

## ***Raptus Semproniae?* An Analysis of the Martial's *Epigram XII, 52***

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### **Abstract:**

The *Epigram XII, 52* written by Marcus Valerius Martialis is a description of a story of Sempronia – a woman, who was either abducted or seduced, but who later left her lover and returned to her lawful husband. The poet, by repeating the terminology associated with violence (*raptus, rapina, raptor, rapta*), puts emphasis on the motive of force (*vis*). This might suggest that the poem was composed as a speech in defence of Sempronia and Martial could have been trying to convince the general public that the woman was simply forced to leave her husband. The main aim of the paper is to assess to what extent this attempt could have been effective and credible in the eyes of an ancient reader. Moreover, describing the mutual relations between poetry, law and rhetoric will allow determining if Martial knew Roman law and wanted to make use of his knowledge or if he simply found linguistically attractive using the words that sounded similar but did not have the same meaning.

### **Keywords:**

*Raptus; vis; force; Martial; Roman Law*

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The analyses of the declamatory speeches and of other literary sources might be beneficial as providing the Romanists with information about the general legal consciousness of the ancient Romans.<sup>1</sup> One of the greatest ways to become more familiar with the every-day life of Ancient Rome is to open one of the twelve books of Epigrams written by Marcus Valerius Martialis.<sup>2</sup> Published between 86 and 103 AD, they provide us with a comprehensive picture of daily habits and routines, standards of living and day by day problems. An ordinary life, yet described in a very remarkable manner.

Martial was endowed with a sharp mind and intelligent sense of humour,<sup>3</sup> what can be easily observed in his works. On the other hand, he did not avoid smutty jokes and obscene language. Consequently, it might seem that a story like the one that was described in the 52nd *Epigram* from the 12th book<sup>4</sup> of his works was grist to his mill. The story is presented as follows:

Epigram XII, 52

*Tempora Pieria solitus redimire corona  
nec minus attonitis vox celebrata reis,  
hic situs est, hic ille tuus, Sempronia, Rufus;  
cuius et ipse tui flagrat amore cinis.  
dulcis in Elysio narraris fabula campo,  
et stupet ad raptus Tyndaris ipsa tuos:  
[tu melior, quae deserto raptore redisti;  
illa virum voluit nec repetita sequi.]  
ridet, et Iliacos audit Menelaus amores:*

<sup>1</sup> One should cite here a very inspiring opinion expressed once by John A. Crook: “For reasons connected with the amateurism (until quite late in its history) of Roman public life – whereby the standard education included forensic rhetoric, and the law was run by members of a financially independent upper class in the interstices of pursuing political careers or just managing their estates, so that the talkers of law were also the readers and quite often the writers of literature – for such reasons, legal talk and terminology seem rather more frequent and more at home in Roman literature than in ours. Legal terms of art could be used for literary metaphor, could be the foundation of stage jokes or furnish analogy in philosophical discussion. And a corollary of this is that many a passage of Latin *belles lettres* needs a knowledge of the law for its comprehension.” See CROOK, J. A. *Law and Life of Rome*. Ithaca, NY: Cornell University Press, 1967, p. 8. Needless to say, the author of this article expresses the hope that the analysed *Epigram* can be included in the group of such a literature.

<sup>2</sup> The poet was born between 38 and 41 AD in a small town Bilbilis in province *Hispania Tarraconensis*. Most of the biographical information about Martial we distil from his own works. Cf SZELEST, H. *Marcialis i jego twórczość*. Warszawa – Wrocław – Kraków: Zakład Narodowy im. Ossolińskich. Wydawnictwo Polskiej Akademii Nauk, 1963, p. 7.

<sup>3</sup> It seems to be enough to cite here the excerpt from the letter written by Pliny the Younger in 104 AD, that includes also the record about the Martial’s death: *Erat homo ingentiosus acutus acer, et qui plurimum in scribendo et salis haberet et fellis, nec candoris minus*. (*Epistulae* III 21, 1 – “He was a man of great gifts, with a mind both subtle and penetrating, and his writings are remarkable for their combination of sincerity with pungency and wit” – trans. PLINY THE YOUNGER. *Letters, Volume I: Books 1–7, Panegyricus*. Trans. by B. Radice. Loeb Classical Library 55. Cambridge – Massachusetts – London: Harvard University Press, 1969, p. 237).

<sup>4</sup> This is the last book of Martial’s epigrams. It was published after his return to Spain. The mention about the consulate of Arruntius Stella in 101 AD constitutes the latest reference included. (Cf *Epigr.* XII, 2). However, it contains also some epigrams from previous years. It is complicated, therefore, to set an exact time frame. Also, because of that reason, it is more difficult to try to identify the characters of the story.

*absolvit Phrygium vestra rapina Parim.  
accipient olim quum te loca laeta piorum,  
non erit in Stygia notior umbra domo.  
non aliena videt, sed amat Proserpina raptas:  
iste tibi dominam conciliabit amor.*

Here lies one who was wont to bind his brows with a Pierian garland, a voice no less famous among frightened men on trial, here, Sempronia, your Rufus, whose very dust glows with love for you. Your story, a sweet romance, is told in the Elysian Fields, and Tyndareus' daughter herself is lost in amazement at your ravishing. [But you are better than she, for you forsook your ravisher and returned, whereas she would not follow her husband even when reclaimed.] Menelaus smiles as he listens to a tale of Ilian love; your rape absolves Phrygian Paris. When the happy places of the virtuous shall one day receive you, there will be no more famous shade in the house of Styx. Proserpina looks with no unsympathetic eye on ravished women, she loves them. Your love story will win you Her Majesty's good will. (MARTIAL. *Epigrams, Volume II: Books 6–10*. Edited and translated by D. R. Shackleton Bailey. Loeb Classical Library 94. Cambridge – Massachusetts – London: Harvard University Press, 1993, p. 133).

