

Law and Love in Ovid: Courting Justice in the Age of Augustus. By IOANNIS ZIOGAS. [Oxford University Press, 2021. xii + 420 pp. Hardback £90.00. ISBN 978-0-198-84514-0.]

If you were hoping to escape Roman law by reading Publius Ovidius Naso, or Ovid (43 BCE–17 CE), on love, you will be disappointed – very disappointed, according to Ioannis Ziogas. But that disappointment may also quickly turn to enchantment, at least if you read this book. For, as Ziogas shows us, Ovid’s oeuvre – and especially his love elegies – have a great deal to teach us, not only about Roman law specifically, but also about law in general. Ovid’s poetics, it transpires, are thoroughly, and not merely incidentally, juridical and reflect deeply on how law emerges, and what it does and cannot do. Further, writing love elegy allows Ovid to intervene in the legal politics of his age, even going so far as to displace and replace, at least in the imagination, the very person who exiled him and so skilfully manoeuvred himself into a position of absolute power: the Emperor Augustus (r. 27 BCE–15 CE).

Ziogas’s argument is brave and original. Where past scholarship has read Ovid as playfully, wistfully, ironically, bitterly and generally more casually and occasionally, commenting on law, Ziogas transforms Ovid into both a full-blown advocate, jurist and legislator. It is a surprising and splendid metamorphosis – worthy of Ovid himself. Of course, this metamorphosis does not come from nowhere: Ovid had considerable legal knowledge, having held two magistracies and acted as an arbitrator, as well as receiving an advanced rhetorical education (he features, for instance, as a star declaimer in Seneca the Elder’s account of the rhetorical exercises known as the declamations). Ovid’s poetry, too, is not without precedent: it emerges in an incredibly fertile period, which includes Virgil and Horace, and, within the specific genre of love elegy, Catullus, Cornelius Gallus, Propertius and Tibullus. Without doubt, Ovid is an innovator in many respects, but he is also a child of his time: it is no accident that the flourishing of poetry in this period emerges in the cauldron of one of the most crucial moments in Western legal and political history, namely the period of civil war in Rome, the transformation from Republic to Empire, and in the midst of various Augustan legal innovations, including – crucially – marriage legislation, and his support of the rise of a new powerful class of experts, the jurists.

Such transformative readings, as Ziogas’s is, are rare in the history of literature. One possible analogy, of relevance to the present context, is Susan Byrne’s reading of Miguel de Cervantes’s *Don Quixote* (*Law and History in Cervantes’ Don Quixote* (Toronto 2007)). Law, in the Spanish literary tradition, has been known to have been associated with knightly practice: “the knowledge of law is another kind of knight-hood” (J. Velasco, *Dead Voice* (Philadelphia 2020), p. 66). Don Quixote, it turned out, following Byrne, was or could be read as, an enactment of an old-fashioned lawyer, still clinging to old, worn-out laws, doggedly guiding himself by them and evaluating the actions of others by reference to them. Much comedy ensues, but – according to Byrne’s reading – also doubles as a serious intervention into an intense and profound jurisprudential debate in Spain at the time as to the appropriate method for approaching the relationship between Roman law and Spanish contemporary realities. Byrne’s book was a transformative interpretation of a classic and much-loved novel, and certainly made one enjoy it in a different way. And surely there are more such transformative readings to be had: in the comic tradition, alone, one can think of Francois Rabelais’ *Gargantua and Pantagruel*, which is not only full of allusions to, and parodies of, sixteenth century French legal practice, but also has that same potent mix (as one finds in Ovid) of law, rhetoric and literary form.

I mention the genre of comedy here, as it is important also to the way Ziogas approaches the principal genre on display in his book: love elegy. Both comedy and love elegy have a paradoxical, and highly generative, relationship with law: in one sense, they position themselves outside law – in comedy, for instance, as Mikhail Bakhtin and others have shown us, law is suspended, in what appears as a Carnavalesque, Saturnalian antinomianism – but, in another sense, they also generate law, for, in the very vacuum created by the suspension of law, they offer the opportunity (if not necessity) to generate an alternative jurisdiction, a new legal world. Like comedy, love elegy creates an alternative jurisdiction: the jurisdiction of love. With one step it renounces law, resisting regulations that, in Augustus' age, were designed to maximise reproduction within marriage, doing so via the lamentations of male poets who escape public life (including the law courts), and dwell, instead, in mythical or rural worlds of (often illicit and transgressive) sex. But, in the next step, it adopts and appropriates legal language and the devices of law (including legal fictions, and all the tricks and techniques of forensic rhetoric), creating and constructing (precisely in the same way that imperial or state law does) its own regulatory universe, with its own lawmakers and their desires exercising supreme power (the law of love is, after all, created by the poet of love).

