first permanent *quaestio* (*quaestio perpetua*) was established in 149 BCE and others soon followed, marking a major shift in criminal justice procedure by effectively creating standing courts.[34] Any citizen could bring charges to a *quaestio*, even if they were not directly involved in the transgression, which theoretically increased the state's ability to discern and punish offenses.

Analysis of the language used by Caelius seemingly indicates that Drusus, as praetor, was acting as the head of a *quaestio* to investigate and try offenses under the authority of the *lex Scantinia*.[35] Those convicted by a *quaestio* would most likely be assessed a fine, although capital punishment was theoretically a possibility.[36] Legislating *stuprum* as an offense worthy of investigation via *quaestio*—in other words explicitly classifying it as a criminal offense—would have not only fundamentally changed the way that sexual misconduct was policed at the state level, but also had important consequences for how these acts were viewed and discussed in Roman society. Such a classification would have reasserted the idea that *stuprum* in general, and the penetration of Roman men more specifically, was a dangerous act injurious to the Roman people as a whole. The evolution of the *quaestio* system in the 2nd to 1st centuries BCE—and the new legislation this shift required—offers a plausible context for the creation of the *lex Scantinia*, especially given the existence of Drusus's court in 50 BCE.

In addition to any legal reform achieved, the vast public effort required to pass the *lex Scantinia* would have ensured that the Senate's endeavors to combat *stuprum* were at the forefront of community discourse. For the creators of the l*ex Scantinia*, the process of legislating may have been just as valuable as any changes in behavior or jurisprudence actually wrought by the law. Passing a new law demonstrated a desire to reassert "proper" Roman values about morality and sexual conduct. The act of legislating

33 — Mackay makes a convincing argument that the Senate needed statutory authorization from the Roman people before establishing a *quaestio* (1994: 79–81). Cf. Gruen 1990: 40–42.

34 — Cic. *Brut.* 106. The *lex Iulia de adulteriis coercendis* established a permanent *quaestio* to try *adulterium* (*Dig.* 48.1.1, Macer). This *quaestio perpetua* would eventually come to oversee all cases of *stuprum*.

35 — Kunkel 1962: 73 n.275; Bauman 1982: 122; cf. Ryan 1994; Brennan 2000: 827 n.160; Cloud 2001: 219. Bauman believes the *lex Scantinia* vested the *quaestio de vi* with authority to try cases involving *stuprum* rather than instituting a new commission. Establishing a means of redressing *stuprum* through a *quaestio* would not necessarily have excluded the possibility of private legal actions (Lintott 2015: 302).

36 — Twice in the *Institutio Oratoria*, Quintilian remarks that the established penalty for *stuprum* with a young man was 10,000 sesterces (4.2.69, 7.4.42), but it is impossible to know if this is in any way related to the *lex Scantinia*.

created a unique forum in which to articulate a "consensus" view (despite the variety of sexual desires and practices that actually existed) on what it meant to be Roman in a rapidly changing world. Williamson speaks to this particular environment in her study of Republican public law, writing: "In all periods the range of topics considered in public lawmaking sessions suggests that the Romans used the process as a means of addressing issues that could not be resolved in another, more usual, traditional manner by the Roman Senate or by elite officeholders serving in a wide variety of official offices. The issues Roman lawmakers presented to the Roman people further suggest a continuing societywide concern with the necessity of adapting to the conditions and consequences of Roman expansion across Italy and the Mediterranean" (2005: 33). Thus, one major advantage to creating the *lex Scantinia* would have been the act of legislating itself, which both promoted extensive public discussion and reiterated the leadership of the senatorial elite in managing sexual misconduct.

It is conceivable that a specific event provoked the creation of the *lex Scantinia*. Since *leges* were traditionally named after the proposing magistrate, modern scholars have identified two events involving members of the Scantinius family that might relate to the law's origin. The first occurred in 226 BCE, when the Roman people convicted Gaius Scantinius Capitolinus for attempting to seduce the son of Marcus Claudius Marcellus.[37] Scantinius is not a family name that appears often in the sources, so having a member of the family condemned publicly for trying to induce a young man to commit *stuprum* stands out.[38] Some scholars have speculated that another Scantinius may have proposed the law some time after the trial in an attempt to restore the family's good name.[39] This explanation is certainly possible, but the tenuous evidence makes it highly speculative.

The second case appears in the Oxyrhynchus epitome of Livy.[40] The summary of Book 50 contains the following fragmentary statement about the events of 149 BCE: *M. Sca[n]tius [……]am tulit in stupro deprehensi.* One accepted reconstruction for the text is: *M. Scatinius plebiscitum tulit de in stupro deprehensis* (M. Scatinius proposed a law concerning those caught in an act of *stuprum*).[41] Obviously such a reading is extremely conjectural and other plausible alternatives are available.[42] Nonetheless, some support

37 — V. Max. 6.1.7, Plut. *Marc.* 2.3-4. This is the same incident mentioned in n.24 above.