The beginning of the epigram is certainly an epitaph, honouring a man called Rufus, who probably was both a poet and an orator.<sup>5</sup> Since Martial devoted his works to real and fictional characters, it is hard to establish definitely if such a man actually existed.<sup>6</sup> Although the poem contains all the necessary elements of *elogium*, that is the name of the deceased, the confirmation of a burial in a given place, the information about his activities as well as the praise, one can easily notice that this is not just a typical sepulchral epigram. The main attribute of Rufus is his great love that is still vivid even after his death.<sup>7</sup> A man gave his entire heart to the woman called Sempronia, who, in fact, is a true addressee of the poem. Brief introduction is, then, just a pretext for presenting another anecdote.<sup>8</sup>

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<sup>5</sup> Martial indues Rufus with two attributes: *Pieria corona* and *vox celebrata*. The first one provides information about the fact that the deceased was a poet. Moreover, a poet talented enough to be looked after by the Muses. The term *Pieria corona* comes from Pierides – the Muses that were living in Pieria, a region situated in southwest Macedonia. See FERRARI, A. *Dizionario dei luoghi del mito: Geografia reale e immaginaria del mondo classic*. Milano: Biblioteca Universale Rizzoli, 2011, pp. 714–715, s.v. *Pieria*. Hence, the name “Pierides” is very often used as a synonym of the word “Muses”. Cf Ovid., *Metamorph.* III 685; Hor., *Ars Poetica* 193; Aul. Gell., *Noctes Atticae* XIX 10.12. *Vox celebrata*, on the other hand, suggests that Rufus was pursuing the occupation of *advocatus*. His task had to be to provide legal advice before and during the legal civil and criminal trial. Martial, however, seems to mention only the first possibility, as using the term *reus* that is applicable only in terms of the civil proceedings. Nevertheless, he might have also chosen this word due to the rhythmic structure of the verse.

<sup>6</sup> For sure Martial cannot be talking about his friend and a writer Canius Rufus, since he was married to a woman-philosopher Theophile. Cf Mart., *Epigr.* VII, 69.

<sup>7</sup> This motive was known to Latin and Greek sepulchral poetry. See SZELEST, *op. cit.*, p. 165.

<sup>8</sup> This is not the only time when Martial, creating an appearance of *elogium*, addresses himself to the relatives of the deceased person. A similar motive might be observed in the *Epigrams* VII, 40 and X, 71 when the poet describes the suffering of the sons after the loss of their parents.

Martial in fact tells the brief story of the ravished Sempronia,<sup>9</sup> who later returned to her lawful husband.<sup>10</sup> The heroine, although somehow disgraced, is described by the poet in a very respectful way. It will not be an exaggeration to say that Martial puts Sempronia on a pedestal. Comparing her to Tyndar's daughter, to mythical Helen of Troy, he puts her in the same line with the most beautiful of all women. He also decides to take his readers to the Elysian Fields. Martial is convinced that the merits of Sempronia, by which he certainly means her (slightly) late fidelity and her nobility will not only excuse all the faults of Paris, by which one should obviously understand the Trojan War, but will also earn for her the kindness of other shades and, above all, of Proserpine, the queen of the underworld and, after all, the most famous kidnapped women in the history.

The general message might seem quite untypical, maybe interesting as a gossip, but not at all engaging from the legal point of view. But if one really focuses on the story, one can start doubting if it makes logical sense. It is not either rational or consistent to praise in such words a woman who simply did what she should have done, i.e. she returned to her husband.

The idea that a woman really pandered to another man is quite clear to the reader because of the comparison between the story of Sempronia and the Helen of Troy. On the one hand, their similarity is emphasized (*Iliacos amores*). On the other hand, however, Tyndar's daughter seems to be surprised and even slightly embarrassed by the behaviour of the protagonist of the epigram (*et stupet ad raptus Tyndaris ipsa tuos*). The poet puts emphasis on the difference between the behaviour of Helen and Sempronia. Since Sempronia returned to her proper husband, the question of her real will arouses some objections. One clearly understands that because Sempronia decided to return to her spouse, it means that she had this possibility. Her will was, without a doubt, the main measure, on which depended whether the woman was really abducted or simply cheated on her husband. The general message seems to be clear: Sempronia is a better wife than Helena. She abandoned her lover and returned to her lawful spouse. Tyndar's daughter, in turn,

<sup>9</sup> One can even find the interpretation that it is Rufus himself who tells the story of Sempronia. Cf. MARTIAL. *Epigrams: With Parallel Latin Text*. Translated by G. Nisbed. Oxford: Oxford University Press, 2015, p. 215.

<sup>10</sup> The content of the poem shows a great feeling between Sempronia and Rufus. It is, however, impossible to state whether the man was woman's husband (in such a situation the return should be interpreted as an expression of her love) or her lover – then abandoning him, though socially pleasing, had to be an act of the highest sacrifice for Sempronia. What is more, it would also mean that the woman never stopped to invest her emotions in the other man. Similar doubts concerning the interpretation of the poem have been expressed in the critical editions and translations. It seems that one can observe two tendencies in this context. On the one hand, there is an attempt to avoid defining the relationship between Sempronia and Rufus. Cf. MARTIALIS M. V. M. *Waleryusa Marcyalisa Epigramów ksiąg XII*. Trans. J. Czubek. Kraków: nakł. Akademii Umiejętności, 1908, p. 410; MARTIAL. *Epigrams: With Parallel Latin Text*, p. 215; MARTIAL. *Epigramme. Gesamtausgabe: Lateinisch-deutsch*. BARIÉ, P. – SCHINDLER, W. (eds.). Berlin: De Gruyter Akademie Forschung, 2013, p. 1418. On the other hand, Rufus is perceived as Sempronia's, husband. Cf. *Les Épigrammes de Martial traduites en vers français par C. DUBOS. Précédés d'un essai sur la vie et les ouvrages de Martial par M. J. JANIN*. Paris: Jules Chapellet et compagnie, Éditeurs, 1841, p. 504; BOHN, H. G. (ed.). *The Epigrams of Martial: Translated Into English Prose. Each Accompanied by One Or More Verse Translations, from the Works of English Poets, and Various Other Sources*. London: Georg Bell and Sons, 1881, p. 567; MARCO VALERIO MARZIALE. *Gli epigrammi. Testo latino a fronte*. VIVALDI, C. (a cura di). Roma: Newton Compton, 1993, p. 653, fn 12; MARZIALE. *Epigrammi*. Vol. II. BETA, S. (a cura di). Milano: Mondadori, 2007, p. 957.

surrendered to her feelings and followed the new beloved. Although Martial does not use the terminology that could suggest that Sempronia committed adultery (*adulterium*), the whole story indirectly conveys such an interpretation. So, although the tone of the *Epigram* XII, 52 is rather hopeful, one should have no doubts that the act the women committed was of a serious nature.

