THE ROLE OF
THE AUGUSTAN FAMILY LEGISLATION
IN ESTABLISHING THE PRINCEPS

THESIS

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By
Erin Justine Parish-Meyer, B.A.

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Master's Examination Committee:
Professor Nathan S. Rosenstein, Advisor
Professor Kristina Sessa
Professor Joseph H. Lynch

Approved by

Advisor
History Graduate Program
This thesis examines the motives behind the princeps Augustus' lex Iulia de adulteriis coercendis, lex Iulia de maritandis ordinis, and lex Papia Poppaea. Specifically, this investigation considers connections between the legislation and the Roman value pietas, contemporary literature (specifically rhetorical invective and elegiac poetry), Augustan public art, and men's apparent beliefs regarding contraception and abortion. Additionally, this study examines the laws in question, their potential effects on Roman society and how these might have served Augustus’ purposes, the generally negative reactions among the elite, and Augustus’ responses to their rejection of the laws. The conclusion, which challenges the widely accepted belief that Augustus’ intention was to increase a declining Roman elite citizen population through legislative means, is that Augustus’ motive was to strengthen the position of the princeps so that he would be better situated to pass it on to a successor of his choosing.
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VITA

November 15, 1975 ....................... Born – Athens, Ohio

November 1999 .......................... B.A. English Language and Literature, Ohio University

June 2003 ............................... Completed requirements for baccalaureate History program and minor in Classical Civilization, Ohio University

September 2003 – June 2005 .......... Graduate Teaching Assistant, The Ohio State University


September 2008 – present ............... Graduate Teaching Assistant, The Ohio State University

FIELDS OF STUDY

Major Field: History
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CHAPTER 1

INTRODUCTION

In 18 B.C., Augustus enacted the first two pieces of his program of family legislation, the *lex Iulia de adulteriis coercendis* and the *lex Iulia de maritandis ordinibus*, which was amended in A.D. 9 by the *lex Papia Poppaea*.¹ Ancient authors generally attribute the enactment of these laws to a desire to increase marriage and procreation among the elite.² While some contemporary scholars argue for different, but related motives, most generally accept this explanation. In previous interpretations, a source of information that has not been carefully considered is the literature of the late republic and early principate, particularly rhetorical invective and Augustan poetry. Although scholars discussing Augustan literature frequently reference the princeps' family legislation, it typically serves as no more than background information for the interpretation of the literature and its portrayal of women in the ancient world. As a consequence, in discussions of the literary sources and family laws, the legislation has not been the focal point of examination, and the

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¹ Although the *lex Papia Poppaea* bears the names of the consuls of the year, M. Papius Mutilus and Quintus Poppaeus Secundus, they were the work of Augustus, which Csillag notes (*Augustan Laws* 32). Cassius Dio mentions the penalties for the unmarried and childless (54.16), and recounts a speech Augustus is said to have made to the equestrians in which he defends the *leges Iuliae* in the face of their requests that he repeal the laws (56.1-9); Suetonius states that Augustus' goal was the encouragement of marriage and implies that he was also attempting to increase the birthrate (*Aug.* 34); Tacitus mentions the failure of the laws to increase marriage and procreation (*Ann.* 3.25).
factors that motivated its passage have not been considered in view of the literary evidence. Analyzing the legislation against the backdrop of the literary sources suggests that the primary purpose of family legislation was not the increase of the elite population. This thesis will argue that Augustus enacted the family legislation in an effort to increase the power and importance of the position of the princeps.

In his Res Gestae, Augustus claims that he enacted legislation in an effort to restore ancient customs that had fallen into neglect. He goes on to declare that he also gave examples of many things for posterity to imitate. An examination of the family laws and many of Augustus’ other offerings to the public appears to substantiate his claim, suggesting that he created the family legislation within the framework of the Roman virtue of pietas. A close inspection of the legislation, particularly its penalties and rewards, reveals an emphasis on women and their collective role in society: the laws in effect placed women in a position of official responsibility to the state, asking that they engage in proper devotion to their civic and familial duty and offering incentives for doing so. The princeps’ laws essentially required citizens, especially women, to demonstrate respect for pietas. These findings suggest that Augustus was concerned with problems of the state which he attempted to solve through the regulation of behavior. However, an examination of the laws that takes into account the use of women as tools of rhetorical invective as well as contemporary poetic portrayals of women suggests that Augustus was not concerned primarily with the

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3 For this account, see Mon. Anc. 8. It should also be noted that the family laws were not the only pieces of legislation that Augustus enacted during his lifetime, and although the family laws may have been important enough to merit mention in Mon. Anc., Augustus does not name them specifically.
conduct of women. Consideration of his laws within the context of the literary sources indicates that Augustus built his legislation around the long-standing Roman male perception of uncontrolled women as potential threats to the wellbeing of the state. Through his legislation, Augustus essentially used women as rhetorical devices intended to portray other elite men in general as unable to fulfill their social responsibility to control the women in their families. The implied result was a state of affairs that required the princeps to act on behalf of the state by controlling all women, thus rendering this position indispensable to Rome and transferring a power once held by all heads of Roman households to the hands of one man.

When the question of Augustus' motives has been considered, the conclusion most often reached in the existing scholarship is that the princeps acted out of a desire to increase the elite population. Alban Dewes Winspear and Lenore Kramp Geweke attribute Augustus' actions to his concern over the declining rate of marriage and reproduction among the elite. James A. Field, Jr. characterizes the legislation as eugenic, arguing that Augustus intended to increase the quantity and improve the quality of the elite population, and stressing that his efforts were not directed toward the population in general. M.I. Finley assumes that the princeps enacted the family legislation because of his concern over the declining elite population as well as their increased indulgence in luxuria, especially that of elite women. Henry Thomspon Rowell, in discussing the question of whom the princeps held accountable for the rising impiety of the elite, assumes that Augustus had no motive other than a desire to
increase the rates of marriage and procreation among the Roman elite. Peter Brunt and Pal Csillag reiterate the claim that Augustus' motive in enacting the laws was the preservation of the ruling elite. Susan Treggiari, too, assumes that Augustus enacted his family legislation because of concern over the declining population, especially that of the upper classes. David Cohen also implies that Augustus’ motive in enacting this legislation was a desire to increase the elite population. Kristina Milnor, in one of the most thorough recent studies, devotes an entire chapter to women and Roman law, including the Augustan family legislation. Within the context of an examination of women in Roman law, Milnor discusses historical representations of social legislation dealing with women. However, she focuses primarily on Livy’s account of the repeal

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4 Winspear and Geweke, *Augustus and Reconstruction* 176-86. Field, “Purpose of the *lex Iulia*” 398-416. Field asserts that the true eugenic purpose of the legislation had been overlooked by recent scholarship in favor of a “fiscal” interpretation (403). Finley, *Aspects of Antiquity* 128-30, especially 129. Rowell, *Rome* 201-10. Rowell briefly acknowledges the burden of social duty placed upon women, but concludes that Augustus considered upper class men more responsible.

5 Brunt, *Italian Manpower* 154, 558-66. Brunt also argues that the legislation would not have increased the population notably because the elite were too accustomed to avoiding marriage and procreation by the time of Augustus’ efforts (154, 565-66). He asserts that Augustus’ laws would, however, have increased the wealth of the state coffers through the limitations they set on inheritance, and that this may have been the sole reason an otherwise failed piece of legislation was retained by Augustus’ successors (154, 566). Winspear and Geweke also make the point that the family legislation would have served only “to enrich the treasury” (*Augustus and Reconstruction* 186). Csillag, *Augustan Laws* 20-21. The primary thrust of Csillag’s work in this volume is a detailed examination of the legislation itself, considering also the problems of the texts and their dates.


