

## Book Reviews

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Arjava, Antti *Women and Law in Late Antiquity* (Oxford and New York: Oxford University Press, 1996)

Antti Arjava's *Women and Law in Late Antiquity* takes a historical look at the changes and challenges that women faced throughout the Late Ancient period. Because of the lack of historical accounts that address the daily activities of women in the Late Ancient world, Arjava utilizes numerous legal documents to paint a portrait of the Roman woman's identity. While Arjava states from the beginning that "this is not first and foremost a legal history"<sup>1</sup>, the majority of *Women and Law in Late Antiquity* focuses on the way law changes from the second century to the seventh century, with a particular focus on how those changes affect the lives of late ancient women. Arjava explores every facet of a woman's life, from the relationships between parents and their children, married versus single life, relations outside of marriage, and how women function in the society of men. This paper considers how Arjava examines the effects of Christianity on the status of women as it gained a hold throughout the Roman Empire, as well as Arjava's assertion that the influence of Christianity on the status of women has been "greatly exaggerated."<sup>2</sup>

Arjava begins his account with a description of his sources which include many legal documents that discuss the status of women, and also church documents, such as letters and sermons. The first subject that Arjava addresses is the relationship between fathers and their children. He examines the father's "dominate position", his absolute authority (*patria potestas*) over his family members, and the way that marriage is viewed in the empire from both a pagan and Christian perspective. Arranged marriages were standard practice for this time period, and fathers had the primary role of choosing a suitable spouse for their children. "In the Roman Empire, people were not expected to marry for love."<sup>3</sup> The practice of arranged marriages prevailed throughout the flourishing Roman empire, and evidence of these arrangements can be seen from the beginning of the empire. Marriage was primarily a financial contract between two families; it had very close ties with the political world. Even though many of the criteria for finding a suitable partner dealt with wealth and power, there might have been a small amount of room for romance. But romance usually came in last place when looking for a potential marriage partner. The most stringent rule when it came to choosing a life partner was that neither males nor females could enter into a marriage without the advisement or permission of their fathers (*pater familias*).<sup>4</sup> Matchmakers were often used to arrange marriages for citizens of a specific social class. They tried to make the most profitable and suitable matches for those in prominent social standings. Even though the marriages were arranged, children could not, under the law, be forced to marry anyone. Children were strongly encouraged to marry those who their fathers found suitable, and

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<sup>1</sup> Antti Arjava, *Women and Law in Late Antiquity* (Oxford and New York: Oxford University Press, 1996) 1.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid., 28.

<sup>4</sup> Ibid., 29.

usually followed through with their wishes. Males occasionally took finding a partner into their own hands, and sought their father's consent after the fact. Sometimes the fathers found their choice for marriage suitable, other times they did not. The father was the most appropriate one to find a suitable match for his children, and in most cases, he was not very fond of the idea of someone else taking on the responsibility. Sons were married off at later ages than daughters. The early marriages of females were seen as a way for fathers to make sure a suitable, reliable match was made that would benefit not only the daughter, but also the family. This ideology was shared in the Christian faith as well. Christian believers saw the father as the head of the household that made the most important decisions, and saw the children as those whose role was to follow the lead of the father.<sup>5</sup>

While males did occasionally have some say in who they married, daughters had no such luxury. Another difference was that females were married at a much younger age, and in most cases significantly younger than their husbands. Comparing ages of brides in both pagan and Christian traditions, Arjava finds that Christian brides were slightly older than their pagan counterparts.<sup>6</sup> Arjava makes reference to the "Mediterranean Marriage Pattern", a study that found obvious patterns of young brides in Late Antiquity. The pattern also showed a pattern of age differences between spouses that ranged from eight to ten years on average. Since life expectancy varied and fathers could pass away at mid-life, they married their daughters off young, thereby assuring time to find a suitable match for their daughters.<sup>7</sup> Even though fathers were the primary instigators when it came to arranging their children's betrothed, mothers often played a part in choosing a marital match for their daughters and sons.

When dealing with the marriage of women only, there was the question of the guardianship. The *tutela mulierium* part of Roman law (a very old traditional idea), stated that "all Romans who were no longer in their father's power were in principle independent citizens. However, not only under age children, but also adult women were required to have a guardian."<sup>8</sup> Women who had moved from their father's home were technically no longer under his control, but that "guardianship" usually transferred to their husband. Guardianship of women, however, was on the decline by the beginning of Late Antiquity. The reason for this continual guardianship was that women were considered "scatterbrained" and therefore unfit to see to any monetary or political matters without their guardian's guidance.<sup>9</sup> Eventually the laws on guardianship shifted. For instance, in 241CE, there was a standard age (25) for one to become independent no matter their marital status. This law went back to an old practice of a freeborn woman with three or four children being considered independent. When the age standard was established, law makers debating the issue concluded that by the time a woman reached the age of 25 she would most likely have had three or four children and therefore would be independent. In the 4<sup>th</sup> century CE the laws were revised reducing the age for independence of women to eighteen. Eventually the entire idea

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<sup>5</sup> Ibid., 128.

<sup>6</sup> Ibid., 30.

<sup>7</sup> Ibid., 33.

<sup>8</sup> Ibid., 112.

<sup>9</sup> Ibid.

of guardianship was taken out of Roman law. Evidence of guardianship cases disappears as early as the Theodosian time period.