Martial composed his poem around one hundred years after introducing the famous and widely-discussed Augustus's laws on marriage: *lex Iulia de adulteriis coërcendis*<sup>11</sup> of 17 BC, *lex Iulia de maritandis ordinibus* of 18 BC and *lex Papia Poppaea* of 9 AD. Although the Augustan law on adultery was not probably the first one regulating this issue,<sup>12</sup> under this *lex* the crime once and for all lost its private character. The disputes were resolved by the tribunal called *quaestio perpetua de adulteriis*.<sup>13</sup> The penalties imposed, although not resulting in *capitis deminutio*,<sup>14</sup> were quite severe. The punishments were, in fact, two-fold. The first category was called *ius occidendi* and was a way to retaliate for the insult. The father of the adulteress could avenge the outrage by killing both of the lovers caught *in flagranti*.<sup>15</sup> The husband, in turn, could render punishment only to the man.<sup>16</sup> If, however, the allegations (*accusatio*) were made and the lovers were found guilty, the penalty took the form of the confiscation of assets<sup>17</sup> and an exile in the island (*relegatio in insulam*). Obviously, the lovers were sent to two different islands.<sup>18</sup> If then the nature of the offence was that serious, it is especially difficult to justify the deep delight of the poet over the heroine of the epigram.

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<sup>11</sup> It should be noted here that this law is referred to in the Roman sources under many names, such as the *lex Iulia de adulteriis*, the *lex Iulia de adulteriis coërcendis*, the *lex Iulia de adulteriis et de stupro* and the *lex Iulia de adulteriis et de pudicitia*. The last expression, although not widely-known, was used by Suetonius (*De Vita Caesarum: Divus Augustus*, 34,1 *Leges retractavit et quasdam ex integro sanxit, ut sumptuariam et de adulteriis et de pudicitia, de ambitu, de maritandis ordinibus.*) ["He revised existing laws and enacted some new ones, for example, on extravagance, on adultery and chastity, on bribery, and on the encouragement of marriage among the various classes of citizens." – trans. SUETONIUS. *Lives of the Caesars, Volume I: Julius. Augustus. Tiberius. Gaius. Caligula*. Translated by J. C. ROLFE. Introduction by K. R. BRADLEY. Loeb Classical Library 94. Cambridge – Massachusetts – London: Harvard University Press, 1914, p. 203]. Rolfe translates the term *pudicitia* as "chastity". This translation is fairly correct, yet, one cannot forget that *pudicitia* means also "marital fidelity". In the following case, both translations would be of particular importance. More about the concept of *pudicitia* as a base of legal solutions is written by BIONDI, B. *Il diritto romano cristiano: La giustizia, le persone*. Vol. I. Milano: Giuffrè, 1952, pp. 265–279.

<sup>12</sup> Under the Sulla's laws the adultery was also considered a criminal offence. See AMIELAŃCZYK, K. *Crimina legitima w rzymskim prawie publicznym*. Lublin: Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, 2003, p. 277.

<sup>13</sup> The problem of the *quaestiones perpetuae* and the *quaestio perpetua de adulteriis* in particular is widely discussed by Mary Alana Deminion. See DEMINION, M. A. *Staging Morality: Studies in the Lex Iulia de Adulteriis* of 18 BCE, pp. 27–53. [Master's thesis available online: <https://dspace.library.uvic.ca/bitstream/handle/1828/3341/Staging%20Morality.pdf?sequence=1&isAllowed=y>]. [Access: 30. 11. 2018].

<sup>14</sup> See D. 48, 19, 28, 1.

<sup>15</sup> Moreover, he had to do it with his own hands. See PS. 2, 26, 1; D. 48, 5, 23(22), 2; D. 48, 5, 24(23), 3; D. 48, 5, 24(23), 2; D. 48, 5, 23(22), 2.

<sup>16</sup> See D. 48, 5, 25(24), pr.; PS. 2, 26, 4. He also had to notify when and where he nailed the lovers. Moreover, he was obliged to divorce his wife. See D. 48, 5, 25(24), 1.

<sup>17</sup> To be precise, the man was deprived of the half of his estate and the woman of the one-third of the assets as well as of the half of her dowry. Cf PS. 2, 26, 14.

<sup>18</sup> Cf PS. 2, 26, 14.

Taking a closer look at the terminology that was used by Martial can provide us some interpretative guidance. In the content of the poem, the author included four terms: *raptus*, *raptor*, *rapina*, *rapta* that hold a very legal meaning. Although the words are derived from the same core,<sup>19</sup> depending on the context, they may have somewhat different legal significance. We can obviously assume that Martial could have found using some similarly sounding and synonymous, but still ambiguous terms simply linguistically attractive. However, although his poetry may seem somewhat obscene, one should have no doubts that Martial was a brilliant poet, who would not choose the words only because they fitted to the rhythmic structure of the verse. Moreover, one should take into account that Martial deliberately and voluntarily devoted himself to the poesy, thus giving up the paths guaranteeing him the potential financial and social success.<sup>20</sup> Maybe it is not widely known, but Martial was very well educated in the field of rhetoric and oratory and he was even encouraged by Quintilianus himself to follow the career path of an attorney.<sup>21</sup> Having said that, one can assume that the author of the epigram knew Roman law, at least to some extent. Therefore, the right question is if he wanted to make use of his knowledge.

The very highlighted Latin term *rapere* entails the act of violence. Here, Martial, by applying the terminology *raptus*, *rapina*, *raptor*, *rapta*, seems to expose the concept of *vis*.<sup>22</sup> The term is present both in the field of public and private law and whether in the form of physical or mental coercion, plays a huge role in legal argumentation.

Martial, then, evokes the concept of *rapina*, which was an aggravated form of theft directed against the interests of the individual. This civil law tort consisted in taking from another Roman citizen their personal property by force.<sup>23</sup> A person who committed the robbery was described as *raptor*. The meaning of the word, however, may vary according

<sup>19</sup> See *Dictionnaire étymologique de la langue latine: histoire des mots* par A. ERNOUT, A. MEILLET. Paris: Klincksieck, 2001, p. 564, s.v. *rapio*.