7 Milnor, *Gender*. As the title suggests, Milnor argues that Augustus, through his social ideology, sought to reinvent the private sphere of Roman life rather than reviving it in its traditional form, an ideal supposedly lost since Roman antiquity. Her focus is on how this reinvention created a world in which Roman elite women could act in public capacities while still fulfilling their roles as virtuous *matronae*. For the chapter on the family legislation, see pages 140-85.
of the *lex Oppia* in *Ab Urbe Condita* 34, devoting little attention to the Augustan family legislation. In her only discussion of Augustus' motivations, Milnor accepts the *princeps’* account of his actions presented in his *Res Gestae.*

Clearly, many scholars have accepted, in some cases rather uncritically, the claims Augustus made regarding his motivations. However, it seems rather naïve to simply assume that Augustus would have been entirely straightforward in recounting either his deeds or his motives. Some scholars, looking beyond the surface of the laws and the statement Augustus made about them, have articulated other, slightly more complicated theories. In his exploration of the family legislation, Andrew Wallace-Hadrill focuses on its economic aspects and possible motives related thereto. Karl Galinsky asserts that Augustus' motive was the preservation of the morals of the elite and their standing as examples of proper behavior. Synnøve des Bouvrie expresses criticism of Galinsky's interpretation, suggesting that Augustus' intention was to strengthen the empire and maintain the social hierarchy. Thomas McGinn, too, asserts that Augustus' motives in enacting his family legislation were two-fold:

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8 Milnor quotes Augustus' claims regarding his motives in enacting the legislation (*Gender* 145-6).
9 Wallace-Hadrill, "Family and Inheritance" 58-80. Wallace-Hadrill argues that Augustus was concerned with property and status: the legislation was intended to stabilize both of these by ensuring that property was transmitted from one generation to the next within a family or passed to another family already provided with a generation to whom that property could be passed. If these family pathways failed, the property could devolve to the state treasury whence it might be used to endow families selected by the *princeps*. Galinsky, "Augustus' Legislation" 126-44; des Bouvrie, "Augustus' Legislation on Morals" 93-113. Des Bouvrie's article is cited in Treggiari, *Roman Marriage* 61 n.93, and in McGinn, *Prostitution* 78 n. 97.
the princeps intended not only to promote marriage and reproduction, but also to clearly define the boundaries between classes and prevent certain groups from achieving upward social mobility that might bring them into the elite.\textsuperscript{10}

Several other scholars have suggested valuable questions for consideration in examining the motives that were behind Augustus' family legislation. Catharine Edwards makes the point that the laws must be analyzed within the context of the personal denunciation regularly engaged in by Roman politicians, drawing attention to the fact that Augustus used the language and symbolism of rhetorical invective in devising his legislation. Although it might have led to a profitable discussion of Augustus' motives, Edwards does not follow this line of reasoning to a careful examination of the family legislation within this context.\textsuperscript{11} Edwards also remarks that the family legislation "contributed to the institutionalisation of the emperor's dynastic ambitions," implying that this was at least one of the princeps' goals in enacting the laws.\textsuperscript{12} Once again, Edwards introduces an important consideration, but does not proceed to explain how the family legislation would have contributed to any dynastic hopes the princeps held.\textsuperscript{13} Maria Wyke gives some consideration to Augustus'
attempted reforms of *pietas* as part of a study of the literary representations of women during the Augustan period. However, her focus is on the literature and the women therein: she relegates the family legislation to the background and does not pursue a critical analysis of Augustus’ motives. Beth Severy discusses the transformation of Octavian into Augustus and the first *princeps’* efforts to reconstruct the “social order” of Rome. She asserts that Augustus’ motive in enacting the marriage laws in particular was a desire to make an unmistakable statement of individuals’ duties to the state and to clearly delineate social status. Severy notes that the family legislation politicized the roles of elite women in a way hitherto unknown in Roman society, and points out that it also created a situation in which Augustus could represent himself as Rome’s savior. The main thrust of Severy’s work, however, is the family of Augustus and how it became a part of the state. Like Wyke, her focus lies elsewhere, and she shifts the family laws to the background, leaving a close examination unrealized.

Thus, in the current state of scholarship, there is a deficiency that prevents an understanding of Augustus’ motives. One approach to resolving this problem lies in a careful consideration of the legislative measures the *princeps* carried out in conjunction with the circumstances in which he enacted them. The first part of this analysis is an exploration of the cultural context within which Augustus carried out his

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14 Edwards, *Politics of Immorality* 46. For her general discussion of Augustus’ family legislation, see pages 34-62; Wyke, *Roman Mistress* 40-5; Severy, *Augustus and Family* 50. For the general discussion, see pages 50-61.
15 Severy, *Augustus and Family* 53, 201.
legislation, with particular attention paid to Roman perceptions of women’s conduct during this period. The second part is a consideration of the legislation and its effects.

The discussion of the cultural context begins with a description of *pietas* as it was understood in the late Republic and early principate. In conjunction with *pietas*, an exploration of the public art commissioned by Augustus to showcase that virtue is also in order. One of the most important elements in this examination of cultural context is a consideration of men’s portrayals of women in the literary sources, firstly, the favorable descriptions of some women held up by Augustan authors as *exempla* of virtuous behavior. It is then necessary to consider the use of women as rhetorical tools by men to defame male opponents in the public sphere, and representations of women in the poetry of the Augustan period, both of which contrast sharply with the *exempla*. The final cultural element that must be taken into account is the beliefs, specifically those of men, about contraceptive and abortifacient devices and their use by women.

Having discussed the cultural context within which Augustus enacted the *leges Iuliae* and the *lex Papia Poppaea*, an examination of the laws is in order, beginning with a discussion drawing attention to their salient features. A consideration of the potential effects of the legislation follows, including an assessment of how these effects would have served Augustus’ purposes. This examination will close with a discussion of the conclusions drawn from the evidence presented and the wider implications of the argument that Augustus enacted his legislation in an effort to strengthen the position of the *princeps*. 
CHAPTER 2

THE CULTURAL CONTEXT OF THE AUGUSTAN FAMILY LEGISLATION

In 27 B.C., after restoring the *res publica* to the control of the Senate and the people, Augustus put aside the powers he had exercised since his defeat of Antony at the battle of Actium in 31 B.C. In the years that followed, he held various offices, including consecutive consulships. He resigned the consulship in 23 B.C., in spite of the protests of the plebs and their repeated election of him to that office. In exchange for his retirement from the consulship, Augustus was granted two powers of great importance to him, lifelong *tribunicia potestas*, the power of tribune of the plebs, and renewable *imperium maius*, proconsular authority. In 19 B.C., Augustus added the *imperium* of the consul to his other powers. In the same year, according to his *Res Gestae*, the Senate and people of Rome asked Augustus to assume several powers

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16 Consecutive consulships were actually not considered normal or acceptable by Romans of this period, and Augustus’ continued occupation of that position might have created problems for him with the elite who could otherwise hold this office. Augustus accepted the consulship again in 5 and 2 B.C., when his grandsons (and adopted sons) Gaius and Lucius embarked on their public careers.

17 Among other things, the *tribunicia potestas* gave Augustus the power to call the Senate together and introduce business to them, and to propose legislation and veto the decisions of other officials. It was by virtue of his *tribunicia potestas* that Augustus enacted his family legislation. The *imperium maius* gave Augustus power over all of the provincial governors. Together the two provided the *princeps* with some of the highest powers achievable both within and outside Rome.

18 This gave him the authority of a consul while in Rome, although he did not technically hold the consulship.
he refused because they were not in accordance with precedent and tradition.¹⁹ One of these was the curator legum et morum, the overseer of laws and customs, presented to Augustus in 19 B.C. Although he claims that he refused this office, Augustus almost immediately proposed legislation relating to the mores of the Roman people.²⁰ While it has been suggested that these laws, the leges Iuliae of 18 B.C. were not Augustus’ first effort to control the private lives of Roman citizens, this is doubtful. Some scholars, most recently Robert Besnier, have interpreted Propertius’ Elegiae 2.7.14 as a reference to 27 B.C., and a marriage or adultery law that Augustus either enacted and subsequently repealed, or proposed but never passed into law.²¹ However, Ernst Badian argues that there was no law passed or proposed in c. 27 B.C., and that Propertius’ remark is on the lifting of a tax which was a hold-over from the triumviral period.²² The absence of any other evidence that Augustus attempted to enact family legislation prior to 18 B.C. supports the assumption that the leges Iuliae were Augustus’ first acts of family legislation, which he undertook only after he had been asked to do so.