38 — The *Realencyclopädie der classischen Altertumswissenschaft* identifies only three *Scantinii* and four *Scantii*. Cf. Broughton 1952: 613–14. The examples discussed here are included in this number.

39 — Cantarella 1992: 111; Fantham 2011: 137–38; Voigt 1890: 275.

40 — POxy 668.

41 — Grenfell and Hunt 1904: 106; Rotondi 1912: 293.

42 — Chief among the criticisms is the fact that Scantius is already an attested *nomen* (see n.38 above). See De Cristofaro 2022: 160–63; Cantarella 1992: 110. As an alternative, Kornemann

for this reading comes from an event mentioned just a little earlier in the epitome, in the summary of Book 48 (150 BCE).

> *C. Corneliu […..]egus, quod P. Decim Su…*
> *[….]ctam ingenu [.] m stupraverat dc [….*
> *damnatus.*

It appears that in 150 BCE one Gaius Cornelius Cethegus was condemned for committing *stuprum* with a freeborn individual. Scholars have identified a possible connection between this fragment and a story related by Valerius Maximus (6.1.10).[43] In this account, Gaius Cornelius, a decorated soldier and *primus pilus* (senior centurion), was placed in "public fetters" (*publica vincula*) by C. Fescenninus (or Pescennius), a Triumvir Capitalis, for committing *stuprum* with a young Roman man.[44] Cornelius did not deny the act, but in an appeal to the Tribunes claimed that the young man was a practicing prostitute, thus invalidating the charge of *stuprum*. However, the Tribunes refused to intercede on his behalf and Gaius Cornelius died in prison. Given the context of a public scandal involving a famous war hero and an appeal to the tribunes, one might imagine the passage of a law addressing *stuprum* shortly thereafter.[45] But once again what remains for modern scholars is an intriguing possibility that relies on highly suspect evidence.[46]

Nonetheless, while these possible catalyst incidents rely on questionable evidence, the larger context of the middle republic period—especially the late third to second century BCE—provides an attractive milieu in which to locate an extensive public effort to review the sexual conduct of citizens. As Rome grew during this period, there was a substantial increase in legislation accompanied by new developments in jurisprudence, most notably the expansion of *quaestiones*.[47] After the close of the Second Punic War, Rome began to expand its control over the Mediterranean region, bringing increased wealth and opportunities. Contemporary moralists such as Cato the Censor associated this political

proposes: *M. Scantius qui repulsam tulit in stupro deprehensus* (M. Scantius, who lost the election, was caught in an act of *stuprum*) (1904: 25).

43 — Münzer 1905: 136–37; cf. Badian 1956: 91. Valerius Maximus does not provide a date for this episode. See also n.5 and n.24 above.

44 — Other scholars reject this proposed connection, preferring to read the epitome text as *ingenuam* based on the preceding word, which is commonly restored as *addictam* (Rossbach 1909: 131; Cloud 2001: 207 n.11). The Tresviri Capitales were minor magistrates with some policing and judicial powers. See Kunkel 1962: 71–79; Lintott 1999: 141–43.

45 — Fantham sees a possible parallel with the passage of the *lex Calpurnia de repetundis* in 149 BCE, which also followed a public scandal (2011: 138). Lovisi identifies the procedure (or perhaps lack of procedure) in handling this case as a possible impetus for legislation (1998: 282–83).

46 — On account of these two events, modern scholars have traditionally favored c. 226 BCE and 149 BCE when dating the *lex Scantinia*. However, Dalla warns against advancing such unreliable evidence, especially given that the dates are so much earlier than the first attested trial under the *lex Scantinia* in 50 BCE (1987: 92).

47 — Lanfranchi 2022; Williamson 2005: 8, 35.

and economic growth with a decline in personal virtue, a decline that threatened the wellbeing of the Republic.[48] It is important not to take the claims of increasing immorality, especially as it relates to sexual conduct, at face value, especially given the evidence for the prior suppression of *stuprum* via *iudicium populi*. Nonetheless they gave voice to a moral panic conducive to increasing community involvement in the preservation of "proper" Roman values.