<sup>20</sup> Martial was quite aware of the lawyers' earnings (cf *Epigr.* I, 76; II, 30; IV, 46). Despite that, he decided to fulfil the onerous and not very lucrative duties of the client. *Sportula*, which was a client's daily income amounted to 25 asses (cf *Epigr.* I, 59; III, 7; IV, 68; VI, 88; X, 74; XI 24). Although Martial's epigrams are full of descriptions of his terrible financial situation, his material status was probably in a quite good condition. He was the owner of a small house (cf *Epigr.* VIII, 61; IX, 18; IX, 97; X, 58; XI, 1), of a suburban estate near Nomentum (cf *Epigr.* X, 18; VIII, 61) and even of some slaves (cf *Epigr.* I, 88; I, 101; II, 8; V, 34; V, 37; X, 61). He also became the beneficiary of the *ius trium liberorum*, granted to him probably as a reward for his work (cf *Epigr.* II, 91; II, 92). Moreover, he received from Domitian the title of a military tribune. Belonging to this class was interconnected with meeting the property requirement of 400 000 sesterces. See MORAWSKI, K. *Historja literatury rzymskiej za cesarstwa. Od Augusta do Hadrijana*. Kraków: Gebethner i Wolff, 1919, p. 172.

<sup>21</sup> See *Epigr.* II, 90.

<sup>22</sup> It is also worth noting that this terminology has found a permanent place in the Martial's epigrams. See LANG, J. *Index omnium vocabulorum quae in omnibus M. Val. Martialis poematum libris reperiuntur, uná cum rerum, epithetorum ac phrasium singularium annotatione, tam ad linguae latinae, quam ad poëseos rectum usum*. Argentina: Aere Lazari Zetneri, 1595, p. 179, s.v. *Rapacitatis dirae, rape, rapere, raperis, rapiat, rapiant, rapiantur, rapiet, rapiente, rapina, rapina levi, rapinae dirae, rapinam mollam, rapinas, rapini, rapit, rapta, rapta, raptis catulis, rapto, raptor Gaugeticus, raptore deferto, raptum, raptus, rapuisti, rapuit*.

<sup>23</sup> In such a situation the plaintiff was granted an action called *actio vi bonorum raptorum*, in which he claimed *quadruplum*, that is a quadruple value of the robbed property. Moreover, the *actio* entailed also the infamy. See I. 4, 2; D. 47, 8; C. 9, 34.

to the character of the act. The term *raptor* can be also understood as a “kidnapper”, a “ravisher” or even a “rapist”. Hence, it indicates an author of the act of *raptus*.<sup>24</sup>

Although, one can very easily associate the Latin term *raptus* with an English term “rape”, one has to state that the Romans perceived the *raptus* as an act of kidnapping or seduction, and not as an act of sexual violence. The rape itself was described as *stuprum per vim* or *cum vi*. *Raptus ad stuprum*, in turn, constituted an act of kidnapping in order to commit a sexual offence.<sup>25</sup>

*Raptus* became a *crimen publicum sui generis* quite late, during the reign of Constantine the Great, i.e. in the period 306–337 AD.<sup>26</sup> Unfortunately, due to the limited number of sources, their lack of explicitness and numerous similarities to other offences of sexual nature, it is difficult to characterize the *raptus* under the classical Roman law.

A little early, in the times of Roman Republic, the act was probably classified as a specific case of the tort *iniuria*, that is an outrage against the other person.<sup>27</sup> Obviously, if one takes into account the hierarchical structure on the Roman society, one can easily understand that it was not the damage of reputation of a woman that came into question, but of her father. The consequence of the act had to be, then, imposing a fine.

The only passage from the period of classical Roman law that explicitly mentions the act of *raptus mulieris* is the fragment of the fourteenth book of the *Institutiones* written by the jurist Elius Martianus,<sup>28</sup> whose professional activity falls on the beginning of the 3<sup>rd</sup> century AD. Raising not only the legal issues but also the problems of philosophical and rhetorical nature, the work arouses discussion and numerous uncertainties among the

<sup>24</sup> In order to make the problem of translation even more intricate, one should note that the words *raptus* and *rapina* may also be treated as synonyms. See *raptus*. In *Thesaurus linguae Latinae (TLL) Online* (n.d.). Berlin, Boston: De Gruyter. Available online: [https://www.degruyter.com/view/TLL/11-2/11\\_2\\_1\\_11\\_2\\_1\\_raptus\\_2\\_fv\\_19012013.xml](https://www.degruyter.com/view/TLL/11-2/11_2_1_11_2_1_raptus_2_fv_19012013.xml) [Retrieved 4. 12. 2018].

<sup>25</sup> See BOTTA, F. „*Per vim inferre*”. *Studi su stuprum violento e raptus nel diritto romano e bizantino*. Cagliari: Edizioni AV, 2004, pp. 81–95.

<sup>26</sup> About these regulations see WIEWIORSKI, J. Małżeństwo przez porwanie w antyku. Ustawa Konstantyna I (CTh. 9.24.1) w świetle psychologii ewolucyjnej. In: KALINOWSKI, Z. – PRÓCHNIAK, D. (eds.). *Bitwa przy Moście Mulwijskim. Konsekwencje*. Poznań: Wydawnictwo Poznańskiego Towarzystwa Przyjaciół Nauk, 2014, pp. 295–319; IDEM. Odpowiedzialność senatora, który uprowadził dziewicę (pannę) – uwagi na marginesie CTh 9.1. – C. 3.24.1. In: KOWALSKI, H. – KURYŁOWICZ, M. (eds.). *Contra leges et bonos mores: Przepięstwa obyczajowe w starożytnej Grecji i Rzymie*. Lublin: Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, 2005, pp. 367–377; IDEM. Porywanie kobiet jako zjawisko społeczne w późnym antyku. Moralność i prawo. In: BANASZKIEWICZ, J. – ILSKI, K. (eds.). *Homo, qui sentit. Ból i przyjemność w średniowiecznej kulturze Wschodu i Zachodu*. Poznań: Wydawnictwo Instytutu Historii UAM, 2013, pp. 197–219; DESANTI, L. Costantino, il ratto e il matrimonio riparatore. *Studia et Documenta Historiae et Iuris*, 1986, 52, pp. 195–217; GRODZYNSKI, D. Ravies et coupables. Un essai d’interprétation de la loi IX, 24, 1 du Code Théodosien. *Mélanges de l’école française de Rome*, 1984, 96.2, pp. 697–726. EVANS-GRUBBS, J. Abduction Marriage in Antiquity: A Law of Constantine (CTh. IX 24.1) and its Social Context. *The Journal of Roman Studies*, 1989, 79, pp. 59–83.