¹⁹ Mon. Anc. 6. According to Augustus’ claims, he was consul thirteen times, was tribune of the plebs for thirty-seven years (a post in which he was sometimes joined as a colleague by Agrippa or Tiberius), and he administered the grain supply during a year in which Rome faced a potential famine; he refused several offers of a lifelong dictatorship and consulship (Mon. Anc. 4-6). His refusal of the office of dictator for life is also recounted by Dio in 54.1.4-5, and Vel. Pat. 2.89.4-5.

²⁰ Mon. Anc. 6; Cass. Dio 54.10.5; Suet. Aug. 27.5. While Dio and Suetonius both maintain that he accepted this office, Augustus claims that he refused it. It is possible that these contradictions resulted from the subsequent enactment of the family legislation. Dio and Suetonius may have interpreted Augustus’ laws as an indication that he did accept the office of curator legum et morum.

²¹ Besnier, “Properce” 191-203. Besnier argues that this law was proposed and then dropped.

²² Badian, “Phantom Marriage Law” 82-98. See also Bauman, WPAR 107, 244, n.20-22. Tibullus, one of Propertius contemporaries, makes no reference to such a law, and, as he probably died in late 19 or early 18 B.C., he does not mention the Augustan family legislation (Conte, Latin Literature, 326).
Thus, the claim in his *Res Gestae* that Augustus enacted laws to restore traditional Roman values was most likely a reference to the *leges Iulias*. This act would have been in keeping with much of Roman law, which typically took the form of attempts to address pre-existing situations. The adultery and marriage laws of the *leges Iulias* appear to have been directed toward a lapse in *pietas*, and this virtue in turn served as the foundation upon which the *princeps* based the laws. According to Gian Biagio Conte, *pietas* in its early form was related most strongly to religious and consanguine relationships: he describes it as a form of "moral purity" that the individual acquired through dutiful conduct in regard to both the gods and the rest of mankind, particularly family members. There is no indication that the early Romans conceived of *pietas* as something one owed to the state. During the late Republic, the term *pietas* was still used most frequently to refer to filial affection or loyalty, or proper behavior toward the gods. However, references to *pietas* toward the state begin to appear in the mid-first century B.C., in the works of Cicero. The first of these

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23 *Mon. Anc.* 8. Although Augustus does not mention the *leges Iulias* by name, they were directly related to Roman *mores* and thus stand as the most likely candidates for the laws to which he refers. For a more specific list of some of the laws Augustus enacted, see Suet. *Aug.* 34. For discussion of the question of whether or not Roman women were frequently disrespectful of *pietas*, see pages 25-6, 35-7 below.

24 In this case, it may have been merely the perception of a pre-existing problem with women. A few examples of other reactive Roman laws include the *lex Oppia sumptuaria* of 215 B.C., which attempted to control the possession of gold and women's public displays of affluence through the wearing of expensive garments, excessive amounts of jewelry, and frequent use of horse-drawn transportation within the city of Rome; and the *lex Cornelia* of 67 B.C., which addressed current problems of government, requiring praetors to continue to abide by the edicts passed by their predecessors.

25 Conte, *Latin Literature* 802. Conte implies that this aspect of *pietas* dates from the early Roman period and rule by the nobility.

26 There are many such instances in the literature of the late Republic. To mention only a few, such uses are extremely common in the works Cicero, and also appear, less frequently, in those of Plautus, Terence, Cornelius Nepos, and Catullus.
references, "pietas in rem publicam nostram," "devotion to our commonwealth," appears in Pro Balbo of 56 B.C.; only a few years later in De Republica, written between 54 and 51 B.C., Cicero writes, "pietatem, quae cum magna in parentibus et propinquis tum in patria maxima est," "piety, which while it is great toward parents and close relatives, is, moreover, greatest toward the fatherland." In the Phillipica of 44 through 43 B.C., Cicero remarks on Octavian, "Caesar...intellegit maximam pietatem conservatione patriae contineri," "Caesar...recognizes that the greatest piety is contained in the preservation of the fatherland," suggesting that pietas is owed to the state even before the family. Augustus certainly counted respect for pietas among his personal characteristics, and it was one of the four qualities included on the golden clupeus virtutis, shield of virtue, the Senate awarded him in 27 B.C. He demonstrated his filial pietas through his pursuit and defeat of the men who had engineered the conspiracy to murder his adoptive father Iulius Caesar, his pietas to the state through his opposition to and victory over Antony and Cleopatra who were supposedly threatening Rome with foreign domination. Pietas was also fundamental to

27 Balb. 6; Rep. 6.16.
28 Cic. Phil. 13.46. Other instances of Cicero claiming that pietas toward the state is more important than that toward the family occur in Brut. 126 (46 B.C.): "Utinam non tam fratri pietatem quam patriae praestare voluisset," "Would that he (Gaius Gracchus) had not displayed as much devotion to his brother as to his fatherland," which may also suggest that the debt of pietas to the fatherland outweighs that to the family; and Phil. 13.46: "Caesar, singulari piae adolescent," "Caesar, a young man of singular piety." Saller also suggests that pietas to the state was more important than that to the family in "Pietas" 395.
29 These deeds were also personally advantageous to Augustus, but they were presented as actions taken for the benefit of the state. The Senate even voted a triumph for the defeat of Antony and Cleopatra at Actium.
Augustus’ *auctoritas*, an authority that depended not upon the legal power of an elected office, but upon the continued popular belief that he was an appropriate source of leadership for the Roman people.\(^{30}\)

Arguing that *pietas* was used to justify both Rome’s conquests and the role of the *princeps* in the state, Hendrik Wagenvoort describes *pietas* as a political “catchword” of the principate of Augustus, a concept that became “the device of the new Roman state.”\(^{31}\) According to Wagenvoort’s reasoning, it was necessary for the citizens of Rome to overcome and govern other states because their *pietas* towards the gods who had given them this destiny demanded it. The *princeps* was essential to the survival of the *res publica* because he would ensure that the Roman people continued to respect *pietas*: without him, Rome might once again descend into the state of disorder that had reigned during the years of civil war. Galinsky, however, describes *pietas* as “the time-honored Roman ideal of social responsibility,” pointing out that the social or civic function of traditional *mores* like *pietas* was not newly introduced in the Augustan period.\(^{32}\) He argues that the “traditional value system” of which *pietas* was a part constituted a crucial element of the Roman government during the Republic.\(^{33}\)

As a part of his restoration of the *res publica*, Augustus merely stressed the

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\(^{30}\) Augustus’ *auctoritas* would likely have been enhanced through the filial respect owed to him by all Roman citizens because of his status as a savior of the state and recipient of the *corona civica*. On the obligations involved in the bestowal of the *corona civica*, see Polybius, 6.39.7; Cic. *Planc.* 72. Aulus Gellius even writes that the *corona civica* was only awarded if the savior killed the individual or individuals who threatened the life of the citizen in question (*NA* 5.6.13). Mousourakis asserts that Augustus’ *auctoritas* outstripped in importance all of the other political powers he exercised, granting him “superiority over all other organs of the state,” *Legal History* 84.

\(^{31}\) Wagenvoort originally used this description in his inaugural address at Groningen in 1924; it was later published in *Pietas* 1-20. The references here are on pages 3, 12, and 15-16.

\(^{32}\) Galinsky, *Augustan Culture* 86.

