



THE AUGUSTAN LAWS ON FAMILY RELATIONS. 1976. By Pál Csillag. Akademiai Kiado, Budapest, Hungary. Pp. 276.

THE BOOK under review represents a scholarly exposition of the Augustan laws on family relations during the period of Emperor Augustus, who was greatly responsible for bringing about drastic social reforms and revolutionary changes in the then Roman society through his laws on domestic relations. The author of the book, P. Csillag deserves encomiums from all those concerned with legal circles in Rome, for having contributed a comprehensive monograph on the works of the great Roman Emperor Augustus, whose notable measures of legal reform embodied in the three enactments, viz., (i) *Lex Iulia de maritandis ordinibus*; (ii) *Lex Iulia pupia poppea*, (iii) *Lex Iulia de adulteriis*, all of which are critically analysed by the author in this book running into 276 pages (inclusive of the notes given at the end). Further, the author has successfully made a thorough analysis of the socio-economic and political setting of the Roman society, both before and after Augustus became emperor, in the introductory and the general part of the book. This has actually provided the necessary background for the bold venture by this great monarch of Rome to bring about great reform in the laws governing the domestic relations in order to restructure the then Roman society, particularly the Roman nobility, through his laws and political ideologies.

The author expresses his difficulties in unravelling the antiquated theme of his research from the cobwebs of the mass of controversial, fragmentary Roman legal literature and in reconstructing the Augustan laws on family relations in the form of the present work.

The book is divided into two parts, viz., (i) the general part and (ii) the special part. Each part is further subdivided into small sections or chapters dealing with different branches of the Roman family law. In the first part, the author, starting with the general introduction, surveying the political, historical and legal developments in the Roman society<sup>1</sup>, has examined the texts of Augustan legislation<sup>2</sup> and explained the difficulties he had undergone in acquiring the source material for his book. While delineating at length on the political and socio-economic conditions of the then Roman society, the author has examined the concept of Roman matrimony in its historical and sociological perspective.<sup>3</sup> The author has made a critical analysis of the then disgusting conditions of the Roman society with decaying moral standards, increasing slavery and poverty, and lowering standards of living with growing concentration of power and wealth in the hands of

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1. P. Csillag, *The Augustan Laws on Family Relations* 17-34 (1976).
  2. *Id.* at 24-30.
  3. *Id.* at 36-76.



a few noble families. It was this crisis of Roman society in all angles—political, social and economic—that provided the necessary justification for the legal and socio-economic reforms Augustus made through his laws.

In the special, significant part of the book, the author has examined the contents of the three enactments passed by Augustus *viz.*, the *Lex lulia papia poppea* ; the *lex lulia de matriandis ordinibus*, which were collectively designated as the *Lex lulia et popia-poppea* ; (Law of marriage and divorce) and the *Lex lulia de adulteriis* (law relating to adultery) critically in a detailed manner. The first two dealt with the formation and dissolution of marriage in Roman style. The third dealt with the various sexual offences such as adultery, rape and the various penal provisions prescribing punishments for these offences. The special part is subdivided into two chapters, each consisting of small sections dealing with the various problems of marriage, divorce and *dos* or dowry. The first chapter is devoted to the explanation of the Roman concept of marriage and divorce<sup>4</sup> ; the institution of obligatory or compulsory marriage introduced by Augustus as a significant measure of reform and the institution of informal divorce in Roman style.<sup>5</sup> The other small sections in this chapter deal with some other less significant problems such as reliefs, exemptions and other settlements after dissolution of marriage<sup>6</sup> ; and the system of rewards and penalties for the conformists and non-conformists of Augustan laws of marriage.<sup>7</sup> And lastly, the author has examined the institution of concubianage and the practice of *dos* or dowry which played a very important part in the then Roman society.

The second chapter of the special part is distinctly treated by the author, when compared with other parts of the book. Here he has examined the most significant and unique piece of the legislation, *viz.*, the *Lex lulia de adultriis*. This law, in the opinion of the reviewer, may be characterised as the *Draconian Law of Augustus* meant for curbing the evil practice of adulterous living which was widely prevalent in the then Roman society. While prescribing severe penalties and punishments for those who were guilty of this serious matrimonial crime, Augustus combined a human element in this law by abolishing the ancient right of a Roman husband to kill his wife caught in an act of adultery.

Marriage, in the opinion of the author, is meant for the consummation of human happiness in any society. But for Romans it was dictated by necessity to protect the institution of family and to save themselves from further deterioration in the standards of moral and social life. For a long period, celibacy and childlessness were endemic features of Roman

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4. *Id.* at 77-81.

5. *Id.* at 127-38.

6. *Id.* at 138-143.