<sup>27</sup> Cf. QUERZOLI, S. La puella rapta: paradigmi retorici e apprendimento del diritto nelle Istituzioni di Elio Marciano. *Annali Online Lettere – Ferrara*, 2011, 1–2, pp. 157 et seq.; NGUYEN, N. L. Roman Rape: An Overview of Roman Rape Laws from the Republican Period to Justinian’s Reign. *Michigan Journal of Gender and Law*, 2006, 13.1, pp. 86–96 with cited literature; WIEWIORSKI, Porywanie kobiet, p. 199; KOCH, A. Ewolucja deliktu iniuria w prawie rzymskim epoki republikańskiej. *Czasopismo Prawno-Historyczne*, 1967, 19.2, pp. 51–74.

<sup>28</sup> For further description of the jurist and his work see DE GIOVANNI, L. La giurisprudenza severiana tra storia e diritto. *Le Institutiones di Elio Marciano. Athenaeum*, 2006, 94, pp. 487–506.

Romanists.<sup>29</sup> However, since the problem of *raptus mulieris* was not deliberated by the Roman jurists (or their opinions were not passed to us by the Justinian compilers), the lawyer must settle for the passage left by Martianus.

One finds the passage in the forty-eight book of the Digest of Justinian under the title *Ad legem Iuliam de vi publica*.<sup>30</sup> Hence, most of the researchers have no doubts that in the period of classical Roman law the act should be classified as *crimen vis*, and not as a typical *delictum*.<sup>31</sup> So, one should locate the problem in the sphere of public law. The passage is presented by the jurist as follows:

D. 48, 6, 5, 2 Martian. 14 *inst.*:

*Qui vacantem mulierem rapuit vel nuptam, ultimo supplicio punitur et, si pater iniuriam suam precibus exoratus remiserit, tamen extraneus sine quinquennii praescriptione reum postulare poterit, cum raptus crimen legis Iuliae de adulteris potestatem excedit.*<sup>32</sup>

The jurist describes *raptus* as an act committed by the one who abducted a woman indicated as the *mulier vacans*, that is a virgin, a widow or divorcee, or as the *nupta*, that is a married woman. The term *nupta* is usually considered to be an interpolation, the aim of which was to achieve accordance with subsequent legal regulations.<sup>33</sup>

A woman had to be abducted either from her father's house, the house of another male relative under whose authority she remained or, if one takes the mention about *nupta* as an authentic one, from her husband's house. It is, therefore, evident that the *raptus mulieris* was not aimed against the women, but against the *pater familias*. It was, then, the attack on the *potestas* that was penalised. Hence, any sexual act was unnecessary for the presence of *raptus*. Moreover, the *raptor* was the only one who was punished.<sup>34</sup> Thus, *raptus* should

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<sup>29</sup> Cf QUERZOLI, *op. cit.*, pp. 153–154.

<sup>30</sup> It should be noted that Otto Lenel in the *Palingenesia Iuris Civilis* located the passage among the sources referring to the *lex Iulia de vi privata*. See LENEL, O. *Palingenesia iuris civilis. Iuris consultorum reliquiae quae Justiniani Digestis continentur ceteraque juris prudentiae civilis fragmenta minora secundum auctores et libros*. Vol. I. Lipsiae: ex officina Bernhardi Tauchnitz, 1960, p. 1672. Maybe, then, already the Roman jurists had some problems with the legal qualification of the act. Cf SITEK, B. *Crimen rapti mulieris*. *Studia nad fragmentem Marcianusa 14 Inst. D. 48,6,5,2*. In: KOWALSKI, H. – KURYŁOWICZ, M. (eds.). *Contra leges et bonos mores: Przestępstwa obyczajowe w starożytnej Grecji i Rzymie*. Lublin: Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, 2005, p. 295.

<sup>31</sup> The discussion is scrupulously referred by S. Querzoli. See QUERZOLI, *op. cit.*, p. 154, fn. 11.

<sup>32</sup> “Anyone who has raped a single or married woman is punished by the extreme penalty, and even if the woman's father, moved by entreaties, forgives the injury done to him, yet a third party may still charge the guilty man outside the five-year limit, since the crime of rape exceeds the scope of the *lex Iulia* on adulterers.” – Trans. *The Digest of Justinian*. Vol. 4. Translation edited by A. Watson. Philadelphia: University of Pennsylvania Press, 1998, p. 330.

<sup>33</sup> See DESANTI, *op. cit.*, p. 208–209; BOTTA, *op. cit.*, p. 85–86. Serena Querzoli, on the other hand, thinks that it could have been Martianus who, taking into account the rhetoric discussions on the problem in question, made such a mention. See QUERZOLI, *op. cit.*, p. 156, fn. 18.

<sup>34</sup> The punishment for this offence was described by Martianus as *ultimum supplicium*. According to the rhetorical sources from the work of Seneca Rhetor entitled *Oratorum et rhetorum sententiae, divisiones, colores*, the execution proceeded as follows: the raptor was exposed on public display and then deprived of life by the professional executioner (see Seneca, *Contr.*, I 5.2; II 3.19; VII 8.1). *Ultimum supplicium* should be understood then as *poena mortis* (cf D. 48, 19, 21, pr.). It is, however, a different and more severe



be described as a unilateral offence, as the woman's will was in this case irrelevant.<sup>35</sup> In addition, regardless of whether she accepted the kidnapping or not, she could not be held responsible for the crime.

In the content of the epigram, however, there is such a strong emphasis on the love story that one should rather recurse to the statement that the legal classification of an act is not doubtful and that the lovers committed the adultery. Moreover, if one accepts the concept that term *nupta* is a post-classical interpolation, there can be no doubt that the *raptus mulieris* could not be the case. It is, therefore, impossible to classify the facts presented in the epigram either as the *raptus* or, which is even more evident, the *rapina*.

One should not think, however, that the use of these terms is the expression of Martial's *licentia poetica*. The applied terminology rather seems to be an intellectual challenge. It is obvious that *adulterium* resulted from its double, mutual nature since it required the involvement of both woman and man. Because the cooperation of the two is absolutely necessary,<sup>36</sup> it can be described as *crimen commune*. If, however, this act was related to the use of force, the perception of the whole situation had to change:

D. 48, 6, 3, 4 Martian. 14 *inst.*:

*Praeterea punitur huius legis [scil. Iuliae de vi publica] poena, qui puerum vel feminam vel quemquam per vim stupraverit.*<sup>37</sup>

D. 48, 5, 30(29), 9 Ulp. 4 *de adult.*:

*Eum autem, qui per vim stuprum intulit vel mari vel feminae, sine praefinitione huius temporis accusari posse dubium non est, cum eum publicam vim committere nulla dubitatio est.*<sup>38</sup>

D. 48, 5, 14(13), 7 Ulp. 2 *de adult.*:

(...) *ceterum quae vim patitur, non est in ea causa ut adulterii vel stupri damnetur.*<sup>39</sup>

D. 48, 5, 40, pr. Pap. 15 *resp.*:

*Vim passam mulierem sententia praesidis provinciae continebatur: in legem Iuliam de adulteriis non commisisse respondi, licet iniuriam suam protegendae pudicitiae causa confestim marito renuntiare prohibuit.*<sup>40</sup>

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punishment than those that were applicable under the Julian laws. Hence, some researchers perceive the term as an interpolation. Cf BOTTA, *op. cit.*, p. 83 et seq.