\(^{33}\) Galinsky, *Augustan Culture* 6-7.
importance of *pietas* and devised legal ways of encouraging Roman citizens to adhere to its principles. Stephan Weinstock agrees with Galinsky that *pietas* had long played a role in Roman public life. However, he asserts that Iulius Caesar began to transform *pietas* into a value with political meaning. Augustus merely adopted a practice already established.\(^{34}\)

Whether Augustus introduced this new aspect of *pietas* or simply built upon an innovation of Caesar, he certainly made use of it. Although in the surviving excerpts of the family legislation *pietas* is not specifically mentioned, the concept is clearly present.\(^{35}\) *Pietas* at times compelled Roman citizens to set aside personal desires, requiring them to act selflessly in the interests of a familial, national, or divine group that constituted a higher order. The Augustan family laws did much the same thing, commanding citizens to fulfill their socially determined duties, thereby acting in accordance with this ancient Roman value.\(^{36}\) For most elite Roman women, the primary duty in life was marrying suitable citizen males and producing legitimate children to carry on their husbands’ family names and, perhaps more importantly, to serve as heirs.\(^{37}\) Of more significance for consideration of Augustus’ laws, however,\(^{34}\)\(^{35}\)\(^{36}\)\(^{37}\)

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\(^{34}\) Weinstock, *Divus Julius* 256-9. In the development of his theory, Weinstock posits that *pietas* gradually took on the sense of *fides* as it denoted the tie between a Roman patron and his client. He argues that Iulius Caesar formed such ties first with leaders in the provinces as early as 59 B.C., and during 49 B.C., with entire towns in Italy. This aspect of his argument is somewhat unconvincing as he asserts that references to *fides* that appear to generally mean loyalty to one’s fatherland actually mean *fides* of the sort a client would owe to his patron. In some cases, p. 257 n.11 for example, he cites references to friendship that mention neither *pietas* nor *fides*.

\(^{35}\) For discussion of the remaining excerpts from the laws, see pages 55-6 below.

\(^{36}\) For discussion of the particulars of the legislation, see pages 57-61 below.

\(^{37}\) The main exceptions to this were the Vestal Virgins whose duty required them to remain unmarried and celibate. For further details and discussion of the importance of property and heirs to leave it to, see Kertzer and Saller, *Family in Italy*; and Saller, *Patriarchy*. 14
is that for these women, the obligation to *familia* was intimately connected to the obligation to *patria*. By marrying appropriate individuals and providing them with offspring, women honored the households of their fathers and their husbands, thus demonstrating their familial *pietas*; they also showed their *pietas* toward the state and the gods by fulfilling the more important obligation of supplying the state with another generation of citizens to continue Roman society and carry on the expansion divinely decreed as Rome’s destiny. A woman who neglected her reproductive duties to her husband in turn failed to fulfill her obligation to the state and, ultimately, to the gods.

Thus “the reproduction of the civic body and the reproduction of society” were central to the lives of most Roman women and their demonstrations of *pietas*. Stating that “ἐπεὶ τέκνων ἐνεκα καὶ διάδοχης, ἀλλ’ οὐχὶ ψηλῆς ἡδυπαθείας, αἱ πολλαὶ γάμωις συγκαταζεύγνυνται,” “women usually are married for the sake of children and succession, and not for mere enjoyment,” the early 2nd century A.D. physician Soranus makes it unmistakably clear what the role of marriage, and thus the obligation of married women, was in the Roman world. Women were duty-bound to produce children for the state as well as for their husbands, and if they failed to accomplish these goals, set for them by society, they would not only cause suffering for their husbands’ households, but for “the citizen body as a collectivity.”

The importance of the woman’s function as the producer of children generally outstripped

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38 Rouselle, “Personal Status” 302.
39 Sor. *Gyn.* 1.34. Although Soranus’s work post-dates Augustus by roughly a century, his assessment holds true for the Early Imperial period.
40 Rouselle, “Personal Status” 307.
other aspects of her place in Roman society. As Mireille Corbier points out, "women were 'recycled'. Even virginity, that gift to the [first] husband...does not seem to have been highly prized." Women married for the first time were expected to be virgins; according to Cohen, this was "a prerequisite for an honourable marriage." However, it was not unusual for men of the upper classes to wed women who had been married previously. Marrying a woman who had already borne children or was carrying the child of another man was also acceptable, "her fertility having thereby been proven." A marriageable woman who was in her child-bearing years and known to be fertile might have been an attractive prospect for a man who wanted heirs. In some cases, such a woman could be a more appealing option than an untried virgin, who might seem a greater gamble as a potential mother.

If a woman's identity as a tool for procreation was not confining enough, "marriage in early Rome was usually accompanied by manus," which was accomplished through usus, confrarreatio, or coemptio. Manus placed a wife under...

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42 Cohen, "Augustan Law" 112.
43 Corbier, "Divorce" 57.
44 In the case of Augustus and Livia, the woman did not even need to be marriageable: Augustus, as the prospective bridegroom, arranged for Livia and her husband, Tiberius Nero, to divorce, and for her former husband to give her in marriage to Augustus.
45 Other factors, of course, would probably be the consideration of the dowry accompanying the bride, and any other property she owned or stood to inherit, as well as her family and their social and political standing.
46 Treggiari, Roman Marriage, 16. Treggiari discusses types of marriage on pages 17-28. If the husband was still in his father's power, the wife would also come under the authority of her father-in-law (Treggiari, Roman Marriage 28). All of her property passed into the hands of her husband or his father, and she assumed the legal status of a daughter, and a father or a husband who caught a wife in manu in the act of adultery had the right to kill her (Cantarella, "Homicides of Honor" 230). This right was later taken away by the lex Iulia de adulteriis coercendis, although fathers continued to possess the right under certain, restricted circumstances. Manus was not inevitable, however. Gaius discusses the ways in
her husband's authority and made her a part of his family. By the late Republic, the incidence of wives in manu to their husbands became the exception rather than the rule, and it seems to have been regarded as an unfavorable situation by women.\textsuperscript{47} To make the ceremony of conforreatio, which was required for the office of certain priesthoods, more palatable, the establishment of legal manus was eliminated under either Augustus or Tiberius, allowing the wife to remain as independent as any other woman sine manu.\textsuperscript{48} Given these changes, it seems likely that manus became an even greater rarity. As Rowell points out, "whereas marriage with manus had previously been the most popular form of marriage, women now preferred to remain under the potestas of their fathers."\textsuperscript{49} Treggiari suggests that by the middle of the 1\textsuperscript{st} century B.C., "subordination of the wife...was not essential or important."\textsuperscript{50} Although prior to 18 B.C. they faced no legal obligation to do so, women married sine manu were still expected to be sexually loyal to their husbands: their society and their families considered them responsible for bearing and raising legitimate children to serve as

which manus occurred through usus (Inst. 1.111), and the more formal procedures of conforreatio (Inst. 1.112) and coemptio (Inst. 1.113-115, 118, 123, 195a; 2.139; see also Ulp. 11.5).

\textsuperscript{47} Treggiari, Roman Marriage, 16, 35.

\textsuperscript{48} According to Gaius, no man could assume the office of a flamen of Jupiter, Mars, or Quirinus, or a rex sacrorum unless he was born to parents married according to this ceremony and himself married in the same manner (Inst. 1.112). Treggiari suggests that the priests were required for the conforreatio ceremony, possibly including the Pontifex Maximus and the flamen Dialis, although this is disputed by Volterra, "Matrimonio" 764; cited in Treggiari, Roman Marriage, 23. According to Treggiari, the conforreatio ceremony as part of the qualification for priestly office continued in use until the end of paganism (Roman Marriage, 22-3).

\textsuperscript{49} Rowell, Rome, 203-4.

