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Aemilia Lepida and the *imago* of Pompey.

Female agency and the negotiation of public space in early imperial Rome

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Introduction

In 20 CE, Aemilia Lepida was faced with serious accusations, including adultery and fraud (*falsum*), and brought to trial.¹ It was her ex-husband, P. Sulpicius Quirinius, former consul and friend of Tiberius, who pressed charges against her.² Lepida was tried before the Senate. In the early principate it had emerged as a court for cases involving members of the senatorial elite, i.e. the Senate became responsible for trying its own.³ When

1 — Research funded by the Swedish Research Council, 2017-03271. Many thanks are owed to Penelope Davies, Lewis Webb and Ida Östenberg for discussing the paper with me. I am also grateful to the anonymous reviewers for their suggestions and comments. Lepida's case is narrated by Tac. *Ann.* 3.22–24, 3.48.2 and Suet. *Tib.* 49.1. The main scholarship is Rogers 1935: 51–57; Townend 1962: 484–493; Shotter 1966; Garnsey 1970: 29; Seager 1972: 155–156; Bauman 1974: 65, 173–175; Hallett 1984: 323, 330, tables V and VI; Talbert 1984: 203–204, 211–213, 467; Syme 1986: 112, 115, 181, 224, 262–263, 265; Marshall 1990: 343, case no. 4; Woodman & Martin 1996: 209–223; 59, 61, 91, 186; Deline 2009 no. 3.

2 — Quirinius: *PIR*² S 1018.

3 — Jones 1972: 91–92; Talbert 1984: 460–487. See also Tuori 2016 for the emperor as judge.

the court recessed for a holiday, Lepida rallied support by referring to her Pompeian ancestry, choosing as her venue the theatre built by her great-grandfather Pompey himself. Accompanied by a group of fellow elite women (*clarae feminae*), Lepida entered the theatre and invoked the *imagines* of her great ancestor with tearful lamentations.⁴ Based on a close reading of Tacitus' *Annales* 3.22, I will focus on his descriptions of the strategies Lepida adopted and discuss how she used her connection to Pompey to support her case and demonstrate how the physical setting of her appeal to the people contributed to its meaning and how she in essence was asking for a trial by the public opinion. It will demonstrate how women could use their agency in negotiating public space, with a sensitivity to social conventions of the Roman imperial elite, and hopefully contribute to our understanding of gendered politics and public spaces of early imperial Rome.

It should be noted that, despite the aforementioned strategies, Lepida ultimately failed. When the Senate reconvened after the *ludi* she was convicted and sent into exile. However, Lepida's failure does not make it less interesting to study her, essentially republican, strategies, to reveal what she thought might find traction in a formative phase of the principate and of senatorial jurisdiction.

The primary source for Lepida's trial is Tacitus's third book of the *Annales*. Two other cases in book two and three are particularly relevant to our understanding of his narrative of this trial. The first concerns Drusus Libo who in 16 CE was accused of having plotted to murder Tiberius, his heirs Germanicus and Drusus the Younger, as well as several senators.⁵ Tacitus' description of his case and that of Lepida are conspicuously similar but this similarity has not been explored to its full potential in scholarship. Like Lepida, Drusus Libo was related to Pompey on his maternal side. The Senate investigated the accusations against Drusus Libo during the *ludi Romani* (4–19 September), possibly the same games wherein Lepida appealed to the people.⁶ Tacitus reports that Drusus Libo was accused of

4 — *Imago* is derived from the root meaning 'imitation' and can signify either pictures and statues or ancestral images. It can also be extended to signify a ghost or a phantom and in rhetoric a figurative representation. See *OLD* sv. *imago* and Percy 1973: 84 with references.

5 Tacitus provides the most substantial account in *Ann.* 2.27–32, but the case of Drusus Libo is also commented upon by Velleius (2.130.3), Seneca the Younger (*Ep.Mor.* 70.10), Suetonius (*Tib.* 25), and Cass. Dio (57.15). For recent scholarship on Drusus Libo see Pettinger 2012, who mentions Lepida only in passing (21–22).

6 — Drusus Libo's conviction is recorded in the *Fasti Amiternini* (*CIL* 1² 244). According to Tacitus, Lepida's trial was interrupted by unspecified *ludi*. The *ludi Romani* in September would correspond with Tacitus's narrative of the year. Woodman and Martin (1996: 218) suggest that, besides the *ludi Romani*, it would be possible that Tacitus is referring to the *ludi Megaleses* of 4–10 April, as he does not always follow the chronological order of events within a year.

magic and *maiestas*, similar charges that Lepida would later face.⁷ When he was informed of the charges, he sought the support of elite women (*primores feminae*), similar to how Lepida surrounded herself with *clarae feminae*. In both cases the slaves of the defendants were interrogated. Unlike Lepida however, Drusus Libo chose to commit suicide before the verdict. Public acts of thanksgiving were performed after his death, and September 13 was to be observed as a festival thereafter.⁸ As a consequence of the trial proceedings against Drusus Libo a decree was passed expelling magicians and occult practitioners from Italy.⁹ The ban was not fully obeyed as the charges against Lepida would demonstrate, but from the case of Drusus Libo onwards consultations about the future and wellbeing of the imperial family would be considered *maiestas*.¹⁰

