

The Repeal of the Lex Oppia: Women's Property Rights and the Fear of Female Power the Transformation of Rome from Republic to Empire: 133-20 BCE

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ABSTRACT

This paper discusses the significance of the repeal of the Lex Oppia in women's rights in the Roman world. The Lex Oppia was a sumptuary law that restricted women's rights to adornments during wartime. After the debate between Cato and Lucius Valerius, and women's effort in the political protest, the law was repealed. Nevertheless, the rhetorics Cato and Valerius adopted appealed to patriarchal dominance. Similar means of protest were adopted later in Hortensia's repeal on taxation on women. While sumptuary laws on women were for wartime emergency, these laws were ultimately a means to curtail female power and strengthen male dominance. And thus, the abrogation of sumptuary laws is a way for women to gain power through economic means — a step forward for women's rights.

Keywords: Roman, Women, Lex Oppia, Sumptuary Law, Feminism

1. INTRODUCTION

“Nunc domi victa libertas nostra impotentia muliebri hic quoque in foro obteritur et calcatur, et, quia singulas non continuimus, universas horremus.” [1]

— Cato the Elder

During the transformation of Rome from Republic to Empire, women were able to gain more rights. With women's growing power, men became more aware of the subversive power women were capable of, and they attempted to restrict their power.

During the Second Punic War, women's status grew at home while men were off at war. With women's rising participation in religious services and their growing economic power, men were fearful of the potential power women were capable of. As a result, using the pretext of war, the Lex Oppia was imposed on women to restrict their expenditure.

The Lex Oppia was a sumptuary law targeting women. The mandate stipulated the confiscation of adornments, which severely restricted women's expression of individuality. Hence, the repeal of the Lex Oppia helped women to proclaim their property rights to adornments, ultimately regaining economic power and

asserting female independence. While the Lex Oppia did not drastically change women's status in society, the public demonstration against this law marked a pivotal moment for the Roman women's movement, as female stepped into the political sphere and made legislative changes.

2. HISTORICAL CONTEXT

2.1 The Lex Oppia law

The Lex Oppia law was a sumptuary law that restricted women's possession of goods, dressing and traveling.

Women could possess only a limited amount of gold, which was a part of their personal wealth, not accessible by their husband. They could not wear multi-colored clothes, especially purple. They could not ride in carriage, which severely limited their mobility and their appearance in public. [1] These restrictions denied women of the rights to access personal wealth (as opposed to family wealth) and express their personal identity.

2.2 To what extent is the Lex Oppia a sumptuary law instead of a war-inspired confiscatory measure?

In response to the economic stress in Rome due to the Second Punic War, the Lex Oppia was passed to restrict women's consumption of goods during wartime. While the Lex Oppia was primarily intended to resolve the financial crisis during the war, at the same time, it infringed on many rights of Roman women. Hence, the law was more than a war-inspired confiscatory measure; from the growing activism and then the suppression of women during wartime, the Lex Oppia was, in essence, a law designed to limit women's power and rights through social and economic means.

The Lex Oppia law was primarily a confiscatory measure to help with the war effort during the Second Punic War. At the height of the Second Punic War, Rome was defeated by Carthage at the Battle of Cannae. After this disastrous defeat, Rome lacked soldiers, supplies and money to continue to fund the war. [1] As a result, Rome took emergency measures to aid the war effort, as the Lex Oppia was passed by the Senate. With the restriction on luxury goods, the government could levy money to fund the war.

Women's rising participation in the public sphere alarmed men enough to put restrictions on women. Due to the aggravating situation on the warfront, people at home grew apprehensive towards the war, causing disturbance on the streets. [1] Therefore, religious rites became more prevalent in order to to preserve order in the city. Women played major roles in religious activities, during which more women than men carried out religious rites. [2] New religious groups, such as the Magna Mater, a female-oriented religious organization, were formed. [1] Thus, women's participation in religion granted them new influence in the public sphere. Such an abrupt change in social dynamics distressed Roman men, leading to the passage of the Lex Oppia to limit women's mobility.

Women's increasing accumulation of personal wealth created resentment among men. Due to heavy death toll at the Battle of Cannae, many women inherited land and money from widowing, thereby acquiring a considerable amount of wealth. [3] Moreover, the lack of male members in the family freed women from patriarchal constraints. [2] And thus, women were able to require attire and adornments to display their wealth. By acquiring influence and power through economic means, women prided themselves on consumerism as a symbol of female independence. Yet such conspicuous consumption by women caused dissatisfaction in men, especially in response to wartime conditions. Therefore, with the enforcement of the Lex Oppia, men restricted women's consumption, in turn curtailing their power.