It bears emphasis that Ziogas's argument has not only historical, but also theoretical, significance. Historically, his book shows us the correlation and mutual interdependence of law, on the one hand, and the literature of love, on the other hand. It shows us how, in a context in which the regulation of love, sex and gender was fundamental to the making of empire, and the authority of law – Augustus was the first to criminalise adultery, seeking to establish new norms of fatherhood, motherhood and family life – the literature of love not only mirrored what was going on in the public realm, but actively intervened in it, producing its own normative discourse, which generated alternative norms of masculine and feminine sexuality. This is, again, significant historically, and greatly adds to our understanding of the still-little-understood historical entanglement of ancient law and classical literature (see also M. Lowrie, "Roman Law and Latin Literature" in P. du Plessis, C. Ando and K. Tuori (eds.), *The Oxford Handbook of Roman Law and Society* (Oxford 2016), 70–81). But it is also significant theoretically, for it helps us see how crucial love, pleasure, desire, loss, sexuality and gender are to the emergence and administration of law, as well as to the relations between law and power.

Ziogas is well aware that he is not the first to theorise the relations between law and love. He cites important precursors, such as Zenon Bankowski (*Living Lawfully* (Dordrecht 2001)) and Peter Goodrich (*Law in the Courts of Love* (London 1996)). However, he distinguishes his approach from theirs, and in particular Goodrich's, by arguing that rather than seeing law and love as essentially different discourses, worlds apart, for him – or, rather, for Ovid, as he reads him – law and love are "fundamentally connected . . . in discourse, in principles, and in concepts of jurisdiction" (p. 8). Not only are they fundamentally connected, but in a crucial sense, love comes first: love, argues Ziogas, is "the source of the law's emergence" (p. 5). It is love, and its poetics, that provides the model for law and legal argument: "the art of courtship not only precedes courtroom rhetoric, but actually provides the model for winning a legal case"; "legal diction," Ziogas adds, "is a reflection of the lover's discourse, not the other way round" (pp. 6–7). Love, then, is both at the origin of law, as well as sustaining, administering and reforming law. Love, especially when mediated by literature, makes law. Literature, in this approach, is not merely a passive mirror to law and legal practice: instead, literature has normative, including legal, agency.

These are large claims, no doubt, but it is the virtue of Ziogas's book that it pursues them with remarkable care and rigour, always keeping one eye on the historical context, and another eye on its transhistorical value. One of the key ways that Ziogas does this is by paying very close attention to language, including wordplay, inter-textual allusions and grammar. This sensitivity is necessarily historical: it requires deep knowledge not only of the language of Roman law, but also of the literary precedents drawn on by Ovid. Indeed, following in the footsteps of Ziogas as he points out the complexity and serious playfulness of language in this period is one of the great pleasures of this book. There is an abundance of wonderful examples of this: (1) in Chapter 2, which examines love elegy's complex construction of the relations between private life and public discourse, Ziogas reflects on the use of the future imperative (combined as this often was with a conditional and repetition of verbs) in both the language of Roman law (e.g. "if one is summoned to court, he should go. If he does not go, a witness should be called in his stead: only then should he be arrested", as per the *Twelve Tables*, 1.1) and in Ovid's *Amores* (in which lovers seek to legitimise their love using precisely these features of legal language, thereby also showing that Augustus does not have this stylistic or grammatical monopoly); (2) in Chapter 3, which analyses Ovid's retelling of the Acontius and Cydippe story in the *Heroides*, Ziogas discusses the key word "Carmen", which means not only song, but also magic spell or legal formula, as well as offering a close reading of the language of binding, promising, obliging and constraining, so as to show how the passions of love generate legal concepts and procedures, and how Ovid demonstrates that the jurisdiction of love does not need the legitimation or linguistic, conceptual and institutional resources of Augustus (in fact, if anything, Ovid's ingenuity goes considerably beyond them); and (3) in Chapter 6, which examines the *Ars Amatoria*, Ziogas shows how Ovid assumes the pose of an orator in court, using jussive subjunctives (as again was common in the *Twelve Tables* and in the writing of jurists), illustrating how entangled juristic history is with literary and rhetorical history (indeed, Ziogas demonstrates how Ovid shows himself to be a first-class jurist, able to wrestle with the most complex doctrinal problems, including ones of great controversy in Augustus' moral legislation).