The second case of importance concerns the death of Germanicus in 19 CE and the trial of Piso the year after. Tacitus draws a vivid picture of how Agrippina arrived in Italy with her husband's ashes early in 20 CE and was received by large crowds all the way from Brundisium to Rome. Germanicus's death and the whispers that Tiberius and Livia had been involved stirred up popular anger in Rome, and feelings ran high on the streets. Piso was tried before the Senate later the same year. Assured by Livia that their friendship would spare her, Piso's wife Plancina distanced herself from her husband while Piso withdrew his defense and committed suicide after the second day of the hearing.¹¹ It was later the same year, in a time of popular unrest and tense emotions, that Lepida entered the public stage and appealed to the people.

7 — *Maiestas* (noun to the adjective *maius*) generally means a superior power or a dignity to be respected, particularly 1) the sacredness of a deity (Cic. *Div.* 1.82), 2) the extensive right of control (*patria potestas*) of the male head of the family (*pater familias*) towards his relatives and slaves (Liv. 4.45.8; Val. Max. 7.7.5) 3) the majesty of the Roman people (Cic. *Balb.* 35; *Dig.* 48.4.1.1) and its highest offices (Cic. *Vatin.* 22; *Dig.* 2.1.9) and decision-making organs (Val. Max. 1.8.1; 9.5.1) and later of the emperor (*Dig.* 48.4.7.3; *Cod. Inst.* 9.8.6). Violating the *maiestas* was considered a serious criminal offence. The charge of *maiestas minuta populi Romani*, 'the diminution of the majesty of the Roman people,' was first introduced by Appuleius Saturninus' *lex Appuleia*, issued around 100 BCE and later revised by Sulla and Caesar. The scope of the law changed with the introduction of the Principate and conspiracies against the *princeps* came naturally under it, but it also gradually embraced actions such as casting the emperor's horoscope, threatening his position, person and family with defamation, adultery with women of the imperial family, and conspiracy to assassinate. For an overview of *maiestas* and the crime of *maiestas* see Levi 1969 and, more recently, Williamson 2016.

8 — Tac. *Ann.* 2.32.1 with Pettinger 2012: 7.

9 — Tac. *Ann.* 2.32.

10 — See Pettinger 2012: 20 with references together with van der Lans 2015: 57–58. For the trial proceedings see e.g. Damon 1999; Masi Doria 2020.

11 — *SCPP* 432–435. The friendship between Livia and Plancina is confirmed by Tacitus (*Ann.* 2.43.5).

Femina generosissima

Aemilia Lepida is characterized by Suetonius as *generosissima femina*, a woman of the most noble birth.¹² She was the great-granddaughter of both Sulla and Pompey, and her brother was Manius Aemilius Lepidus, a consul of 11 CE and father-in-law of the future emperor Galba.¹³ The Aemilii Lepidi were one of the most prominent families of the early Principate, and the male family members held several consulships and provincial governorships.¹⁴ Lepida had been betrothed to Lucius Caesar, showing that the women of the family were considered worthy of marriage to Augustus' own heirs. Following the young *princeps*' sudden death in 2 CE, she married P. Sulpicius Quirinius (*cos.* 12 BCE) in 3 or 4 CE. Lepida was still a teenager, Quirinius in his mid-fifties.¹⁵ They would eventually divorce, and Lepida would later marry Mamercus Aemilius Scaurus (*cos.* 21 CE), with whom she had a daughter.¹⁶ Then, in 20 CE, Quirinius decided to press charges against his ex-wife. According to Tacitus :

(...) *defertur simulavisse partum ex P. Quirinio divite atque orbo. Adiciebantur adulteria, venena quaesitumque per Chaldaeos in domum Caesaris.*¹⁷

(...) she was accused of falsely claiming to have borne a child fathered by the rich and childless Publius Quirinius. Further charges were added : adultery, poisoning, and consulting astrologers about the Caesarian house.¹⁸

It is not my intention to try to sort out the intricacies of the trial. Lepida could either have been accused of having acquired a child whom she presented to Quirinius as their offspring, or of having conceived a child by another man and credited Quirinius with the paternity. That charge might well be connected with the accusation of poisoning – Lepida is presumably suspected of attempting to poison Quirinius and then getting the unborn

12 — Suet. *Tib.* 49.

13 — *PIR*² A 371. See also Townend 1962: 486 and Syme 1986: 261–262 with stemma 16.

14 — For the Aemilii Lepidi see Hayne 1973; Allely 2004: 15–29.

15 — Townend (1962: 486) argues that since Lucius Caesar died in August 2 CE and Quirinius went to the East in that year, Lepida could hardly have married him until the following year. Lucius Caesar was born in 17 BCE and if Lepida was about his age or younger, she would have been in her late teens when she married Quirinius. Townend calculates Quirinius' age based on his consulship in 12 BCE and estimates that he did not hold it earlier than the statutory age of 42 years, thus making him about 56 years old at the time of his marriage to Lepida.