While the Lex Oppia was primarily used to resolve the financial crisis during the Second Punic War, the law was also able to limit women's rights. The rising participation of women in religious activities, their increasing economic power through inheritance, and the lack of male supervision during wartime contributed to women's growing independence, giving women more mobility socially and economically. Nevertheless, this contradicted with the Roman social values and the patriarchal expectations of women. And thus, by adopting the rhetoric of helping with the war effort, the Senate passed the Lex Oppia to restrict women's wealth and infringe women's rights.

2.3 Roman women and adornments

In Roman society, women were seen as an extension of men; by asserting women as their own power and property, men were bolstered for having a virtuous wife. In other words, women that demonstrated good Roman virtues also reflected positively on their husbands. [4] Such virtues were exhibited through women's clothing and adornments.

As a result of patriarchal expectations, there were restraints on women's dress code. Women were expected to dress themselves in modest clothing as a symbol of the Roman feminine virtue of chastity and self-control. Furthermore, instead of the emphasis on luxurious goods, women were encouraged to adorn their lives with good works, doing labors to demonstrate such virtue. [4]

In Juvenal's Satire VI, Juvenal discusses the role of wealth in women's world. Juvenal believes restraining women from luxury would benefit them. He demonstrates that by restricting women to "humilis fortuna" ("lowly status), women were able to maintain good virtues of "castas" ("chastity"); he also suggests women to do "tecta labor" ("hard work") to "nec vitiis contingi parva sinebant" ("kept the corruption of vice from their humble roofs"). [5] By revealing the destructive impact of women living a lavish life, Juvenal equates good virtue to an austere lifestyle, separated from lavish attire. And thus, he encourages to restrict women's expenditure on personal adornments, in turn reducing their economic power.

However, for Roman women, attire and adornments were a part of their personal identity. As opposed to their family wealth, women's adornments were their personal wealth that was not accessible by men. By acquiring adornments, women were accumulating economic power. Hence, it could be said that accessories were a symbol of female independence through economic power.

As women's rights to adornment were deemed as corrupting the Roman virtues, this justified the pretext for the Lex Oppia, which the restraints on women's right to expenditures was supposed to prevent them from moral corruption. Nevertheless, this limited women's rights and

severely curtailed women's economic power, leading to protest from many female groups.

3. THE REPEAL OF THE LEX OPIA

3.1 Overview

After Rome's victory over Carthage in the Second Punic War, the Romans returned to a comfortable life style. As Rome returned to peace, there was no reason to impose restriction on women's expenditures. Meanwhile, women still could not enjoy the same rights as men: they could not participate in public affairs, not to mention that they were deprived of their personal adornments from the Lex Oppia. Consequently, women were outraged and organized protests against the Lex Oppia.

Livy's *Ab Urbe Condita* records the abrogation of the Lex Oppia. As women took the streets of Rome and made public demonstration to pressure the Senate to repeal the law, Cato the Elder and Lucius Valerius — two senators — commenced the debate on the Lex Oppia. Cato was the archetype of Roman conservatism that adhered to the traditional Roman morals; he opposed the repeal of the law. By contrast, Lucius Valerius took a more progressive stance and supported the repeal of the law. Eventually, under the pressure of the public and Valerius' rhetoric, the Lex Oppia was repealed.

3.2 Cato's argument

Cato argues to retain the Lex Oppia. By outlining the dangers of excess extravagance, establishing the necessity to guide female morals, and explaining the subversive female power, Cato demonstrates the need to retain the Lex Oppia.

Cato establishes that the purpose of the Lex Oppia was to curb female excess. [1] Cato demonstrates that women gathered in public was to flaunt their luxury: instead of rallying for war effort or doing religious service, they used these causes to be in public to flaunt their wealth, showing off their adornments and luxury. [1] From adornments to clothing, women displayed a high degree of luxury goods. This bred consumerism, a culture that overly emphasized on material wealth, where such ostentatious display of luxury would motivate women to compete against each other over material wealth. By demonstrating the dangers of wealth and extravagance that corrupts social morals, Cato predicates the necessity of the Lex Oppia to regulate women's expenditure, preventing them from excessively spending money on materialistic goods.

