

fornication The criminality of extramarital sex in Roman society depended on the woman's status. Intercourse with married women was punished as adultery, with severe penalties for both culprits (see **marriage, adultery, divorce, and remarriage**), while intercourse with unmarried women was permissible if the woman was a slave, prostitute, or with a tainted reputation. Concubines formed a half-reputable category. Fornication (*stuprum*) was a criminal offence if it took place with a free woman who might be married into a family of good standing. Intercourse with a free boy was also penalized as fornication (*Dig.* 48.5.35). The Romans did not consider incest a form of extramarital sex but defined it as a marriage impediment, setting limits to diverse provincial marital customs.

The punishment for fornication was usually less severe than for adultery, and death only in exceptional circumstances. Specific penalties are rarely given in the sources, but in Justinian's time upper-class offenders were fined half of their property, while lower-class people were corporally chastised and exiled (*Inst. Iust.* 4.18.4). Rape was a capital offence. A guardian who violated his ward was exiled and lost his property. In 368 imperial officials terrorized senatorial families at Rome, executing men and women for sexual affairs, including *stuprum* (*Amm. Marc.* 28.1). From the 4th cent., sex between men was punished by death, in the Visigothic kingdom by castration.

Premarital sex was uncommon in the Mediterranean area, as women married early. When elopement received a severe punishment as *raptus* in 320, the girl was deemed guilty regardless of her consent (*CTh.* 9.24). In practice, most cases of fornication concerned widows. Their affairs with slaves were esp. condemned. Many Christian authors attacked the double standard, requiring the same limits on male sexuality (e.g. *Jer. Ep.* 77.3). This was never realized, and the post-Roman kingdoms continued to penalize only adultery and female extramarital affairs. Some Germanic

codes laid down elaborate lists of fines for the sexual harrassment of women. From the 4th cent., the chastity of consecrated virgins and widows gave rise to new concern.

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Arjava *Women* 193–229.

Beaucamp *Femme* 1.107–209.

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Abbreviations used not in current list:

Arjava *Women* = A. Arjava, *Women and Law in Late Antiquity* (1996).

Beaucamp *Femme* = J. Beaucamp, *Le Statut de la femme à Byzance (4e–7e siècle)*, 2 vols. (1990–2).

Possible cross references:

concubine

consecrated virgins and widows

Justinian

prostitution

rape