In all these readings, Ovid certainly has the better of Augustus: he can do not only what Augustus can do (create a jurisdiction, make law, exercise the subtle art of legal reasoning), but he can do so with greater wit, lightness and ingenuity than Augustus can. However, Ziogas by no means idealises Ovid. Instead, he is clear that much of this linguistic brilliance, and the play with voices, narrative and fictionality, which one finds in both Augustan legislation and Ovidian poetics, is in the service of a paternalistic and patriarchal aim, namely of "controlling female sexuality and fashioning women in the image of desire" (p. 300). As Ziogas puts it: "The more we read Ovid, the more we come to realise that not only the love poet and the jurist, but also the adulterer and moralist speak the same language. They are both driven by a desire to define and confine female sexuality within normative discourses, either the laws of Roma or the laws of Amor" (p. 300). In both Roman law and in love elegy, it is the retrospective desire of a male that seeks to legitimise, either their violence or their passion, thereby exercising "extraconstitutional authority in order to legalise what was hitherto illicit or extralegal behaviour" (p. 332). Male, and especially fatherly desire – that which pleases, though perhaps also self-deludes, the Emperor or the love poet – is what makes law. This is persuasive, but we might add that Ovid makes this more conspicuous than the texts of Roman law. The poetry of love, after all, brings to the surface the politics of sex and gender, and in that sense reveals what Roman law sweeps under the carpet.

There might even be an argument that Ovid is more subversive than the above suggests. In a remarkable, iconoclastic final chapter on “Love and Incest”, which also brings into view the importance of the genre of declamation, with its far-flung fantastic facts, often involving family violence, and often putting “the law of the father to the test” (p. 347), Ziogas discusses Ovid’s treatment of the story of Myrrha in the *Metamorphoses*. As noted above, Ovid was trained in the declamatory arts, and Myrrha’s soliloquy can be read precisely as a declamation – a speech she could give in court. Myrrha succeeds where many have failed: from a position, as a daughter, in which she is the property of her father, and thus at the whim of his mercy (including his power to kill her), Myrrha comes to possess her (unwitting) father, committing incest with him, and thus transforming him from a possessor into the possessed, from the wielder of power to someone under her *potestas*. This is still a matter of love being supreme, but this time filial or incestuous love, and not the love of the father. Myrrha, in this way, becomes “simultaneously an innovator and an archetypal legislator: an innovator, because she wants to undermine the established morality of ancestral law, and an originary lawgiver, because she puts carnal desire in a legal framework” (p. 381). Ovid’s poetics, then, might be more than a worthy or even superior rival to Augustus; it might even contain the seeds of its own subversion of paternalistic love as the origin of law.

This is not a book for the fainthearted – but neither is Roman law or Latin poetry, especially in the extreme turbulence of the last century BCE and the first century CE. It delves deeply into the relations between sex, gender, desire, pleasure (or love, in short) and law. It borrows, largely, from a vein of critical theory that includes, most prominently, Giorgio Agamben and this is not the taste of all scholars, legal or otherwise. But there is no denying that it is important, both historically and theoretically, and in ways that cannot be confined to any one tradition of scholarship. This book should encourage as well as help us to probe further into the rich, complex and vital relations between law, literature and rhetoric, including, but not only, in the classical world. It should help us see the necessity of literary and rhetorical histories of legislation and legal doctrine, especially when mediated by a sociologically informed philology. Reading this book clearly demonstrates that we really cannot understand Roman law and Roman legal reasoning, or its continued significance for the modern age, if we read it in isolation from either cultural history or from the political history of the body, and its imaginaries. It shows, equally, that we cannot really write literary history (including the specific history of Latin love elegy) without attention to the law, but also that it matters enormously how we approach the relations between law and literature when we do so. Law, literature and rhetoric – in this period, as in so many others – are simply inseparable, and we cannot treat any one as superior or as having more agency than any other; rather, we need to see them as in dynamic tension and dialogue with each other. It can only be hoped that this book, along with other developments, such as the forthcoming translation of the work of Yan Thomas (*Legal Artifices* (Edinburgh 2021)), or, in a different vein and milieu, the recent work of Davina Cooper (*Feeling Like a State* (Durham, NC 2019)), will bring further contextually sensitive reflection on the complex confluence of legality, poetics, affect, embodiment and power.

MAKSYMILIAN DEL MAR
QUEEN MARY UNIVERSITY OF LONDON