Cato presents women as morally corrupted without the supervision of men. Cato describes women as "indomito animali" ("untamed creature") of "date frenos impotentis naturae" ("give loose rein to uncontrollable nature"). [1] Cato alludes to women expressing their

nature uncontrollably like a horse unleashed ("date frenos"), relegating them to an animalistic state. [1] By describing women with animal characteristics, Cato dehumanizes women as creatures, reducing them to the most primitive state of humans that acts on their natural instincts. Moreover, Cato equates women's "omnium rerum libertatem" ("complete liberty") with "licentiam" ("license") to highlight that women were motivated by their lust. [1] He reaffirms that women were wild and sexually incontinent — in many ways inferior to men. Therefore, women needed to be controlled under law by men to regulate their behavior. By adopting a paternalistic lens, Cato establishes that it is men's responsibility to correct women's morals. The Lex Oppia thus serves as a moral compass to reign in women's behavior.

Cato also alludes to the implied fear of men over female power. Cato fears the "impotentia muliebri" ("female violence"), which "singulas non continuimus, universas horremus" ("not kept [women] individually under control, [men] dread them collectively"). [1] Cato adopts "impotentia" to describe the destructive power of women: while the literal translation for "impotentia" is powerless and weak, "impotentia muliebri" means the violence of women in the context. By implying women as morally weak — thus capable of creating chaos — Cato condemns women as insolent, prone to causing societal disturbance. Cato alludes to women's moral weakness as the justification for their violence, instead of their power and strength. By recognizing female violence as female's weakness, Cato reduces the rationality behind the women's protest, while further advocating the need for male guardianship through the Lex Oppia.

Furthermore, from "domi" to "foro," women were spreading their influence from the private to public sphere. [1] Cato warns men that women have encroached upon the political sphere of men, invading male space and threatening male rights. By measuring the contemporary phenomenon against the Roman societal standard, women were not following their traditional role as stay-at-home mothers and wives; they were extending their rights into the public sphere, which threatened the power of patriarchy. Hence, by accusing women as overstepping the boundaries of traditional gender roles, Cato attempts to eliminate women's power in the public political sphere through the Lex Oppia.

Interestingly, such reversal in gender role had already happened during the enforcement of Lex Oppia. Cato and Valerius's views on patria potestas in regards to the Lex Oppia were contradicting: while Cato believes that the Lex Oppia enforced patria potestas by setting restraints on their wives, Valerius assures men that they would regain this authority if the law were to be appealed. [1] With the enforcement of the Lex Oppia, the power of husbands and fathers to regulate the females was transferred to the public sphere as the common laws. [6] Ironically, the Lex Oppia — a law oriented towards male dominance —

suspended male's power in the private sphere. Therefore, the suspension of the legal restriction over female, as Cato worries, would remove the restrictions on women, while men would find it difficult to reinstate their power in the household. In a sense, the Lex Oppia forced men to abdicate their power in the private sphere and integrated women's power into the public sphere. Hence, to preserve the patria potestas, Cato argues Lex Oppia — a statutory restriction on women — must not be repealed.

Through the Roman values and morals, Cato demonstrates the need of the Lex Oppia for women to adhere to good morals. By adopting a paternalistic view on women, Cato establishes that the laws of men serve as a savior for women, preventing them fall to corruption. Nevertheless, he did not successfully undermine the power of women. By implying men's fear of the inability to control women, Cato insinuates that the expanding power of women had extended into the public political sphere, reaffirming his urgent need to retain the Lex Oppia as to preserve the patria potestas.

3.3 Lucius Valerius 'argument

Valerius argues to repeal the Lex Oppia. By establishing the law as an emergency reserve, highlighting women's contribution to the public, and sympathizing the women's limited privileges, Valerius appeals to the Senate to annul the law to resolve this injustice towards women.

Valerius elucidates that the Lex Oppia was only reserved for an emergency measure during the war. The law was not specifically intended to regulate women's spending and morality. Valerius acknowledges the dire situation during wartime, that it was Roman citizens' responsibility to carry out measures to preserve the state; the law was a necessity of the time and thus would last until the crisis had ended. [1] Yet in reality, the government continued to abuse the law, contradicting the established purpose of the law. Therefore, by alluding to the abuse of power through law, Lucius conveys this injustice towards women, thereby arguing for the repeal of the law.