\textsuperscript{50} Treggiari, Roman Marriage, 261. Be that as it may, at the beginning of the Augustan period, even women who were sine manu were still required to have male tutores or guardians. These tutores oversaw the management of the property held by the women; they were also responsible for arranging first marriages for those under their care, and their consent was required in order for these women to make wills (Treggiari, Roman Marriage, 32, 51, 381). The Vestal Virgins may have been an exception to this general rule regarding wills, since they were emancipated from their fathers upon their inaugurations into the order. See also Rowell, Rome, 184.
heirs for their spouses, and to provide for the future of Rome. Augustus' legislation emphasized the social and civic aspects of this reproductive duty. Situating it within the context of *pietas*, the princeps made procreation part of women's expression of their respect for ancient Roman values.

Through public art, Augustus demonstrated his own *pietas* and provided examples of proper respect for *pietas* for others to emulate. He began by transforming his public portrait statuary and later commissioned public art designed to showcase matronly respect for *pietas*. Much of the public's exposure to the *principes* was through the medium of statuary or other forms of portraiture such as coins, which had the power to convey many messages to their viewers. Augustus took advantage of this medium, placing examples of *pietas* on display for the Roman people. During the 30s B.C., Augustus, still as Octavian, had become probably the first Roman to have portraits of himself in the heroic nude style erected at Rome. 51 Octavian was probably

51 Hallett, "Roman Heroic Portrait" 114, 172; *Roman Nude* 97-8. One of the first of these was placed on the top of a column in the Forum. This portrait was a nude Octavian with a mantle draped over one shoulder as can be seen in a reproduction of it on the reverse of a *denarius* the future princeps minted around the same time. The Senate voted the right to Octavian to erect an honorary statue for his victory at Naulochus over Sextus Pompey in 36 B.C., making it at least the earliest securely datable instance of a self-commissioned public nude. A second heroic nude statue of Octavian, dating to the 30s B.C., was found at Tusculum, while an engraved gem displays another heroic nude portrait, again dated to the 30s B.C. The engraved gem is now lost, but a cast remains showing the portrait of Octavian (*Roman Nude* 98-9). The earliest known portrait in the nude heroic style is to be found on the reverse of a *denarius* minted between 42 and 40 B.C. in Sicily by Sextus Pompey. The coin depicts either a nude Sextus Pompey or his father Pompey the Great as Neptune. While this is the earliest instance of nude portraiture with any type of official approval, Hallett points out that it may well have been a posthumous honor bestowed upon Pompey, and that there is no evidence that Pompey ever had a portrait made of himself in the nude ("Roman Heroic Portrait" 127-8, 167-71; *Roman Nude* 97-9, 111, 117-18). Although not the first Roman nude portrait, Octavian's may well have been the first a living subject commissioned of himself and displayed in Italy; it was almost certainly the first erected in the Roman Forum. Other nude portraits, including the "Terme Ruler" and the "Levy Ruler," have been tentatively identified as Romans, but C.H. Hallett disputes such conclusions, arguing that the other images in question are more likely spoils carried back to Rome by victorious generals. For his
influenced by eastern portrait styles in his creation of these portraits as the tradition of nude portraiture was one the people of Rome adapted from its conventional Greek usage. During the early 20s B.C., however, Octavian moved away from the heroic nude style toward a self-image that was more pious in appearance for his portraiture within Italy. This development roughly coincides with, and may be directly linked to, his acceptance of the title “Augustus” on 16 January, 27 B.C. From this time on, Augustus was most often commemorated publicly in a priestly manner with his toga draped over his head. The only heroic portrait style still used for Augustus was the hip mantle and even this underwent significant changes. Like the heroic nude he had employed as Octavian, the hip mantle portrait also had a history in the Greek world, where it was used as a heroic portrait style in which the subject bore weapons. In its Greek design, the hip mantle portrait was adopted by some Roman citizen males, probably during the early 1st century B.C. It was used for an equestrian statue of Octavian, awarded by the Senate on 2 January 43 B.C. and placed next to the rostra in

discussion, see “Roman Heroic Portrait” 155-6, and Roman Nude 146-8. Authors including Plutarch (Luc. 37), Appian (Mith. 12.116), and Dio (51.22.3) all mention Roman generals returning with portraits of defeated enemies for triumphal displays and, at least sometimes, for dedications.  

32 The creation of nude public statuary was a fairly common practice in the Greek world, and, by the 30s B.C., the Romans had long been governing Greece. It is also worth noting that heroic demigods, such as Aeneas and Hercules, were occasionally portrayed nude as well, although this was a much less frequent occurrence (Hallett, “Roman Heroic Portrait” 146; Roman Nude 138 and 107).

33 Hallett, “Roman Heroic Portrait” 175. This was not true in the cases of Augustus’ portraits in places outside Italy. Nudes of Augustus and other Julio-Claudian rulers were erected in parts of the eastern empire, such as the Sebasteion in Aphrodisias.

34 Herein I adopt the term applied to the style by archaeologists who call it Hüftmantel, as Hallett points out in Roman Nude 102.

35 Hallett, Roman Nude 124-5. It seems that the hip mantle style was not as popular, though, appearing neither as frequently nor on as wide a scale as the fully nude style, although Hallett suggests that there may have been exceptions.
the Forum. In Augustan usage, however, the attributes previously associated with this portrait style were exchanged for new implements. Every hip mantle portrait of Augustus omits the martial accoutrements present in other hip mantle portraits. The cuirass used as a statue support is eliminated, and the once characteristic sword and sword belt are replaced by the scepter, accompanied by either the *lituus* (augur's staff), a globe crowned by a victory figure, or a *patera* (offering bowl). This change transformed the previous portrait, one of a very martial character, into an image of a more religious nature in keeping with Augustus' new public image.

The connotations of piety embodied in this new program of Augustus' public self-portraiture were echoed in the public art he commissioned, works that promoted respect for *pietas* through the expression of the importance of filial piety, fertility, and family. One of the major public construction projects he carried out was the Forum of Augustus, at the rear of which was located the Temple of Mars Ultor. Housing statues of Augustus' adoptive father Iulius Caesar, and the deities Mars and Venus, from whom the *princeps'* family claimed descent, this temple provided "a way for Augustus to express filial piety." On either side of the Temple of Mars Ultor ran colonnades, behind which were *exedrae*, semi-circular, recessed spaces, in which Augustus had

56 Hallett, *Roman Nude* 131-2; Zanker, *Power of Images* 37-9, Fig. 30a. Our knowledge of the statue's design comes from coins.

57 Hallett, "Roman Heroic Portrait" 178; *Roman Nude* 163-6. The hip mantle statues actually hold no such items, the implements having been lost. This identification of the new attributes is based on other types of hip mantle portrait from the same time period, including gem carvings and coins. These changes also suggest that Augustus made these alterations in his public portraiture as part of his attempt to separate himself from the eastern influences exemplified by nude portraiture, the very influences he had used against Antony. It would have served his purposes well to disassociate himself from any type of eastern excess while trying to demonstrate that he was a military hero and a good, upstanding Roman citizen.

58 Ramage and Ramage, *Roman Art* 103.
statues of famous figures erected. In the center of one of these exedrae stood a statue of Romulus, also a Iulian ancestor, who stood for the “virtus...courage, and moral fiber, that Augustus now claimed for himself”; in the other was a statue of Aeneas, yet another ancestor of the Iulian family, who was representative of pietas.59

Even Augustus’ mausoleum embodied the virtue of pietas. The two-storey round tomb, measuring roughly 285 feet wide and 130 feet high, and crowned by a colossal bronze statue of Augustus, was highly visible. In its location in the Campus Martius, there were no immediately adjacent buildings with which the mausoleum had to compete for the viewer’s attention.60 After its completion, Augustus, in an act of public as well as private piety, transferred the ashes of the Iulian family members who had predeceased him to places reserved for them in the mausoleum.