<sup>35</sup> Cf BOTTA, *op. cit.*, p. 81.

<sup>36</sup> See FERRINI, C. *Diritto penale romano. Teorie generali*. Milano: Hoepli, 1899, p. 107. See also BOTTA, *op. cit.*, pp. 38–42.

<sup>37</sup> “Furthermore, anyone who forcibly violates a boy or a woman or any other person is punished by the penalty of this statute [sc. *lex Iulia* on *vis publica*].” – Trans. *The Digest of Justinian*. Vol. 4, p. 330.

<sup>38</sup> “There is, however, no doubt that a person who has forcibly committed *stuprum* on either a male or a female can be accused without limit of time, since it is indubitable that he is committing *vis publica*.” – Trans. *The Digest of Justinian*. Vol. 4, p. 327.

<sup>39</sup> “If, however a woman is subject to violence, there are no grounds for her to be condemned for adultery or *stuprum*.” – Trans. *The Digest of Justinian*. Vol. 4, p. 322.

<sup>40</sup> “It was contained in a sentence [passed by] a provincial governor that a woman had suffered violence; I replied that she had not committed [an offence] against the *lex Iulia* on adulteries, although she forbade

According to the passages by Martianus and Ulpianus, the use of force resulted in punishing the crime not under the *lex Iulia de adulteriis* but under the *lex Iulia de vi publica*. Hence, the crime was not perceived as the adultery anymore, and could have been classified as *crimen de vi*.<sup>41</sup> This means that such an act and *raptus* were seen as similar in their nature since both, as containing the element of violence, were punished under the same law. This is, therefore, perfectly logical that both Papinianus and Ulpianus claim that the woman who was subject to violence was released from legal responsibility. The use of force entailed a change of category from a bilateral crime to a unilateral crime.<sup>42</sup>

So, it was necessary to consider if in a particular situation the carnal violence was the case. As a matter of fact, such questions was to interest not only to the jurists but also to citizens in general, which can be observed in numerous examples derived from the Roman declamation. Here, however, the prevailing opinion about the women was that they were rather pleasure-prone.<sup>43</sup> It would not be an exaggeration to say that woman's will to participate in the sexual act was rather implicit in the view of the Roman declaimers. Their opinion can be probably referred to as the view of the whole society. Hence, it might have been quite a challenge to convince the general public about the innocence of the women in such a case.

Especially if one takes into account that the women were under the obligation to prevent the seduction. Consequently, if they did not take the suitable precautions, they could have been perceived as unfaithful and could be held responsible for the adultery. The catalogue of these proper measures was not clearly defined since there was a real area of controversy in this field.<sup>44</sup> Passages from the work of Seneca the Elder, entitled *Oratorum et rhetorum sententiae, divisiones, colores*,<sup>45</sup> which is the collection of the finest speeches from the turn of the first century BC and first century AD can shed some light on this question:

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her injury to be reported immediately to her husband, for the sake of protecting her modesty.” – Trans. *The Digest of Justinian*. Vol. 4, p. 329.

<sup>41</sup> Broader discussion in this field is offered by BOTTA, *op. cit.*, pp. 38–42.

<sup>42</sup> Cf LAMBERTINI, R. Stuprum violento e ratto. *Index. Quaderni camerti di studi romanistici*, 2008, 36, pp. 506 et seq.

<sup>43</sup> Citing the famous passage I 673–674 of Ovidian *Ars Amatoria* should be sufficient to prove this thesis: *vim licet appelles: grata est vis ista puellis;/ quod iuvat, invitae saepe dedisse volunt*. (“You may use force; women like you to use it; they often wish to give unwillingly what they like to give.” – OVID. *Art of Love. Cosmetics. Remedies for Love. Ibis. Walnut-tree. Sea Fishing. Consolation*. Translated by J. H. Mozley. Revised by G. P. Goold. Loeb Classical Library 232. Cambridge – Massachusetts – London: Harvard University Press, 1929, p. 59).

<sup>44</sup> Graziana Brescia offers an excellent article about the rhetorical discussion in this field. See BRESCIA, G. Ambiguous silence: stuprum and pudicitia in Latin Declamation. In: AMATO, E. – CITTI, F. – HUELSENBECK, B. (eds.). *Law and Ethics in Greek and Roman Declamation*. Berlin – Munich – Boston: De Gruyter, 2015, pp. 75–94.

<sup>45</sup> Excellent monographs about the author and his work are offered, among others, by Janet Fairweather and Emanuele Berti. See FAIRWEATHER, J. *Seneca the Elder*. Cambridge: Cambridge University Press, 1981, reprint 2007; BERTI, E. *Scholasticorum studia. Seneca il Vecchio e la cultura retorica e letteraria della prima età imperiale*. Pisa: Giardini, 2007.

Sen. *Contr.* 2.7:<sup>46</sup>

*Quidam, cum haberet formonsam uxorem, peregre profectus est. In viciniam mulieris peregrinus mercator commigravit; ter illam appellavit de stupro adiectis pretiis; negavit illa. Decessit mercator; testamento heredem omnibus bonis reliquit formonsam et adiecit elogium: 'pudicam repperi'. Adii hereditatem. Redit maritus, accusat adulterii ex suspicione.*<sup>47</sup>

The woman, who was also the wife of a man who went abroad, rebuffed the three-time advances<sup>48</sup> of another man – the merchant. She, however, limited herself to the simple denial (*negavit illa*). What is more, the merchant did not hold a grudge and, before his death, instituted her as heir. He was probably aware of the fact leaving an estate to the woman, who was neither his relative nor his wife, might raise some suspicions about her conduct, so he confirmed in the content of the testament that there was no sexual relationship between them (*pudicam repperi*). This was, however, not enough for her husband, who suspected that his wife committed adultery.