Valerius outlines women's contributions to the republic to illustrate their significance in Roman society. He lists the positive contributions made by women during wartime from ancient times to the recent wars. Valerius first utilizes the intercession of the Sabine women to illustrate the long-lasting impact of women throughout history. [1] Then, Valerius points out women's effort during the Second Punic War, specifically that Roman widows administered the treasury to provide financial support for the army. [1] Instead of indulging in the money from their inheritance, women wielded their economic power to contribute to the war, Valerius contends. Furthermore, at the height of the terror, matrons went to Tiber to receive the Idaen mother. [1]

Effectively, Valerius rejects Cato's concerns that women indulged in materialistic goods and thus need to be regulated by the Lex Oppia; he uses women's contribution to highlight the upright morals of women — that they were just as able to contribute and sacrifice themselves as men — concluding women "quidem semper bono publico". [1]

Valerius points out the limited rights enjoyed by women and therefore argues that women's rights to adornments should not be further denied. Women could not enter civil and religious offices, nor could they enjoy the triumphs of war that they worked for. [1] Women were already completely excluded from the public sphere. Depriving their rights to adornments, Valerius claims, would take more rights away from them. As their rights were already limited, they should be at least able to enjoy their adornments for the Lex Oppia to be repealed.

Curiously, Valerius does not argue against the other rights restricted from women. He acknowledges these limitations and appeals to the male-dominated Senate to pity women and leave them with their basic rights to adornment. He evokes emotional appeal to garner sympathy for women. His rhetorical strategy, however, relies on the assumption that women were the weaker party and therefore required the help of men. Though Valerius's argument was aimed at establishing rights for women, he ironically undermines women's position of power in relation to men to gain support from the Senate.

Given the injustices women have experienced, Valerius calls the Lex Oppia to be repealed. He delineates the logic behind the law and praises women's efforts implicitly to establish ground for his argument, though he does not undermine the logic of male authority; many times he attempts to maneuver emotions instead of logic to garner sympathy from the. He understands that only by appealing to the ideal of male authority can the law be repealed.

3.4 Lucius Valerius 'rhetoric

Valerius adopts a highly gendered language. [7] He employs dictions such as "homines" ("men"), "uiri" ("husbands") and "liberi" ("children") in juxtaposition to "feminis" ("women"), "matrem familiae" ("mistress of the household"), and "uxor" ("wife"). Through the stark contrast in diction, Valerius is able to draw distinction between the two sexes, in turn reinforcing the gender roles in male and female.

Valerius also appeals to male dominance. [8] In Cato's argument, Cato presents women as indulgent and fickle that require male guidance and protection. [1] Valerius agrees with this argument that female would need to be hold in on control by male's guardianship, though less under law but under male regulation. [1] Valerius acknowledges the female as weak, which adheres to the expected role of women at the time.

3.5 Livy's account: To what extent is Livy's account on the Lex Oppia historically accurate?

Livy aims to recount the repeal of the Lex Oppia. However, through his choice of language and his presentation of characters, Livy only provides a general depiction rather than a precise historical account of the event.

Livy's choice of language undermines the rationale of women behind the protest. Livy describes the context of the protest that "inter bellorum magnorum aut vixdum finitorum aut imminentium curas" ("amid the serious concerns of wars") there was a "res parva dictu" ("a small matter") of violent protest. [1] Livy situates women's protest for their rights as an act that challenges the state's war effort, bringing pressure to the already strained society. By shedding the cause of the protest in negative light, Livy puts the protesting women in an unfavorable position. Similarly, Livy depicts women "nec Livytoritate nec verecundia" that they "omnis vias urbis aditusque in forum obsidebant" ("blocked all the streets and approached the forum"). [1] By portraying women as wild and unorganized — or even barbaric — Livy alludes to the protest as a result of women's irrational behavior. He sets the women's image in a way that makes these women seem frantic, effectively undermining their credibility and rationality for the protest. And thus, Livy's choice of language is from a masculine point of view and reflects his male chauvinist attitude towards this event.

Though most of Livy's account is based on factual events, some of Livy's writing was fabricated (such as the myths and legends). Nonetheless, Livy's writing provides a gist of what these characters said based on traditional expectations. [6] Cato is presented as an inexorable senator who strongly adheres to the belief of that women should stay at home as mothers and wives. By contrast, Valerius represents the voice of women asking to restore the traditional rights of women in the private sphere.

However, both views are male-oriented. Cato is naturally the one that believes in the traditional gender roles. Valerius, though he represents the female perspective, does not provide a wholesome account of the female at the time. He only touches the surface of women's rights that are already in the "women's world" and does not wish to go further on extending more rights. [6] In a sense, the debate over Lex Oppia was essentially a debate over traditional rights, restoring and consolidating traditional genders roles, instead of a movement that extended women's rights. Therefore, the lack of enthusiasm in extending women's rights beyond the traditional roles renders Livy's account a patriarchal view.