16 — *PIR*² A 404.

17 — Tac. *Ann.* 3.22. Cf. Suet. *Tib.* 49.1 who only records the charge of poisonings. The translation by Yardley 2008 has been slightly reformatted.

18 — For the charges see Rogers 1935: 51–54; Townend 1962: 486–488; Woodman & Martin 1996: 212–215; Woodman 2004: 93 n. 49; Deline 2009: 52–57.

child to inherit.¹⁹ The last accusation, that of having consulted astrologers regarding the emperor's household, could potentially pose a serious threat to Lepida, as it had been considered a treasonous offence (*maiestas*) since Drusus Libo's trial four years earlier.²⁰ As suggested by Townend, Quirinius might have thrown in the accusation of treason to add an up-to-date item to the indictment as both the adultery and the poisonings had taken place some years ago.²¹ Furthermore, with Drusus Libo's alleged involvement with soothsayers still fresh in people's minds, the accusation would perhaps have been a way for Quirinius to ensure a trial before the emperor.

The trial commenced with a request from Tiberius that the Senate should not deal with the charges of treason.²² Then, Tacitus tells us, Tiberius lured the former consul, Marcus Servilius, with a number of other witnesses, into giving evidence about that very charge.²³ Why did the emperor act in this way, when he had already waived indictment for treason (*maiestas*)? Why have an ex-consul, probably not without embarrassment, provide information about a dismissed charge? Was it merely a way for Tacitus to criticize Tiberius' management of the trial, stir up emotions in his readers and evoke sympathy for the defendant? Or was Tiberius rather reversing course, trying to avoid acting like an autocrat by quashing the *maiestas* charge?²⁴ Perhaps the *princeps* wanted to avoid swaying the emotions of the people with yet another treason trial. Whatever the explanation, what followed posed a new threat to Lepida, as her slaves were transferred from military custody (most likely that of the praetorian cohorts) to the custody of the consuls for interrogation.²⁵ The testimony of slaves against their owners was used only in cases of adultery and *maiestas*, and they could be tortured to provide evidence against their masters.²⁶ If treason was not considered, the most pressing charge was that of adultery. With her slaves still in custody, the court recessed for a holiday. Lepida, like most defendants of her status, was not imprisoned during her trial but

19 — For Roman inheritance law in such cases see Thomas 2007.

20 — See Tac. *Ann.* 2.27.2; 2.32.5 with Shotter 1966: 313 and Pettinger 2012: 20.

21 — Townend 1962: 488. The *lex Iulia de adulteriis coercendis* of 18 BCE established adultery as a distinct criminal offence. Once it was considered a public crime, several women were publicly prosecuted because of their (alleged) sexual and moral behaviour. For the provisions of the *lex Iulia de adulteriis* see Dig. 48.5. For discussion see Mommsen 1899: 688–699; Corbett 1930: 127–146; Garnsey 1970: 21–24; Thomas 1970: 637–644; Raditsa 1980: 296–297; Fantham 1991: 267–291; Treggiari 1991: 277–298; Treggiari 1996: 890–892.

22 — Tac. *Ann.* 3.22.

23 — Tac. *Ann.* 3.22.

24 — For this view see Shotter 1966: 313–314.

25 — Tac. *Ann.* 3.22. See Cass. Dio 57.19.6 for how the Praetorians had been grouped into a single camp this same year.

26 — Dig. 48.18.5 (Marcian); 48.18.6 (Papinian); 48.18.8.1 (Paul); 48.18.10.1 (Arcadius Charisius); 48.18.17 (Papinian).

rather was free to move around the city, which she took advantage of when she headed for the theatre of Pompey to appeal to the people :

*Lepida ludorum diebus qui cognitionem intervenerant theatrum cum claris feminis ingressa, lamentatione flebili maiores suos ciens ipsumque Pompeium, cuius ea monumenta et adstantes imagines visebantur, tantum misericordiae permovit ut effusi in lacrimas saeva et detestanda Quirinio clamarent, cuius senectae atque orbitati et obscurissimae domui destinata quondam uxor L. Caesari ac divo Augusto nurus dederetur.*²⁷

The games had interrupted the trial, and during that time Lepida went into the theatre in the company of high-ranking women. There, with tearful lamentations, she called upon her ancestors and on Pompey himself, whose monument that building was, and whose statues stood in full view, and such was the compassion she evoked that the audience burst into tears and shouted savage and abominable insults against Quirinius. A woman once destined to be Lucius Caesar's wife and the deified Augustus' daughter-in-law, they said, was being sacrificed to an old and childless man from the most obscure family.