If one wonders what the woman should have done to look completely innocent in this situation, the declaimers are around to impart a little wisdom:

Sen. *Contr.* 2.7.5:

*Abunde te in argumentum pudicitiae profecturam putas si stuprum tantum negaveris, quod plerumque etiam impudicissima, spe uberioris praemi, de industria simulat?*<sup>49</sup>

Sen. *Contr.* 2.7.6:

*Quod proximum est a promittente, rogata stuprum tacet.*<sup>50</sup>

This is clear that social expectations were generally very stringent. No reaction and silence in response to the advances or even a simple rejection of them could risk in being perceived as giving a tacit consent and called into question the *pudicitia*, marital fidelity.

<sup>46</sup> Further analysis of this *controversia* is offered by Lydia SPIELBERG. See *Non contenti exemplis saeculi vestri: Intertextuality and the Declamatory Tradition in Calpurnius Flaccus*. In: DINTER, M. T. – GUÉRIN, Ch. – MARTINHO, M. (eds.). *Reading Roman Declamation–Calpurnius Flaccus*. Berlin: Walter de Gruyter GmbH, 2017, p. 67 et seq. See also BRESCIA, *op. cit.*, p. 76 et seq.

<sup>47</sup> “A man with a beautiful wife went off abroad. A foreign trader moved into the woman’s neighborhood. He three times made her propositions of a sexual nature, offering sums of money. She said no. The trader died, leaving her all his wealth in his will, to which he added the clause: ‘I found her chaste.’ She took the bequest. The husband returned and accuses her of adultery on suspicion.” – Trans. SENECA THE ELDER. *Declamations, Volume 1: Controversiae, Books 1–6*. With an English translation by M. Winterbottom. Loeb Classical Library 463. Cambridge – Massachusetts – London: Harvard University Press, 1974, p. 363.

<sup>48</sup> Since the woman was married, obviously the term *stuprum* is not accurate. Cf D. 48, 5, 35 (34), 1 Mod. 1 reg.: *Adulterium in nupta admittitur: stuprum in vidua vel virgine vel puero committitur*: (“Adultery is committed with a married woman; *stuprum* is committed with a widow, a virgin, or a boy.” – Trans. *The Digest of Justinian*. Vol. 4, p. 328). This kind of lack of terminological and technical precision is present also in other declamatory speeches. From the content of the *controversia* one can understand that this is the problem of *adulterium* and not of *stuprum* that is raised in this case.

<sup>49</sup> “You think you’ll prove your chastity quite sufficiently if you merely say no to sex – a refusal that often even the most shameless woman purposely feigns in the hope of a fatter price?” – Trans. SENECA THE ELDER. *Declamations, Volume 1: Controversiae, Books 1–6*, p. 369.

<sup>50</sup> “Asked for sex, she keeps silent – the next thing to promising it.” – Trans. SENECA THE ELDER. *Declamations, Volume 1: Controversiae, Books 1–6*, p. 369.

Therefore, one can assume that it was a strong and a clear refusal that was socially desirable.

So, Martial, having a rhetorical background and being aware of the strict social requirements for the women, just in case seems to go a step further. He somewhat evokes the division<sup>51</sup> between *vis privata* and *vis publica* – the first one represented by *rapina*, the second one by *raptus*, and puts emphasis on the element of violence. Then, by using numerous repetitions, creates in the mind of the reader the impression that Sempronia was forced to leave her husband. That the act she committed was not completely independent from external factors. That what she did was not done by her own will. He seems to pose the question if Sempronia was *adultera* or *pudica*, but, in fact, he does not leave any space for his public to think. Instead of that, he immediately convinces the reader that the woman was modest, chaste and faithful. The poet suggests with premeditation an incorrect legal classification, trying to achieve the result of a complete lack of Sempronia's legal responsibility. In other words, Martial deliberately suggests that the unlawful act really took the form of a *raptus* – a unilateral crime entailing the sole legal responsibility of Sempronia's lover.

Hence, it is impossible to resist the impression that all these praises appearing in the content of the epigram are not a pure delight, but rather a justification of women's behaviour. Suddenly, the poem appears to be a very rhetorical one. Numerous repetitions convince the audience to accept the different legal categorisation.

The comparisons seem to aim at gaining some sympathy for Sempronia. It was a common practice for the rhetoricians to give examples of various historical and mythological figures in order to illustrate certain features, values or personality types. This canon, in the view of the rhetorical background that Martial gained, was not foreign to the poet and he decided to express it in his works more than once.<sup>52</sup> He also introduced the mythological figures into the content of sepulchral epigrams many times.<sup>53</sup>

Helen represents the rhetorical *exemplum* of an unfaithful woman.<sup>54</sup> The one who betrayed her husband and did not return to him even when he followed her. Her misconduct brought a catastrophe to the entire Ancient world of those times. It is hard to find a more striking example of adultery. Martial decided to compare both characters with each other. Such comparisons were not unknown to his work. The poet very often put the character of a god or a hero next to the character of a human being. What is more, he usually came to the conclusion that it was the latter who outweighed the former, concerning either the advantages or the disadvantages.<sup>55</sup>

Such conclusions were also included in the content of the analysed epigram. Sempronia is a better woman and wife than Helena because she abandoned her lover and seducer. In

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<sup>51</sup> D. 50, 17, 152, pr. Ulp. 69 *ad ed.*: *Hoc iure utimur, ut quidquid omnino per vim fiat, aut in vis publicae aut in vis privatae crimen incidat.* ("This is the law that we follow, namely, that anything done by force provokes a charge of public or private force." – Trans. *The Digest of Justinian*. Vol. 4, p. 479).

<sup>52</sup> An excellent analysis offers SZELEST, *op. cit.*, p. 228–229.

<sup>53</sup> Cf *Epigr.* VI, 29; VI, 68; IX, 76; IX, 86; X, 50; X, 53; XI, 69.

<sup>54</sup> Martial refers to this example also in the epigram I, 62.5–6: *incidit in flammis: iuvenemque secuta relicto / Coniuge Penelope venit, abijt Helene* ("she fell into the furnace and left her husband for a younger man. Arriving Penelope, she departed Helen" – Trans. MARTIAL, *Epigrams, Volume I: Spectacles. Books 1–5*. Edited and translated by D. R. Shackleton Bailey. Loeb Classical Library 94. Cambridge – Massachusetts – London: Harvard University Press, 1993, p. 85).