7. *Id.* at 143-146.



society. Marriages were meant for convenience and for enriching the elite of Rome both financially and politically. The evil practices of dowry and early marriages were widely prevalent. With all their money and power, men representing the Roman nobility could easily engage themselves in marriage to young girls down to the age of ten years. Thus, at the time when Augustus came to power, the Roman society was stinking with these social evils, lowering of moral standards, declining the importance of the institution of *pater familias*, lack of human values and degenerating political and economic standards. It was this sorry state of affairs that urged Augustus to reform, and restructure the Roman society through his laws, political and economic strategies. So he encouraged people, including widows, to get married, and discouraged childlessness, (*orbitas*) and *celibatis* (the state of being unmarried), and made marriage more obligatory in nature based on the will of the parties. For the first time in the Roman history, he introduced an organised system of incentives and disincentives, rewards and penalties for the conformists and non-conformists of his laws. He urged people to adopt late marriages by prescribing certain age limits for marriage—for men between 25 to 60, and for women 20-50. All these measures were aimed at preserving the marital stability and permanency of the institution of marriage without resorting to easy divorces.

In addition, Augustus took all the necessary steps to derecognise all marriages performed in derogation of the dignity of Roman matrimonium and human conscience, and thereby, he could successfully prevent the Roman society from further deterioration in social and moral standards. Augustus was also responsible for the removal of obsolete discriminations and impediments to marriage based on sex and crude customary practices recognised under the legal system prior to his rule. However, his laws were subject to criticism on the ground that differential treatment and protection were given to different classes of people on the basis of sex, and socio-economic status of individuals. Common people were treated separately from the people of senatorial order for purposes of matrimonial alliances and sexual life. Women were categorised into three classes—aristocratic middle and female-plebs—for the purposes of marriage. Men were given greater importance than women who were discriminated in the Augustan legislation on family relations. However, Augustan laws were known for their democratic values and principles such as equality and equal protection of laws for all men and women. Thus, there seemed to be, a big gap between theory and practice, preaching and performance.

Next important aspect covered under the special part of the book is the law relating to Roman divorce, its evolution and various forms recognised in the Roman society<sup>8</sup>. Divorce in the Roman style under Augustan legislation on family relations was meant to be a definite termination of

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8. *Id.* at 127-143.



the will directed towards the obligation to have cohabitation. It took the form of dissolution of marriage either by joint or mutual agreement of the spouses which could be made either orally or in writing in the presence of six or more witnesses. Thus, at a time when divorce by mutual consent was unknown to other parts of the world Augustus introduced this concept in the Roman society.

Lastly, the author has dwelt at length on the most significant part of the book, the *Lex Iulia de adulteriis* in the second chapter of the special part. The author has devoted this chapter for describing the various sexual offences such as adultery, rape, *stuprum* and other lapses of virtue on the part of women and acts of infidelity on the part of men, and the punishments attached thereto.

Under *Lex Iulia de adulteriis*, adultery meant betrayal of matrimonial faith by one spouse against the other by living with another person, other than his or her spouse, for a considerable period of time in which there was neither *affectio maritalis*, nor the honour of matrimonium which would lead to the final breakdown of marriage.

Adultery was regarded as the gravest of all sexual offences involving social ignominy, and an insult on public morality. It would thus cast an indelible stain on the individual honour and dignity of the person. Any husband who was benefited from the adulterous life of his wife was also to be punished severely under this enactment. Men guilty of adulterous conduct was to be banished for life and, one half of his property would also be confiscated.

In addition to this, all other offences against family life or against the normal order were also dealt with. Under this law, more than men, women were subject to severe and more serious punishments and penalties. Theoretically, however, both men and women were subject to serious punishments and social ignominy. The adulterer or adulteress was to be tried, firstly by the family tribunal constituted within *pater familias*. In the absence of such a domestic tribunal, they were to be tried by judicial courts.

The author has concluded his work with a small section on the fate of Augustan laws on the future Roman society, wherein he has struck a not very optimistic and complimentary note on the future utility or usefulness of the great reforms made by the Augustan laws, which in the very words of the author, (used in the introductory part of the book), "*embodied the boldest schemes of the founder of the principate*" (emphasis added). However, the Roman society, after Augustus, witnessed a gradual decline of the influence and importance of the Augustan laws which were more honoured in the breach than in practice. Despite their declining influence and importance they did have their impact and influence on the Roman legal history for a period of five centuries down to the age of Emperor Justinian whose family code was greatly influenced by the Augustan family laws.

While agreeing with the author's views and comments on the Augustan



legal system, the reviewer cannot but point out the difficulty experienced by him in understanding the Latin phrases and passages copiously used by the author on each and every page of the book. Whoever intends to read the book without the knowledge of Latin will have to face the same hardship. The author could have given the English equivalents for the various Latin terms and passages by way of *Appendix* to the book or by a separate note. Despite this difficulty, there cannot be two opinions on the fact that this book is a good contribution to the already existing accumulated literature on the subject of Roman family laws, and the author deserves all appreciation from all sections of the academic world (legal circles in particular). The author successfully gave a good account of the Augustan legislation, and examined critically the interrelationship between the Augustan laws and conditions in the then Roman society. Augustus himself did his best to restructure the Roman society and sought to transform the hierarchical, authoritarian Roman society to that of an egalitarian and equalitarian society. For all these reasons, the reviewer, unhesitatingly, suggests that the book under review, deserves to be placed in all national and international libraries as a significant addition to the classical works on the Roman legal system.

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**BOOKS RECEIVED FOR REVIEW**

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I, S.N. Jain, hereby declare that the particulars given above are true to the best of my knowledge and belief.

**Sd/- S.N. Jain**