The Ara Pacis Augustae was possibly the most important public piece commissioned by the first princeps. Created between 13 and 9 B.C., the Ara Pacis was entirely devoted to the themes of peace, fertility, and family.61 The altar itself is sheltered by an enclosure wall, on two sides of which are depicted images of a procession moving from the east to the west face of the wall. The two reliefs have usually been interpreted as a group of senators and the imperial family, children included, and Diana E.E. Kleiner notes that this occasion is the ceremonial laying of

59 Ramage and Ramage, Roman Art 105.
60 Zanker, Power of Images 74-5. Zanker includes a reconstruction drawing by Henner Von Hesberg of the mausoleum as it would have appeared upon completion, in which the statue is in the heroic nude style. While this style must be considered a possible candidate for this portrait, it seems unlikely given the context and the intended message.
61 Although Wayne Andersen argues for a date under Tiberius, his case is not entirely convincing. Andersen, Ara Pacis.
the foundation stone for the altar, which took place on 4 July, 13 B.C.\textsuperscript{62} The presence
of women and children in these scenes is a mark of significant change in Roman art.
Before the Augustan age, women were rarely depicted in public art. Although women
associated with politically important men might appear in idealized forms on coins
and probably in sculpture as well, they did not play a notable role in Roman art during
the Republic.\textsuperscript{63} In particular, they were not included in reliefs depicting official rites
of the state.\textsuperscript{64} On the \textit{Ara Pacis}, however, women appear prominently with their
families in images that would have communicated the emphasis being placed on the
importance of familial relations and responsibilities. The fact that many of these
women were identifiable as particular members of the \textit{princeps'} family is also
significant. Augustus frequently highlighted the virtue of his female relatives, setting
a new precedent by naming Octavia and Livia as the benefactresses in the construction
of two porticoes in Rome, and, according to Dio, also erecting public statues of both
of them.\textsuperscript{65} Both Octavia and Livia may also have completed others' unfinished
building projects or projects of their own.\textsuperscript{66} The presence of women on the \textit{Ara Pacis}
was perhaps an even greater innovation, however, presenting in public images of
mortal women who stood as examples of virtue and devotion to \textit{pietas}.

\textsuperscript{62} Kleiner, \textit{Roman Sculpture} 92.
\textsuperscript{63} On this change in artistic composition, see Kleiner, \textit{Roman Sculpture}, 54-5; Ramage and Ramage,\textit{ Roman Art}, 79.
\textsuperscript{64} Kleiner, \textit{Roman Sculpture}, 54.
\textsuperscript{65} Cass. Dio 49.38.1. For a discussion of the building activities of Octavia and Livia, see Severy,\textit{ Augustus and Family} pages 91-3 on Octavia's building projects and the innovation of naming a family
member as a builder, and 132-5 for Livia's involvement in public construction.
\textsuperscript{66} Livy, \textit{Per.} 140; Ov. \textit{Ars am.} 1.69-70; and Prop. 3.18.11-20 record Octavia completing a theater
adjacent to the \textit{Porticus Octaviae}. Cass. Dio 54.23.6 and Ov. \textit{Fast.} 6.637-640 present Livia as the
builder of a portico and a shrine to \textit{Concordia Augusta} within the portico. See also Severy, \textit{Augustus
and Family} 91-3 on Octavia's building projects, and 132-5 for Livia's.
The inclusion of children in these reliefs is also noteworthy. Although he remarks on the appearance of the children of the imperial family and their foregrounding in the relief, Paul Zanker attaches no particular importance to their presence. However, the depiction of children is significant. As Beryl Rawson points out, children were almost universally excluded from Roman art before the beginning of the Augustan principate. The rarity of representations of children in either private or public makes the Ara Pacis even more remarkable. This design, however, although it was an artistic innovation, was not a great divergence from the rest of the princeps' publicity for his claims about piety. Augustus' inclusion of women and children on such a visible public monument would have served to reinforce the idea of family as an important part of Roman society.

Among the other reliefs on the exterior of the enclosure wall are two images that express the importance of pietas and fecundity. One of the reliefs on the east side shows a female figure "with two babies in her lap to emphasize her fertility," perhaps Pietas herself among whose attributes are children, or perhaps "Tellus (Mother Earth)" who also often appears in the company of children. Whether interpreted as a depiction of Pietas or of Tellus, such a scene would have further underscored the importance of motherhood and procreation, and, consequently, the essential role of the pietas of the Roman matron. The counterpart to this image of female piety, appearing

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69 On Pietas, Smith, ed., *Greek and Roman Biography*. The identification of this figure as a representation of Pietas seems entirely plausible, although Wagenvoort asserts that Pietas was never depicted as a goddess during the Augustan principate (Pietas 15-6). On Tellus, see Ramage and Ramage *Roman Art* 116-23; for the quote, see page 117.
on the west side of the enclosure wall, is a scene of male piety. This scene represents
the demonstration of respect for *pietas* through an image of ritual sacrifice,
traditionally interpreted as Aeneas making an offering to his *lares* (household gods).
Keeping in mind the mythical account of Aeneas’ escape from Rome with his father
and son, the scene presents an image of *pietas* toward the family and the gods, again
emphasizing the value of the family, particularly the continuation of the family, in this
case through male heirs, which again stresses the importance of respect for *pietas*.

The neatly ordered, yet realistically carved, floral pattern with images of
animals that appears on all four sides of the enclosure might also be considered
representative of the idea of fecundity. The reliefs on the interior of the enclosure wall
can certainly be interpreted as such. Here, carved garlands adorned with fruits of all
four seasons symbolize both the idea that the peace of Augustus lasts throughout the
year, and also that the Empire is fertile and fruitful. Located, like the Iulian
mausoleum, on the Campus Martius, next to the *Via Flaminia*, the *Ara Pacis Augustae*
would have been in plain sight, and its enclosure wall, which is nearly twenty-three
feet high, over thirty-four feet long, and thirty-eight feet wide, would have been eye-
catching for its size alone. The subjects of its relief sculptures, several of which were
familiar myths to the people of Rome, would have further captured the attention of the

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70 Ramage and Ramage, *Roman Art* 118; Zanker, “Augustan Political Symbolism” 2.
71 Ramage and Ramage, *Roman Art*, 116-23. For additional support on the vegetation scenes as
symbolic of fertility, I am also indebted to Cari Winterich, The Ohio State University Department of the
History of Art, who gave a presentation of this interpretation on May 16, 2005.

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viewer. It is unlikely that the individuals who saw the enclosure wall, even if only on the outside, would have had any difficulty in understanding the message it conveys regarding the importance of procreation and, thus, women's devotion to their duty.

Unlike the dutiful women depicted on the *Ara Pacis Augustae*, the shamelessly licentious women of Augustan elegiac poetry were certainly not portrayed as fulfilling their obligation to family and state. Performing this duty required self-control, possibly through the sacrifice of personal desires: women could not very well indulge themselves in extra-marital sex if they were taking on the responsibility of bearing the children of their husbands. One of the principal questions addressed in scholarship on the literary sources is the highly problematic issue of whether or not the women represented in Augustan poetry actually existed, either as specific individuals who corresponded to the poetic women, or as a general type. Of course, one cannot simply take for granted that the women in these poems represent real individuals or even an accurate reflection of the lives of elite women. It is hardly logical to assume the existence of women who led lives of sexual depravity if the only available sources of evidence are those composed by men whose descriptions of the lives and mindsets of women seem to have been based on rhetorical devices and literary conventions. The dearth of evidence for what women thought of the world in which they lived contributes to the problem of determining what their lives were like. Although Roman men seem to have conceived of a range of choice for women delimited by total submission to male authority at one end and total freedom, particularly of a sexual nature, at the other, there is no evidence on which to base the assumption that women
perceived their world this way. Even if their lives were sexually confining, Mary Lefkowitz raises the question of whether it is “really fair to imply...that ancient women would have wanted to live differently.”\textsuperscript{72}

While this issue is closely linked to a consideration of what motivated Augustus to enact his family legislation, determining whether or not a large number of licentious elite women existed is unnecessary. Of far greater importance to the problem of Augustus’ motivations is the question of what Roman men believed about women. If Roman men believed that women were sexually depraved, especially a majority of elite women, it could well have made their reception of Augustus’ reform proposals more favorable.