Invoking Pompey

The Roman theatre was a highly political space. It was open for all : men and women, citizens and non-citizens. Seating was arranged by social rank, with the senators and imperial family seated at the front, followed by the *equites* (the order of knights).²⁸ People did voice their opinions directly to their leaders during games and performances and in response to the drama on stage.²⁹ The theatre as political space for both men and women was reaching an apex in the late Republic – precisely around the time of the construction of the theater of Pompey – which comes to the fore e.g. in the case of the Vestal Licinia. She supported her close relative L. Licinius Murena when he ran for the consulship of 62 BC by giving up her privileged seating to him at the *ludi*.³⁰ Licinia's gesture lent the prestige of her priesthood to Murena, and by campaigning for him at the *ludi*, she could reach a large crowd. As noted by Meghan DiLuzio, if the vestals sat together, as they did during the principate, then the sight of a man seated among them must have been striking.³¹ Another illustrative example, and a parallel to Lepida's performance, took place during the Triumviral period

27 — Tac. *Ann.* 3.22. The translation by Yardley 2008 has been slightly adjusted.

28 — See Rawson 1987.

29 — For a recent discussion on the theatre as a political space see Edmondson 2020.

30 — Cic. *Mur.* 73. For Licinia see Rüpke 2008: 765, no. 2218. For this episode see Bauman 1985: 15–27; 1992: 63; DiLuzio 2016: 231–232; Webb 2022.

31 — DiLuzio 2016: 231.

and is narrated by Dio. He relates how a women named Tanusia hid her proscribed husband T. Vinius in a chest at the house of a freedman, hoping that everyone would assume that he had already been killed.³² During a public festival held at a theatre, Tanusia arranged through the complicity of Octavia that Octavian alone of the Triumvirs would enter the festival where she confronted Octavian with the chest from which her husband emerged. Octavian chose not to punish either of them, but instead release them all and reward the freedman with equestrian status. Dio's intention is likely to stress Octavian's clemency, but the episode also highlights how the theatre was an important arena for political expression and how the crowd could serve as protection.

When the republican political institutions began to wither, the theatre became even more important as a place for the expression of public opinion.³³ During the early empire, theatres became a place where the emperor, legates, and senators made announcements, performed religious sacrifices, and acted as benefactors. It was a venue in which the people could interact with the emperor and make requests to which he was morally obliged to reply, if not approve.³⁴ For example, the year before the trial of Lepida, in 19 CE, Tiberius had agreed to fix prices after a popular protest against the cost of corn.³⁵ For Lepida, who wanted to rally support and whip up indignation against Quirinius and Tiberius, the theatre was a good choice. Tacitus does not frame her actions at the theatre as disruption or mob activity, nor does he stress that they were outside what was considered *decora feminis* (proper behaviour for women).

The specific venue Lepida chose for her appeal was the theatre of Pompey. It was built as a victory monument following Pompey's triple triumph in 61 BCE and was Rome's first permanent theatre.³⁶ It was completed in 55 BCE and later restored by Augustus.³⁷ The theatre was imbued with Pompey's presence, which Lepida exploited in her appeal. Tacitus tells us how she invoked her ancestors and Pompey himself, whose monument that building was, and whose statues or portraits (*imagines*) stood in full view. Tacitus's use of the word *imago* is crucial, and a key to understanding the scene he describes. It is the technical term for the

32 — Dio 47.7.4-5. Appian (4.44.187) and Suetonius (*Aug.* 27.2) relate the same story but omit Tanusia. For scholarship on Tanusia see Gowing 1992; Sumi 2004.

33 — Russell (2021: 30) has put forward how spectacle and spectatorship came to define the experience of citizenship during the imperial period, as had political meetings in the Forum during the republic. See also Bartsch 1994: 71-97.

34 — Cameron 1976: 162-164; Angius 2020: 53-59.

35 — Tac. *Ann.* 2.87.

36 — Gros 1999b; Davies 2017: 229-236; *Forma Urbis* fragments 39a-c.

37 — *RGDA* 20.1 (Restoration by Augustus).

ceremonial wax ancestor masks that were kept in the atria of elite houses and displayed at aristocratic funerals.³⁸ It can also signify an ancestral image or a statue of someone's ancestor.³⁹ Ellen O'Gorman has argued that the *imago* is invested with a sense of morality; it is an object through which one's glorious deeds are preserved and recalled.⁴⁰ Furthermore, Lee Theron Percy has demonstrated how *imago*, in the sense of ancestral image, is employed by Tacitus to highlight the contrast between the republican past and imperial reality.⁴¹ This comes to the fore in the episode concerning Lepida where Tacitus uses *imago* in order to emphasize her ancestry. Pompey the Great, the republican protagonist, is thus juxtaposed with his descendant oppressed by the imperial regime. The reader of his account might imagine how Lepida points towards the *imagines* of her ancestor to remind the audience of his deeds, like an orator delivering a funeral speech. To make the scene even more intense Tacitus's employs *cieo*, a verb that can be used both for appealing to someone for aid or witness or for summoning someone from the dead.⁴²