All of these laws regulating the decisions women were competent to make originated with ideas of power within a marriage. Ideas about who held the power in a *manus* (ancient Roman marriage) maybe separated into two different categories. If marriages were constructed in a *cum manu* fashion, wives gave away their right to their own property and their claim of free will to their husband. They also lost any control they would have over their future children and decisions that pertained to them. The alternative was a *sine manu* contract. Under this agreement the wife's property was in no way transmitted to her husband or her new family.<sup>10</sup> By about the fourth century the *cum manu* practice had been almost entirely replaced by the *sine manu* practice. In the case of a *sine manu* marital contract, the wife and husband were never a part of the same family, and the wife was technically still under the control of her father.<sup>11</sup>

Arjava discusses the sanctity of marriage as something that was greatly glorified within the Church. While Romans did not necessarily marry for love, there was an idea of "matrimonial bliss" that was prevalent in Christian literature which was expected to develop overtime between spouses. With that being said, one cannot ignore the Christian advocates for devout celibacy, those who asserted that marriage would always lead to the breach of a pure lifestyle in pursuit of God. These advocates used stories of miserable marital unions to try to keep men from joining into such a relationship. This idea, however, was not confined to just the Christian population. Christians that promoted celibacy advocated for the practice as a way to avoid the "vexations" of marriage.<sup>12</sup> Men also had concerns when it came to holding power over their wives, another issue that the church addressed. Citing John Chrysostom, fourteenth century archbishop of Constantinople, and other Church figures of the time, Arjava solidifies his point that the Christian ideals went hand in hand with the concerns of the state, and therefore did not cause a profound shift in laws pertaining to women. Arjava goes on to evaluate cases of remarriage, divorce, and single life for women in the late ancient world. Remarriage was a common practice, especially when there was a very high mortality rate.<sup>13</sup> The influence of the Church can be seen in the case of women remaining single, a practice that, according to Arjava, Church officials encouraged. Divorce was a topic that the Roman state could fully agree on. Arjava argues that Christianization of the state did not cause a "hostility towards female divorce"<sup>14</sup>, because the hostility had always been there.

Moving from divorce, Arjava details the relationship that was formed by a marriage, what the Romans considered a "partnership for life involving divine as well as human law".<sup>15</sup> The human part of this statement refers to the inheritance of rank as a result of a marriage. If a woman was to marry above herself, she assumed the female counterpart of her husband's rank. The same happened if a woman chose to marry below her own status, in which case her societal rank lowered.

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<sup>10</sup> Ibid., 123.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid., 128.

<sup>13</sup> Ibid., 190.

<sup>14</sup> Ibid., 191.

<sup>15</sup> Ibid., 124.

Laws such as these were widely practiced in the early periods of the Roman empire, and they became a general rule throughout it. Also, the protections that a man acquired by virtue of his societal status were often extended to his wife, and even his children. Inheritance laws were another government imposition married couples faced. Without children, under Augustan laws on marriage, couples could only inherit one-tenth from their significant others possessions.<sup>16</sup> These types of regulations were a way for the empire to promote the building of families, thus ensuring that the empire would continue. While the church did not deem marriage as a necessity, the state did. This was not only to produce more Roman citizens, but also to continue family lineage and tradition.<sup>17</sup> Women without children could not receive a large portion of their husband's estate. Those who had children received more than their share of the estate and could fraction it off for their offspring; all the while aiding in the population growth of the Empire. Other restrictions for childless couples were lifted when Constantine came to power in the fourth century, and by the early fifth century inheritance restrictions were completely lifted for these couples. This led to the practice of mutual wills between spouses that can be seen in the Merovingian period.<sup>18</sup>

Within the traditional Christian marital union, there was commonly an understood shared respect between spouses. The husband was responsible for duties outside of the house, whereas the wife was in charge of domestic responsibilities. Men would most likely be absent from the house, working in the religious aspect of their life. The man was always, of course, the head of the household, with his wife and children under him. The man as the head of the household was traditional, but not because of Christian influences. This goes back to the tradition of a father choosing a suitable mate for his daughter, and controlling other aspects of his family's life. The notion that men were the heads of the household was tied to the fact that women were much younger when they were married off, often times to a much older man. In terms of shared respect, in no way was a man and his wife equal. The fact that the man "was expected to be the dominate partner in marriage" can be seen not only in Roman time periods, but also in more modern times.<sup>19</sup> It cannot be suggested that men held all power within a marriage, especially in more upper-class relationships, where women could control a considerable amount of property that their husband had limited rights to. Some men feared that their well to do wives might betray them and dictate the direction of the marriage. This fear lasted well into the late ancient period.<sup>20</sup>

Marriage in the late ancient world was much like the institution in more modern times. Antti Arjava goes into great detail about the various aspects of marriage during the Roman Empire, and makes it evident that marriage was a vital part of the time period. It was seen as a way to continue a family, and to insure the smooth transition of property. Without the prolonged tradition of marriage, familial relationships would not have been integrated into every part of Roman culture. Sometimes the main values within a marriage were overlooked, such as love within the union, or sharing power within the relationship. Even without that shared power, however, these

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<sup>16</sup> Ibid., 126.

<sup>17</sup> Ibid., 111.

<sup>18</sup> Ibid., 150.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid., 126.

unions were a means of protection for women, families, and property. Antti Arjava gives a clear, enlightened look into the legal lives of women in Late Antiquity, while simultaneously giving a meticulously detailed account of the importance of marriage and family in the Roman empire. His argument that Christianity did not have a profound impact on the changing role of women when it came to Roman law is supported throughout his work. One must ask if Arjava does the subject of women in the Late Ancient world justice by using primarily legal document to support his thesis. Taking uncertainty into account, Arjava's does an excellent job of using those sources to enforce the idea that the legal lives of women, especially when it came to marriage, were minutely affected by Christian influences, and that the laws themselves only slightly differed after Christianity was established in the late ancient world.

Peyton Paradiso