As Lefkowitz points out, “most of the writing about women in the ancient world was done by men.”\textsuperscript{73} Dixon, Edwards, and Wyke assert that one cannot take the literary sources as evidence of Roman reality.\textsuperscript{74} According to Wyke, these elegiac women are no more than a “poetic fiction” that is intended “only to portray the male narrator as alienated from positions of power and to differentiate him from other,

\textsuperscript{72} Lefkowitz, “Wives and Husbands” \textit{G&R} 31. In interpreting Augustan poetry, many scholars have assumed that the answer to Lefkowitz’s question is “yes” and that behind the literary personae of these adulterous elegiac lovers lie actual Roman women. For example, see Treggiari, who argues that the elegiac women of Augustan poetry did exist, asserting that “the reality of such a world is confirmed by the gossip of Cicero and Caelius, the slanted attacks of Cicero in his speeches, or Sallust in his history, the moralizing of Horace, the gibes of Antony and Octavian, and the reaction of Augustus the legislator” \textit{(Roman Marriage} 307).

\textsuperscript{73} Lefkowitz, “Wives and Husbands” 31.

\textsuperscript{74} Dixon, \textit{Reading Roman Women} 61; Edwards, \textit{Politics of Immorality} 26; Wyke, \textit{The Roman Mistress} 18, 31. Edwards in particular argues that the accusations made by orators cannot be considered proof of female depravity.
socially responsible, male types.\textsuperscript{75} Having been locked into a social and political hierarchy with no potential for upward mobility, elite men voiced their impotence by composing poetry involving a reversal of roles for male and female characters. This assumption that they wrote to express their frustration over their powerlessness, on the surface, seems to be supported by the use of impious women as one of the common general themes of their poetry. Verses describing women who behaved with no respect for their \textit{pietas} might have voiced criticism of the principate, accusing Augustus of failing to avert a serious threat to the stability of the empire. The attention drawn to this failure might have been interpreted as a tacit assertion that the \textit{res publica} should be truly restored, not managed under the heavy influence of a man whose unsuccessful policies were allowing it to sink even lower than it had during the civil wars.

However, these criticisms also lent support to a notion the \textit{princeps} would have been eager to keep in the forefronts of people’s minds: the idea that women had abandoned their \textit{pietas} and were harming their families and the state. Through its rewards and penalties for women, the family legislation emphasized the importance of female respect for \textit{pietas}, and, at the same time, suggested that female \textit{impietas} was a common problem. As thorough as Wyke’s examination of the evidence may seem,

\textsuperscript{75} Wyke, \textit{The Roman Mistress} 42-3. According to the interpretation of Judith Hallett and Margaret Hubbard, the male narrator abandons his civic obligations as a man and adopts the womanish quality of sexual fidelity, meanwhile creating female counterparts who exercise authority over males through the abuse of this “loyalty.” (Hallett, “The Role of Women” 103-24; Hubbard, \textit{Propertius}; cited in Wyke, \textit{Roman Mistress} 42-3.) Commenting on this analysis, Wyke declares that the terminology they employ in expressing their view of this sexually liberated portrayal of women as empowering “suggests, erroneously, that in elegiac poetry the female subject gains a position of social responsibility at the same time as it is removed from the male” (42).
she fails to consider adequately the relationship between the family legislation and the contemporary literature, both of which fostered the notion that women were acting against the accepted social norm. Ultimately, the explanation may be more complicated than a simple question of whether or not many elite Roman women were involved in adulterous relationships. It is necessary to consider the possibility that Augustus wanted that perception of women to survive in the minds of the Roman elite because it served his purposes. Although the Senate and the people of Rome had asked him to undertake the supervision of their *mores*, Augustus may have still believed that his laws required a certain degree of justification, and that the favorable reception of his program of reviving *pietas* depended at least in part upon the continued fear that Roman citizens had abandoned the *mores* of their ancestors. He would seemingly have succeeded in his apparent attempt to revive *pietas* if people believed that the threat had ended, which might have contributed to the conclusion that Rome no longer needed the *princeps*’ commanding leadership. Thus, it would have been to Augustus’ advantage that this idea of female *impietas* as well as lack of familial control over it was perpetuated. The belief, or perhaps even the suspicion, that Roman fathers and husbands were incapable of controlling their daughters and wives in the customary ways would have reinforced the idea of the need for the *princeps*’ intercession. That the poets continued to write of this social crisis suggests that Augustus was at least not averse to allowing them to perpetuate the idea that women, through their *impietas*, were feeding an impending disaster, which, being central to his legislation, could have provided support for the *princeps* and his
endeavors. The confluence of such literary and historical commentaries on women's conduct, the custom of associating one's political opponents with impious women, and the legislative efforts to govern their behavior, strongly suggests that the portrayals of these undisciplined women do have some relationship to at least one reality: they are firmly grounded in men's perceptions thereof, perceptions of which the princeps took full advantage.

As this discussion has demonstrated, a superficial examination of the literary evidence from the Augustan period against the background of the family legislation suggests that many Romans may have believed that women were deliberately ignoring pietas and their duty to the Empire. Indeed, if the poets and the historians are to be believed, women were living promiscuous lives, taking on one lover after another. However, these characterizations did not exist in isolation. There were also stories of virtuous women whose actions were noted as exempla by various authors of the Augustan age. Among these, there are accounts of the courage and patriotism of women in times of war, such as that of Cloelia, dated to the late 6th century B.C. Held as one of many hostages in the camp of the Etruscan leader Porsinna, Cloelia succeeded in escaping and leading a group of girls back to Rome. She later willingly returned to the enemy camp as a part of the peace treaty agreed to by the Romans and the Etruscans. In admiration, Porsinna allowed her to select and take home another group of hostages. For these actions, she was commemorated by the Romans with an

[注] Most of these stories are of women from the distant or recent Roman past, although there were stories of the virtues demonstrated by contemporary women, particularly Octavia in her dealings with Antony.
equestrian statue at the summit of the *Via Sacra*.

Another story of female virtue is told of Veturia, the mother of the exiled Gnaeus Marcius Coriolanus who was waging war against Rome during the early 5th century B.C. Male envoys having failed to come to terms with Coriolanus, Veturia left the comparative safety of the city and went to the enemy camp where she convinced her son through her tears and entreaties to abandon his campaign.

There are also stories of women who display virtues of a more domestic character that was perhaps closer in nature to the particular form of *pietas* promoted by Augustus. One of the most often cited is the account of Lucretia, the wife of Tarquinius Collatinus, which is dated to the 6th century B.C. According to Livy, Lucretia demonstrated the proper virtues of a Roman *matrona* while her husband was away fighting in a war. She was found at home during the evening working wool with her maids, while the wives of Collatinus' comrades were indulging in a luxurious banquet with their friends. Lucretia later demonstrated further her virtue as well as her proper Roman concern for "her good name above her body" when, having been raped, she revealed the crime to her family and then killed herself so not to serve as a poor example for future generations of women.

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77 Liv. 2.13.6-11; Val. Max. 3.2.
78 Liv. 2.40.1-10; Val. Max. 5.4.1. Veturia was accompanied by her daughter-in-law and grandsons, as well as a large group of *matronae*, all of whom begged Coriolanus to end his attacks on Rome. It was, however, his mother who spoke for the group.
79 Liv. 1.57.6-9. The discovery was made as part of a wager of sorts, made while the men were dining together and praising their wives.
80 Liv. 1.58.6-11; Val. Max. 6.1.1; Claasen, "The Familiar Other" 88. Claasen also discusses a number of other stories about virtuous Roman women (as well as those who were wicked), including Cloelia and Veturia.
Stories such as those of Cloelia, Veturia, and Lucretia demonstrate the virtues that may arguably have been those most valued in a Roman matrona. There are also accounts that fall into a gray area. The story of Pero, for instance, is one of the pietas demonstrated toward a parent, but a violation of that owed to the state. Pero’s father, or mother in some versions of the story, was wrongly convicted and condemned to death by starvation. Unwilling to allow her parent to die unjustly, Pero visited the site of imprisonment and fed the condemned with her own breast-milk. When her activities were discovered, Pero’s devotion was considered so virtuous that she was praised and her parent released. According to Pliny’s account, the cell in which the events took place was later the site of a temple to Pietas.  