Why do Tacitus draw the reader's attention to the *imagines*? First of all, they were a vital part of public life during the reigns of Augustus and Tiberius.⁴³ In republican Rome they were closely connected with the status and claims of the aristocracy, and, as demonstrated by Harriet Flower, later used to establish Augustus' position as *princeps*.⁴⁴ *Imagines* were displayed at imperial funerals and inspired the statues of Roman heroes in the Forum of Augustus, comparing Augustus' achievements with those of famous earlier leaders of both his own and Rome's traditional office-holding families. Flower has furthermore shown how the appropriation of ancestral imagery by the *domus Augusta* helped to foster the private use of *imagines* by senatorial families.⁴⁵ Many of the prominent families had been weakened, or even wiped out, as a consequence of the civil wars and proscriptions during the late republic, and those who had survived were likely to have clung to the tradition of ancestral imagery.⁴⁶ However, *imagines*, these powerful symbols of rank and political ambition, could also be used to oppose the imperial regime. Firmius Cato used the many *imagines* that hung in the atrium of Drusus Libo's house to persuade, or perhaps even shame, him into plotting

38 — Flower 1996: 32–35.

39 — Percy 1973: 110.

40 — O'Gorman 2000: 57. See also Flower 1996: 9–15.

41 — Percy 1973: 87. Cf. Tac. *Ann.* 2.27; 2.37: 2.43; 2.73; 3.5; 4.9; 4.35.

42 — *OLD* s.v. *cieo*; Woodman & Martin 1996: 219.

43 — Flower 1996: 223–255.

44 — Flower 1996: 34.

45 — Flower 1996: 257.

46 — Flower 1996: 257.

against Tiberius and aim at the imperial power for himself.⁴⁷ Another apt example is the funeral of Tertia Junia in 22 CE. She was the niece of Cato, the widow of Cassius, and half-sister of Brutus. According to Tacitus, *imagines* from 20 of the most celebrated Roman *gentes* were displayed at her funeral, but conspicuous above all were the *imagines* of Cassius and Brutus, because their portraits were not on view.⁴⁸ Tertia Junia's funeral displayed her impeccable republican ancestry and would have made a direct insult to Tiberius, especially given that she named nearly all leading citizens in her will, but omitted the *princeps* himself.⁴⁹ I would argue that Tacitus has Lepida adhering to the same tradition of using *imagines* as both symbols of republican ancestral pride and opposition to the imperial regime when she invoked the *imago* of Pompey.

Clarae feminae

Who were the *clarae feminae* that entered the theatre together with Lepida and why did they accompany her? As demonstrated by Marie-Thérèse Raepsaet-Charlier, *clarus* is commonly used to describe the wives of senators, and their status is further designated by the use of *feminae* rather than *mulieres*.⁵⁰ In Latin, the nouns *femina* and *vir* indicate elite status, while *mulier* and *homo* apply to the rest of the society.⁵¹ Moreover, Francesca Santoro L'Hoir has demonstrated how Tacitus in the *Annales* uses *femina* and *vir* together with adjectives of rank to emphasize the Julio-Claudian oppression of the aristocracy.⁵² It is the *femina inlustris* (distinguished, prominent), *nobilis* (noble, highborn), or, in this case, *clara*, that falls victim to imperial tyranny.⁵³ One of the most striking similarities between the cases of Drusus Libo and Lepida is that they both were surrounded, and supported, by elite women. Tacitus describes how Drusus Libo, escorted by women of the highest rank (*primores feminae*) went from house to house, begging his wife's relatives for aid and support.⁵⁴ Drusus Libo's great-aunt Scribonia most likely partook as Seneca describes how she went to his house

47 — Tac. *Ann.* 2.27 with Flower 1996: 247.

48 — Tac. *Ann.* 3.76

49 — Tac. *Ann.* 3.76; Flower 1996: 253; Webb 2017.

50 — Raepsaet-Charlier 1981. For the use of *clarus* to designate senatorial women see also Chastagnol 1992: 173, and more recently Weisweiler 2020: 14–16.

51 — See Santoro L'Hoir 1992: 1–2. In a similar way Suetonius (*Tib.* 49.1) couples *femina* with *generosissima* when he describes Lepida.

52 — Santoro L'Hoir 1992: 120–121.

53 — *Inlustris femina*: Tac. *Ann.* 12.22.12; 14.12.15; *nobilis femina*: Tac. *Ann.* 11.12.7; Santoro L'Hoir 1992: 120–121.

54 — Tac. *Ann.* 2.29. The identity of Drusus Libo's wife is not firmly established. Pettinger suggests that he might have been married to a Junia or a Caecilia, see Pettinger 2012: 231–232.

and counselled Drusus Libo on whether he should commit suicide, or await death.⁵⁵ Scribonia certainly ranked among the consular women, and, as noted by Andrew Pettinger, had supported other relatives in their moments of disgrace.⁵⁶