Perhaps more important than the perceived decline in morality were the very real practical changes wrought by a growing Roman empire. Army service was taking young men further away from Italy and further from traditional structures of oversight and regulation, such as the family and private law courts. It is conceivable that this shifting context sparked concerns about a loss of control over men's sexual conduct. Perhaps relatedly, stories about older soldiers seducing their younger fellows appear throughout sources such as Livy and Valerius Maximus.[49] Indeed, one of the most long-lived stories involved the nephew of Gaius Marius being killed by a subordinate soldier after attempting to first solicit and then assault him.[50]

Two famous case studies, both from the second century BCE, may provide some additional insight into the passage of the *lex Scantinia* and its possible connection to senatorial authority. The first is the suppression of the Bacchic rites in 186 BCE. Purportedly concerned with the growing number of participants in cultic activities, and the amoral acts associated with membership, the Senate issued a decree establishing a *quaestio* tasked with investigating and disciplining participants, headed by the two consuls, Spurius Postumius Albinus and Quintus Marcius Philippus.[51] According to the description provided by Livy, the magistrates imposed death on those members who committed criminal acts in accordance with their religious oaths.

> *Qui tantum initiati erant et ex carmine sacro, praeeunte verba sacerdote, precationes fecerant, quibus nefanda coniuratio in omne facinus ac libidinem continebatur, nec earum rerum ullam, in quas iniureiurando obligati erant, in se aut alios admiserant, eos in vinculis relinquebant; qui stupris aut caedibus violati erant, qui falsis testimoniis, signis adulterinis, subiectione testamentorum, fraudibus aliis contaminati, eos capitali poena adficiebant. Plures necati quam in vincula coniecti sunt. Magna vis in utraque causa virorum mulierumque fuit. Mulieres damnatas cognatis, aut in quorum manu essent, tradebant, ut ipsi in privato animadverterent in eas: si nemo erat idoneus supplicii exactor, in publico animadvertebatur* (39.18.3-6).

48 — Lintott 1972; Gruen 1990.
49 — See Phang 2001: 280–85.
50 — Cic. *Mil.* 9; V. Max. 6.1.12; Plut. *Mar.* 14.3.
51 — *CIL* 12.581 = *ILS* 18 = *ILLRP* 511 = *FIRA* 1.27; cf. Livy 39.14.6.

> Those who only had been initiated and had made their prayers following the ritual formula, which contained the impious oath to all villainy and lust, with a priest first stating the words, but had committed none of the acts to which they were obligated by oath against either themselves or others, these [the consuls] left in chains. Those who had been tainted by sexual misdeeds or murders, who had been polluted by false testimony, forged seals, substitution of wills, or other frauds, these [the consuls] penalized with capital punishment. More were killed than were cast in chains. There were a large number of men and women in each group. Convicted women were turned over to their relatives or to those in whose power they were, so that these individuals might punish the women in private: if there was no suitable person to exact it, the penalty was inflicted in public.

Although the *quaestio* was created specifically to investigate participation in the Bacchic rites, the supervising consuls also penalized specific crimes committed by members: *stuprum*, murder, and various frauds. The inclusion of *stuprum* in this list of crimes highlights its perceived seriousness, at least among some of the governing elite. This characterization was anticipated by Postumius's earlier speech before the Roman people, when he labelled sexual misconduct as a component of the mysteries and a threat to Rome. He noted how men were engaged in acts of *stuprum* (*stuprati et constupratores*, 39.15.9), and later questioned the ability of these men to serve as soldiers for Rome (39.15.13-14). He eventually concluded that this immorality was problematic to the Roman state not simply because it made Roman men "effeminate" (*effeminati*) but because it would lead to further crimes (*facinora*) and treachery (*fraudes*, 39.16.1). *Stuprum*, like some of the specific offenses condemned as part of this effort, may not have been pursued regularly under criminal law at the time (although certainly all would have been recognized as wrongful acts).[52] Nonetheless, the magistrates took the opportunity provided by the Bacchic *quaestio* to punish offenders with death. This episode suggests both a willingness to investigate *stuprum* via a *quaestio* and a perceived need for such an intervention.

Also in the second century BCE, the Roman people passed a series of sumptuary laws focusing on aspects elite dining: the *lex Orchia* (182 BCE), the *lex Fannia* (161 BCE), *lex Didia* (143 BCE), and the *lex Licinia* (before 103 BCE).[53] Given the collective public effort required to create new legislation, it is striking to find four laws focusing on a seemingly minor

52 — Kunkel 1962: 68 n.256. He mentions the forgery of seals and wills as examples. *Stuprum* may belong in this category depending on exactly when the *lex Scantinia* was passed.