<sup>55</sup> Cf *Epigr.* VI, 77; VII, 69; VIII, 46; VIII, 59; VIII, 69; IX, 51; IX 65.

this context, thanks to the comparison to the romance that became the cause of the Trojan War, the story of Sempronia seems to be a child's play. Even Menelaus, who should personally interpret such a disloyalty, laughs and nonchalantly absolves Sempronia from her temporary weakness (*ridet, et Iliacos audit Menelaus amores*). What's more, the woman's loyalty turns out to have a great motive power. Thanks to the fact that she returned to her husband, all the faults of Paris are forgiven (*absolvit Phrygium vestra rapina Parim*).<sup>56</sup>

In turn, the presentation of the history of Proserpine seems to have a different aim. Demeter's daughter was kidnapped by Pluto. The act was committed not only under her protest, but also against her mother's will. When Pluto was ordered to return the daughter to her mother, he offered Proserpine six pomegranate seeds. Since it was the food from the world of the dead, she could not be allowed to freely return to the world of the living and had to stay in the underground world for six months. The myth does not mention that Proserpine was seduced by Pluto. She was indeed forced to become the wife of the kidnapper, which was a result of the deception he used.

All events took place against her will and in violation of her needs. Therefore, the goddess favours all the women who were kidnapped (*non aliena videt, sed amat Proserpina raptas*). What is more, the poet is sure that after her death Sempronia will become the favourite of the Lady of the underworld (*iste tibi dominam conciliabit amor*). Thus, Martial creates the impression that the story of Sempronia is much closer to the rape of Proserpine than to Helen's betrayal. The faithfulness she showed to her husband has already earned for her all the possible favours. She even does not have to be afraid of the condemnation of the dead. They impatiently await her in the Elysian Fields (*accipient olim quum te loca*

<sup>56</sup> If one lacks Martial's irony, they can try to track it down in this couplet. A careful reading might help to figure out a hidden wordplay. The term "*iliacus*" might obviously mean "Ilian", "related to Ilium", "Troian", but it also means "colicky" or "related to the colic". As causing abdominal pain, the romance does not seem that lovely anymore. See *iliacus*. In *Thesaurus linguae Latinae (TLL) Online*. n.d. Berlin, Boston: De Gruyter. Available online: [https://www.degruyter.com/view/TLL/7-1-03/7\\_1\\_3\\_iliacus\\_v2007.xml](https://www.degruyter.com/view/TLL/7-1-03/7_1_3_iliacus_v2007.xml). [Retrieved 26. 11. 2018]. A similar pun one can observe in the subsequent line, although it is not as obvious as the previous one. The word "*rāpīna*", as it was said before, means an act of robbery. The word "*rāpīna*", in turn, indicates a turnip or a turnip-field. The vegetable does not represent a clear symbolic meaning. Yet, one should take into account that it was, in general, the food of the lower and poorer class. In such a light the story of Rufus and Sempronia does not seem either special or extraordinary. More information about the turnip in the Antiquity are brought by BROTHWELL, D. – BROTHWELL, P. *Food in Antiquity. A survey on the diet of early peoples. Expanded edition*. Baltimore and London: The Johns Hopkins University Press, 1998, pp. 110–111. The differing vowel lengths might raise some objections. However, one cannot deny that it is also possible to solve this verse according to the form of the dactylic-spondaic hexameter:

absol|vit Phrygi|um || ves|tra ra|pina| Parim  
+ - |+ u u|+ || -|+ -|+ -| + x

or the iambic senarius:

absol|vit Phrygi|um || ves|tra ra|pina| Parim  
- +|- u u|- || + |x +|x +| u x

Applying any of these meters would actually result in keeping both of the vowels long. Obviously, this is just a secondary remark, showing the beauty but also the intricacy of the Latin language.

*laeta piorum*), and already perceive her as a noble person (*non erit in Stygia notior umbra domo*). All her faults have already been forgiven.

Taking the above remarks into account, the purpose of the *Epigram XII, 52* is clear. The use of rhetorical figures in the form of comparisons and repetitions enabled the poet to present the Sempronia's story in the different light that could result in absolution in the eyes of society. An interesting way to achieve this goal is to transfer the recipient to the world of the dead, where nobody attaches any importance to the temporary weakness of the woman, and where everyone praises the loyalty that she finally showed to her husband. Sempronia's actions remain in complete opposition to the actions of the Helen of Troy and this is why her behaviour deserves forgiveness. After all, everything returned to its previous condition.

The analysis of the epigram written by Marcus Valerius Martialis proved to be an interesting challenge. Simple, as it might seem, sepulchral epigram, thanks to the more detailed philological analysis, unveiled the artistry and education, as well as the ingenuity of the poet. The combination of his literary abilities, rhetorical figures and at least some basic legal knowledge resulted in a puzzle which, hopefully, was solved in this article.

At this moment, it is quite difficult to say how well Martial knew Roman law. However, the content of his work suggests that probably pretty good. He was bold enough to propose to his audience the different classification of the act, both in the social and in the legal sphere. From the act of adultery, he created the act of kidnapping. By citing all the above arguments of force, he creates the force of his own argument. The average reader would intuitively understand the voluntariness of the adultery and the violence accompanying the abduction. In turn, the reader who knows the principles of Roman law a bit better will be additionally aware of the responsibility of the kidnapper and the possible legal discussion behind the story. Martial, by transforming *adulterium* into *raptus*, exposed the blame of the lover. He created the impression that the man was the only one deserved to be punished. Consequently, the will of Sempronia and her disloyalty should be, in this case, irrelevant and the whole act should remain unpunished.

We do not know if Sempronia and Rufus were real figures. So, is impossible to state whether Martial acted heroically, by defending the wife tormented by the society, or just included in the content of the poem a hidden wit. However, without any doubt, one may state that the poet was aware of the fact that the power of rhetoric, especially connected with the precise legal argumentation, might allow presenting the same stories from the several points of view and create in our minds completely different images of the same situation.

An attentive reader should not believe in coincidental repetitions. Hence, I believe that more careful analyses can reveal the interesting legal traces that, although sometimes lacking some technical and juridical precision, might also help to see the bigger picture of the legal awareness of the society of ancient Rome.

If the interpretation of the *Epigram XII, 52* is correct and one could perceive the poem as a speech in defence of Sempronia, there is nothing more to say with the exception of stating that Martial was devoted to the same activities as Rufus was. Of course, the poet would take them in the reverse configuration, as giving priority to the poetry and only incidentally dealing with rhetoric in the legal context. However, in the light of the analysed epigram, one should have no doubts that the effects of his work would have been equally impressive in the field of poetry and in a real lawsuit.