While we cannot identify the individuals within this group of *clarae feminae* we can understand their purpose. As members of senatorial families, they were related to the senators who were to judge Lepida, and who were likely to have been present at the games. It is a common metaphor to treat the court as a theatre, and oratory as a performance akin to a theatrical spectacle, but Lepida conversely treats the theatre as if it was a court.⁵⁷ Her aims are clearly the same as if she was standing before the judges; to plead for sympathy for herself, and to evoke indignation against Quirinius. The fact that she entered the theatre together with her entourage brings the *contio* (public assembly) to mind and mimics how elite men would surround themselves with friends and clients on their way to the rostra.⁵⁸ Similar to a *contio*, it seems that Lepida tried to strategically influence the senatorial court before they reconvened to cast their votes. That she spoke before the people further adds to the contional dimension of her appeal. Tacitus does not say whether Tiberius was present at Pompey's theatre on this day, but Lepida's appeal in front of a large crowd could not have been easily ignored, even by the *princeps*, and especially not when she had brought with her an entourage of elite women. Furthermore, as the theatre of Pompey enclosed a temple to Venus Victrix, it was to some extent a sacred space and the *clarae feminae* that accompanied Lepida can also be seen in the light of how women frequently met and acted collectively in a religious context.

The transition from republic to empire shifted the political landscape, but the cases of Drusus Libo and Lepida suggest that female *intercessio* was still a vital part of public life in imperial Rome and that the participants thought that such display would be impactful. The senatorial court became an important political arena for both men and women who took active part in legal process, not only in the capacity of defendants or witnesses. This is not at least demonstrated by Livia, wife of Augustus. She secured amnesty for the conspirator, and Libo Drusus' paternal uncle, Cn. Cornelius Cinna

55 — Sen. *Ep. Mor.* 70.10. See Pettinger 2012: 7; 32.

56 — Pettinger 2012: 7.

57 — Cf. Cic. *Amic.* 97.26 who refers to events *quod si in scena, id est in contione* (as it is on stage, so it is in the assembly). For Lepida see Woodman & Martin 1996: 219. For the likeness of Roman political culture with the theatre see e.g. Veyne 1990: 383-386 and Hölkeskamp 2011. See also Edith Hall's chapter on acting and performance in legal oratory in Classical Athens for an informed discussion on the analogy between a trial and a theatrical performance (Hall 2006).

58 — The scholarly literature on *contiones* is vast. See among others Pina Polo 1996; Millar 1998: 46-48; Morstein-Marx 2004; Mouritsen 2013.

Magnus (*cos.* 5 CE), and asked for clemency on behalf of the senator Quintus Haterius, who was accused of having offended Tiberius.⁵⁹ She furthermore supported the elder Julia in her exile on Rhodes, and the younger Julia on Trimerus. Perhaps most strikingly, Livia saved Plancina from having to stand trial in 20 CE.⁶⁰

Contesting imperial power

A conspicuous aspect of Lepida's performance at the theatre is the notion that she invoked her ancestors and Pompey with a tearful lamentation (*lamentatio flebilis*). Public mourning was politically charged in early imperial Rome and potentially dangerous as it could look like opposition to the *domus Augusta*. When Drusus Libo was summoned to court, he changed into mourning clothes (*vestem mutare*) and went from house to house together with the *primores feminae*.⁶¹ To wear mourning dress (when no one had died) was a way for a defendant to signify that his or her status, or very life, was under threat.⁶² Those who were indicted on serious charges would often engage in *mutatio vestis*, and, together with their supporters, appealed to the people in their homes or in the streets, as did Drusus Libo.⁶³ Tacitus furthermore reports that feelings ran high when Agrippina arrived in Italy with Germanicus's ashes in early 20 CE.⁶⁴ The streets were filled with crowds of mourners, grieving the loss of Germanicus as ferociously as Agrippina herself.⁶⁵ Tiberius, trying to calm matters, issued an edict to ban extravagant displays of grief.⁶⁶

The political dimensions of mourning are further stressed by cases such as that of Vitia, mother of C. Fufius Geminus (*cos.* 29 CE). He was charged with treason and committed suicide in 33 CE and Vibia was, Tacitus tells us, put to death for weeping over the execution of her son.⁶⁷ Little is known about her case, other than that it was prohibited by law to mourn a public

59 — Cinna: Sen. *De Clem.* 1.9.6–7; Cass. Dio 55.14–22. Seneca refers to him as Lucius Cinna while Dio calls him Gnaeus Cornelius. For the episode see also Severy 2003: 149. Haterius: Tac. *Ann.* 1.13.6.

60 — *SCPP* 432–435.

61 — Tac. *Ann.* 2.29.

62 — Dighton 2017 offers a good overview of the function of *mutatio vestis* in the political life in the late Roman republic.

63 — See Dighton 2017 with references.

64 — Šterbenc Erker 2009: 19; Lott 2012: 18–23.

65 — Tac. *Ann.* 2.1–3. See also Tac. *Ann.* 2.72; 2.82 and Suet. *Cal.* 5–6.

66 — For the edict see Lott 2012: 21. Tiberius and Livia did not partake in the collective mourning, as they, according to Tacitus (*Ann.* 3.3), considered open grieving beneath their imperial dignity, and feared their hypocrisy would be recognized by the people. On Tacitus and the death of Germanicus see Damon 1999 and Pelling 2012. On Tiberius and public grief see Vekselius 2021.