53 — Baltrusch 1989: 77–93.

issue concerning a relatively small segment of the total population. While there were also political motives behind some of the measures, the laws themselves seem to have addressed the issue through the lens of morality.[54] The *lex Fannia*, which set guidelines and limits on dining expenditures, is the best attested of these laws. Rosivach argues that the law prioritized basic household products, which would have evoked the idealized traditional practices built into Roman morality.[55] Macrobius quotes a speech attributed to one Gaius Titius in support of the *lex Fannia*. Titius characterizes gluttony as an individual moral failing that harms the Roman people since it leads to a dereliction of duty (3.16.15-16). This law would have been difficult to enforce, making it unlikely to result in a massive shift in behavior.[56] Ultimately, the *lex Fannia* and other second century BCE sumptuary laws demonstrate both a concern regarding individual morality and a commitment to using legislation to reform individual morality. Their enactment, moreover, illuminates the extent to which the law-making process could be considered a success even if citizens' conduct did not change. By its nature, the law-making process demanded that citizens deliberate and affirm their commitment to a moral standard.[57]

In both the Bacchic suppression and the sumptuary laws, modern historians have argued that a key element in each case was the Roman government attempting to reassert its collective authority.[58] Neither the Bacchic rites nor extravagant feasts were new to Roman society. However, in the second century BCE they appear to have been growing and/or changing in ways that made some members of the senatorial elite nervous. Coordinating a public effort to reassert traditional Roman values effectively represented the political leaders asserting their authority over the moral behavior of citizens.[59] Success was not necessarily to be measured in a change in behavior, but rather in the recognition of the authority possessed by Roman leadership.

54 — Lintott argues that the laws were intended to stifle political canvassing and electioneering, seeing a connection with concomitant laws on *ambitus* (1972: 630–32).

55 — Rosivach 2006: 7.

56 — For the efficacy of the *lex Fannia*, see Rosivach 2006: 11–12. Rosivach also suggests that the creation of the *lex Fannia* may have stemmed from a particular incident.

57 — In his analysis of Augustus's legislative program, McGinn advocates for considering the "expressive function of law." This concept, which has been articulated by modern legal theorists, is tied to the idea that law has the power to alter individual behavior by changing the social meaning attached to particular actions (McGinn 2008: 22). Accordingly, the "expressive function of law" demands a broader examination of social norms when considering both the origins of a law and its efficacy (McGinn 2015, esp. 37–39). In this sense, it is useful to consider the *lex Scantinia* as an attempt to create or reinforce social norms.

58 — Bauman 1990: 347; Gruen 1990: 34–78, 172–74; Rosivach 2006.

59 — Edwards considers the political stakes in controlling sexual morality in her study of the *lex Iulia de adulteriis coercendis* and the Augustan moral reform program (1993: 34–62).

Conclusion

Almost nothing is definitely known about the specific content and origins of the *lex Scantinia*. Perhaps the only thing that can be said with any measure of confidence is that the *lex Scantinia* addressed—at the very least—particular acts of *stuprum* committed against male Romans. But even this claim rests on a collection of relatively brief allusions by non-specialist authors. Even less certain are the date of the law and circumstances impelling its creation. While the second century BCE is an appealing period in which to locate the *lex Scantinia*, such a supposition remains an educated guess with only the scantest of tangible evidence. Given the vast array of question marks surrounding the law, it is tempting to give up on the *lex Scantinia* as a topic of historical inquiry.

Nonetheless, its very existence as a *lex* is noteworthy in and of itself. The considerable effort required to legislate a new statute speaks to the perceived stakes of sexuality and morality, and more specifically the sexual integrity of Roman men. The *lex Scantinia* almost certainly would have been created with extensive pomp and popular involvement, which would have reasserted both the communal dangers of *stuprum* and the moral authority of Republican leaders. Yet the law's origin is somewhat at odds with its literary legacy. Sources referencing the *lex Scantinia* suggest a casual indifference to behavior that violated expressed norms, even as authors mocked and denigrated the very same law-violating behavior. This may be linked in part to the growth of the *lex Iulia de adulteriis coercendis*, which began to render the *lex Scantinia* obsolete by subsuming the regulation and punishment of sexual misconduct in general. Lawmakers and jurists continued to proscribe *stuprum*, often quite aggressively, but less and less frequently under the auspices of the *lex Scantinia*.

So why did authors continue to reference the *lex Scantinia*, especially regarding the improper sexual penetration of men? For centuries, referencing the *lex Scantinia* was less about the law itself and more about the specific behaviors that it prohibited. Discussing this law therefore provided a pointed opportunity to signify a taboo act: the illicit violation of male sexual integrity. Why then is tracing discussion about the *lex Scantinia* important for historians? First, the fame of the *lex Scantinia* perhaps speaks to public interest in matters of sexual morality and involvement in the law's creation and early implementation. Second, the law's legacy suggests that a consensus about what constituted sexual morality and the drive to assert state authority were not necessarily synonymous with a deep commitment to and prioritization of the enforcement of this standard in everyday life. People who believed that penetrated men made bad citizens could also consider the possibility that this was not Rome's most urgent problem.

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