From examining the language and the two side's argument, Livy's language is predisposed to a masculine

view. Though such disposition is inevitable under the influence of a male-dominated society, Livy's account is not completely historical accurate, where some nuance might be overly exaggerated or undermined. Nonetheless, this does not pose much of an obstacle to readers' general understanding towards the event.

4. EVALUATION

4.1 Significance of the Repeal of the Lex Oppia

Women's participation in politics were limited; they were excluded from the participation of public events, such includes voting, holding public offices, and becoming magistrates. [6] Yet during the protest against the Lex Oppia, women were able to exert political pressure on men and make influence to their status. Through public demonstration, women were able to bring the debate of their rights to the political sphere and in turn affect legislative changes in real life.

Forum Romanum was a public meeting place, where debates happened and affected changes in the state. It was also a space predominantly male, as men were the only ones that held political power at the time. [7] However, during the protest, women entered forum Romanum to voice their opinions and make political changes; women were present and were even wielding influence in a field where they were normally excluded from. Through such form of political protest, women entered and exerted influence in the political sphere.

Women made collective actions during the protest. A crowd of women blockaded the houses of Iunius Brutus and refused to leave until the Lex Oppia was repealed. [6] Their demonstration was successful, leading to the abrogation of the Lex Oppia. Women were able to achieve their goals through nonviolent protest in mass rally. From collective effort, women were united together for a common cause, creating solidarity among themselves to affect actual changes in a male-dominated society. Hence, the repeal of the Lex Oppia through public demonstration serves as a pivotal and empowering moment in the early female movement.

The abrogation of the Lex Oppia is significant in empowering females. Even though the movement did not extend more rights to women and did not drastically change women's position in society, women were able to make public demonstration when they felt their rights were violated. Women were able to use campaigns and direction actions to achieve political goals, with progressive males supporting their ideas. Hence, such collective effort to affect change thus marks a pivotal moment in women's rights movement in Rome.

4.2 Impact of the Repeal of the Lex Oppia: Hortensia on “no taxation without representation”

The Second Triumvirate heavily taxed the 1400 wealthiest women to fund the war. Women were dissatisfied by the law that they publicly demonstrated the law. [6] Hortensia made a public rebuttal of this law: this was not only a protest of unfair taxation, but also a fight for the female group identity. As stated in Valerius' debate on the Lex Oppia, women's adornments were the symbol of their social status and the way of life. Similar to the repeal of the Lex Oppia, through the persistent effort of the women demonstration and Hortensia's rhetoric, the taxation was finally reduced.

Hortensia adopted similar language in Livy in terms of traditional rights and responsibility to the state. Firstly, she justifies women's public demonstration for this protest, where women took legitimate channel to conduct their political activities. [9] She also identifies women's private property rights, that they were simply restoring their traditional rights given to them. [9] Finally, she acknowledges that women have the responsibility to contribute to the state at the time of crisis. However, during the Triumvirate, this levy of money was contributing to one faction, helping them to enforce factionalism and internal division within the state. [9] Therefore, using eloquent rhetoric, Hortensia successfully persuaded others to reduce the taxation.

Nevertheless, in the repeal of the Lex Oppia and Hortensia on “no taxation without representation,” both arguments were formed based on the premises that Roman women's property rights could be curtailed at times of emergency. [10] Yet most of the time, such emergency was defined by male paranoia, rendering the sacrifice of women's property rights a byproduct of male-dominance.

5. CONCLUSION

The Second Punic War not only gave rise to a national crisis to levy tax for war, but also allowed women to take a more prominent role in the society. Therefore, by establishing the Lex Oppia based on emergency measure during the war time, the Senate justified its need to reduce female power. However, the growing dissatisfaction from women pressured the Senate to repeal the law. During which, Cato and Valerius — though they took opposing views — adopted language appealing to male-dominance and traditional morals to justify their views. From the pressure of women's demonstration and the skilled rhetoric of Valerius, the Senate repealed the law. Ultimately, women were able to restore their traditional rights to adornments.

While the abrogation of the Lex Oppia did not further extend women's rights, women were able to make

political demands and put pressure on the senate to make legislative changes when they felt their rights were violated. Furthermore, while the effort was oriented to traditional values in a patriarchal society, the ultimate result was effective; women were able to exert real-life changes in the society. Later, similar rhetoric and approaches of political protests were adopted in Hortensia's protest for a taxation law on women. Therefore, through such form of political protest, the repeal of Lex Oppia marks a common effort among women and men to fight for human rights in society.

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