67 — Tac. *Ann.* 6.10. Cf. Suet. *Tib.* 61.2. Vitia: *PIR*² V 761. Fufius Geminus: *PIR*² F 511 (*cos.* 29 CE). For this case see Rogers 1935: 107–108, 140; Townend 1962: 484–493; Marshall 1990: 346, case no. 13; Bauman 1992: 256 n. 70; Deline 2009, case no. 58.

enemy.⁶⁸ It does however confirm how control over memory and mourning was used as a weapon against political rivals to the imperial family. Among the punishments imposed on both Drusus Libo and Cn. Calpurnius Piso were memory sanctions such as the ban of their *imagines* from family funerals, and no women were allowed to mourn Piso's death.⁶⁹ In light of the extensive mourning of Germanicus, the severe penalties imposed on Piso, and the popular unrest in Rome, Lepida's tearful call upon her renowned republican ancestors would have been a provocative manifestation, and an affront to the imperial regime.

When Tacitus has the audience say that the senatorial court was betraying a woman once destined to be the bride of Lucius Caesar and the daughter-in-law of the deified Augustus, he emphasised Lepida's *dignitas*, and the fact that the Aemilii Lepidi could rival the genealogical claims of the imperial family. He furthermore implicitly reminded the reader of Lepida's connection with Agrippina and Germanicus, as Lucius Caesar was Agrippina's brother, and asserted that the audience sided with Lepida and was infuriated by the contrast of her nobility with the obscure background of Quirinius.⁷⁰ By inciting popular hostility against her ex-husband, Lepida indirectly whipped up indignation against Tiberius, Quirinius' old friend, and the crowd seems to have thought that the course of justice was somehow perverted by the emperor. Following Tacitus' account, Lepida managed to tap into the public's collective consciousness, akin to how Agrippina's extensive mourning assembled large number of followers and stressed the demand for revenge.⁷¹ This might be the reason for Tiberius' request that the Senate should not deal with the charges of treason; the fear of Lepida causing a similar situation as Agrippina had done earlier the same year.

The senatorial court did however deal with the other charges, and when they reconvened after the *ludi*, Tacitus tells us that by the torture of Lepida's slaves, her shameful actions were brought to light (*patefacta sunt flagitia*).⁷² Unfortunately, Tacitus does not specify what Lepida's *flagitia* were, or of which charges she was convicted. After a proposal of Rubellius Blandus', who sided with Drusus Caesar, consul-designate, Lepida was sentenced to interdiction (from fire and water, *aquae et ignis interdictio*, in other words,

68 — *Dig.* 3.2.11.3.

69 — For Drusus Libo see Tac. *Ann.* 3.14.6 and *Fasti Amiterni* for 13 September, for Calpurnius Piso see *SCPP* lines 76–82 (*imago*), 73–75 (mourning).

70 — Percy 1973: 91.

71 — See Šterbenc Erker 2009: 19.

72 — Tac. *Ann.* 3.23.2.

banishment).⁷³ The punishment is consistent with any of the four charges : *falsum*, adultery, poisoning, and treason (had that not been dismissed). Confiscation usually followed upon this kind of exile, but as a concession to Scaurus, it was decided that Lepida's property should not be impounded.⁷⁴ The exile did however effectively ban her from political life in Rome. When the Senate functioned as a court, penalties were not fixed like they were for other courts.⁷⁵ The punishments of Appuleia Varilla for *maiestas* and adultery in 17 CE show this in practice.⁷⁶ Both she and Lepida were tried in the Senate, but while Appuleia Varilla was removed beyond the two-hundredth milestone from Rome, Lepida was sentenced to the harsher interdiction. The volatile nature of the senatorial punishments might have been a further reason for Lepida's attempt to influence the outcome of the trial.

Tacitus himself does not imply that Lepida was innocent, yet his account is far from a stereotypical presentation of a guilty woman whose crime is a symptom of moral decline. A reason for that might be Lepida's connection with both Pompey and Agrippina and Germanicus, and he can thus use her case to exemplify his overall concern with the imperial regime. He ends his account of Lepida by writing that Tiberius, at last, announced that his own examination of Quirinius' slaves had revealed that Lepida indeed had attempted their master's life by poisoning. Again, a perplexing piece of information. Why did Tiberius disclose what he had ascertained from the slaves after the trial was over, and the sentence had been passed? One possible explanation could be that it was a way for the *princeps* to calm a volatile public mood after Lepida's appeal at the theatre and ease the hostility against Quirinius. According to Tacitus, not all senators had agreed with Drusus and Rubellius Blandus and instead proposed more lenient measures, possibly prompted by her appeal and the reaction it evoked.⁷⁷

From the court to the theatre

During the early principate the senatorial court became an important space for female public participation, as women defendants were allowed to speak in this prestigious arena. I agree with Anthony Marshall that women's appearance and speaking role before the senatorial court should

73 — Tac. *Ann.* 3.23.2. Tacitus uses the more uncommon variant *aqua atque igni arcebat*, she was refused from fire and water.

74 — Tac. *Ann.* 3.23.2.

75 — Robinson 1995, 8.

76 — Appuleia Varilla: Tac. *Ann.* 4. 42. See also Shotter 1966: 317.

77 — Tac. *Ann.* 3.23.2. It cannot be ruled out that Tiberius had passed on this information to Drusus who therefore voted for a harsh penalty.

be recognized as an important element in both their public persona and their public accountability⁷⁸. But the new exposure to senatorial jurisdiction had a correspondingly high cost and unsuccessful defendants ran the risk of suffering exile, confiscation or execution. In order to escape such a fate, Lepida took her case from the courtroom to the theatre of Pompey where she appealed to the people (and, in extension, to her ancestors and the gods). In this last section I would like to turn the gaze to what this episode can tell us about female spatial practices more broadly.

The concept of “gendered spaces” was introduced within the field of urban theory in the 1990s.⁷⁹ During the last decade it has been explored by classical scholars who have discussed whether certain spaces in the ancient world were distinctively connected to one gender or linked to the expression of one.⁸⁰ The Senate meetings were typically gendered male, whether they were held in the Curia Iulia or elsewhere, while theatre performance were more inclusive. As discussed above, *ludi* were not an unusual political arena for women which might further have influenced her choice of venue. Furthermore, as the theatre of Pompey enclosed a temple the theatre itself could be seen as a kind of temple precinct, and it is worth noting that the *ludi* themselves were a religious festival, organised for both the gods and the citizens of Rome. As female religious officials regularly took part in festivals and *ludi*, as did elite women like the *matronae* who played a crucial role in the *ludi saeculares* of 17 BCE, the collective religious authority of women likely facilitated Lepida’s appeal.⁸¹

In her recent book about public space in republican Rome, Amy Russell stresses how the concept of “public” and “private” was constantly negotiated and reformulated, not least by the different degrees to which private elements entered prominent public spaces.⁸² The flexible nature of these concepts offered room for manipulation which comes to the fore in Pompey’s complex of theatre, curia, temple, portico, gardens and house.⁸³ Russell shows that no clear line can be drawn between the complex’s public and private dimensions ; rather they are interwoven.⁸⁴ The temple, theatre, and portico were accessible for all, but Pompey presided over the whole complex, represented by his colossal statue standing in the curia, and by the

78 — Marshall 1990.

79 — See for example Spain 1992 and Rendell *et al.* 2000.

80 — For a summary of the state of the art of gendered spaces in the Roman world see Russell 2016b and Murer 2021.

81 — For the role of *matronae* in the *ludi saeculares* see Šterbenc Erker 2018.

82 — Russell 2016a.

83 — Gleason 1994; Gros 1999a; 1999b.

84 — Russell 2016a: 167–178.

temple dedicated to his protective deity, Venus Victrix.⁸⁵ After Pompey's death the complex became publicly owned, yet it still held a strong connection to its founder. In Tacitus's narrative Lepida draws on that very connection. She was literally standing on the public stage, referring to ancestral images of Pompey that normally were found inside the atria of elite houses. In her speech, Lepida uses the rhetorical figure of prosopopeia (i.e. representing an absent person as present) when she invokes Pompey, whose statues stood in full view.⁸⁶ Woodman and Martin suggest that Tacitus's phrase *cuius ea monimenta et adstantes imagines visebantur* (whose monument that building was, and whose statues stood in full view) indicates that Lepida was pointing at them while she was speaking; *those are my great-grandfather Pompey's monuments*.⁸⁷ Her speech, actions, and gestures hence confirm her intimate relationship with the theatre and her *proavus*. Lepida thus takes an active part in continuing to construct the space as both public and private; the very building becomes an *imago* of Pompey, and a victory monument for his *gens*.

According to Tacitus, Lepida entered (*ingressa*) the theatre to approach the crowd, rather than standing up at her seat (which would be at the top rows at the back of the theatre, if Augustus' seating regulation was properly applied). Little remains of the building today, and the preserved fragments of the Severan Marble Plan show few entrances. One possibility is that Lepida was standing in the orchestra, like Hellenistic rulers and Roman magistrates before her.⁸⁸ By standing forth and invoking her prestigious ancestry Lepida directed the audience's gaze towards herself, a representative of an old republican family, surrounded by an entourage of fellow elite women. It was due to a trial that Lepida made her appeal at the theatre, but she was more than a passive victim of imperial tyranny; her case rather testifies to the role to which senatorial men and women still aspired in a formative, and fragile, phase of the principate, and opens up a moment in the history of female defendants and the growing jurisdiction of the Senate. By appealing to not just the senators directly, but to the broad populace, whose pressure in turn would influence the senators – hence the theatre rather the curia – Aemilia Lepida in essence was asking for a trial by the public opinion, not just by the Senate.

85 — Russell 2016a: 153.

86 — Cf. *Rhet. Herenn.* 4.66.

87 — Woodman & Martin 1996: 219.

88 — For Hellenistic kings on stage see von Hesberg 1999.

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