Another record of matronly virtue that falls into the gray area occupied by the story of Pero is the laudatio Turiae, erected during the late 1st century B.C. This monument is a far more detailed tribute to its recipient than most of the epitaphs of Roman women, which, normally erected by family members, typically praise stock qualities such as devotion to family and wool-working. The laudatio Turiae commemorates a wife who was both possessed of the conventional matronly virtues, and was successful in concealing her proscribed husband during the Second

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81 Plin. HN 7.36; Val. Max. 5.4.7, 4.ext.1. In the version he recounts at 5.4.7, Valerius Maximus leaves the individuals unnamed, while at 5.4.ext. 1, he names Pero and tells that she nourished her father, Myco, instead of her mother. There was also a Greek version of this story.

82 For a recent discussion of these epitaphs, see Milnor, Gender, 29-32, 197-8, and 214-19.
Triumvirate. Although her undertaking demonstrated virtue through loyalty to her husband, it was also problematic because her deed was a crime against the state, and thus at once an act and a violation of *pietas*.

Although some of these accounts do not offer clear-cut cases of respect for all forms of *pietas*, they all present *exempla* that demonstrate some of the character traits Roman men desired in women. Even those whose heroines betray the Roman state in favor of their families stand in stark contrast to the characterizations of women found in the historical accounts and the elegiac poetry of the period, works that clearly present women who are in violation of *pietas*, and for whom there is no gray area.

In their discussion of these representations, Winspear and Geweke write that the poets of the Late Republic and Early Empire “give what is in many ways a fascinating picture of civilized youth, witty, brilliant, well-informed and in every sense cultivated, but at the same time licentious, dissipated, and completely unscrupulous.” This suggests that, in reality, the faithful wife mentioned by Treggiari may have been little more than “the ideal.”

83 The description of events in this epitaph matches the details of an account regarding Turia and her husband Vespillo, which was recorded by Valerius Maximus (6). However, the names of the *laudator* and *laudata* in the epitaph have been lost, and there is some debate as to whether or not they are the husband and wife in Valerius Maximus’ story. For a discussion of this, see Horsfall, “Problems in the ‘Laudatio Turiae.’”

84 The behavior of the women in these historical accounts and elegies was socially unacceptable, and the only interpretation that would make their conduct permissible if not praiseworthy is one that asserts that the women were prostitutes. However, Saara Lilja presents a good case for why they could not have been prostitutes. Although she assumes that the women represented were actual people, her argument is still convincing. She cites, for instance, Propertius’ favorable comparison of prostitutes to his beloved, Cynthia, a fairly clear indication that she was not a professional. See Lilja, *Attitude to Women* 35-42.


The historians' accounts of the Late Republic and Early Principate certainly imply that elite men had come to believe that many upper-class women lacked this type of self-control and demonstrated little sense of social responsibility. According to Sallust, writing during the late 40s B.C., *pietas* had, at one time, been an important part of life for the people of Rome. However, he claims that after the Punic Wars, men gradually began to live more for luxury, and "*pudorem, pudicitiam, divina atque humana promiscua, nihil pensi neque moderati habere,"* "they had no regard for modesty, chastity, things divine and human in common, and they were not restrained." In this world of increasing decadence, "*mulieres pudicitiam in propatulo habere,"* "women offered their chastity publicly." He describes Sempronia, one of the supporters of Catiline, as a woman of many accomplishments, some of which were inappropriate for a woman of her class. According to his account,

\[ ei cariora semper omnia quam decus atque pudicitia fuit; pecuniae an famae minus parceret, haud facile discerneres; lubido sic accensa, ut saepe pateret viros quam pateretur. \]

(Cat. 25.3)

To her, all things were always dearer than virtue and chastity; you could not at all easily discern which she cherished less, her wealth or her reputation; she was so enflamed by her libido that she sought men more often than she was sought.

Cassius Dio also contributes an account related to the behavior of women, recounting an episode in the Senate in 18 B.C., an occasion upon which Augustus was perhaps

\[ 87 \text{ Sall. Cat. 12.2.} \]
\[ 88 \text{ Sall. Cat. 13.3.} \]
proposing the *lex Iulia de maritandis ordinibus*. Dio describes the senators’ response to Augustus’ proposed legislation as complaints of “περὶ τῆς τῶν γυναικῶν καὶ περὶ τῆς τῶν νεανίσκων ἀκοσμίας,” “the disorderly conduct of the women and of the young men,” and the use of this unfavorable situation as their excuse for not marrying; Dio goes on to claim that the senators then asked Augustus to do something to remedy the situation. 89

Although Sallust and Dio may have had ulterior motives when writing their accounts, these references to a declining respect for *pietas* should not simply be dismissed. One must also consider the role charges of impiety would have played in social and political contexts. Such accusations would have meant very little if there was not already an existing concern over such matters, or at least a traditional notion that there should be a concern. If the perception of a problem with the behavior of women had not been a reality, what would claims such as those of Dio and Sallust have achieved? What could these historians have hoped to accomplish by making such claims in the absence of any other suggestion of female impiety? The fact that they did make such claims suggests that there was, at least in the minds of elite Roman men, a belief that women’s disregard for *pietas* was a potential problem.

89 Casso Dio 54.16.3-5. For the quote, see 54.16.3. The translation is that of Earnest Carey in Dio’s *Roman History*. Although the senators mention the young Roman men in Dio’s account, there is reason to question whether or not it is entirely accurate given that the author claims that Augustus enacted the legislation in response to these complaints while the princeps’ reply to the senators is that no more can be attempted through legislative means, implying that he has already composed the laws. It may also be related to the Roman practice of attacking other men by characterizing them as *mollis* (soft) and effeminate. For a discussion of this practice, see Catharine Edwards, *Politics of Immorality*. 34
This belief was also exhibited in the convention of accusing one's opponents of various social infractions, particularly indulgence in *luxuria* and sexual impropriety. In this context, uncontrolled female sexuality was a common rhetorical device employed by Roman men to discredit their enemies or present them as weak.  

Edwards discusses Roman moralists' use of analogies in their attacks on opponents. In attacks relating to social status, moralists would, for instance, criticize the extravagant building activities of members of the elite. "Houses were especially 'good to think with'" since these structures "were the single most important manifestation of their owners' wealth."  

As Edwards also points out, "leading Romans habitually accused one another of luxury and sexual misconduct and were in turn accused of hypocrisy. Accusations of impiety were a fundamental part of the political vocabulary of the elite in ancient Rome," and individuals involved in activities that threatened the *res publica* were often linked to women who were accused of engaging in improper sexual behavior. In a case that brings together both an attack on an analogous issue and an attack on the character of an individual, Anne Leen draws attention to Cicero's successful use of Clodia Metelli's *domus* as "a morally and socially charged domestic

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90 Joshel, "Female Desire" 221-54, especially 226-35 on rhetorical strategies of Roman authors.
91 Edwards, *Politics of Immorality* 138-40, for the quotations, see 138.
92 Edwards, *Politics of Immorality* 10-11, 26. Amy Richlin also points out that orators criticized each other on the basis of style, using the characteristic of effeminacy in their attacks ("Gender and Rhetoric").
space" to malign her in defense of Caelius in Pro Caelio.\textsuperscript{93} As he did in Pro Cluentio, Cicero also regularly accused his opponents of having ties to uncontrolled, licentious women.\textsuperscript{94}

The truth of such accusations should not necessarily be taken for granted, and neither should the insinuations regarding the conduct of the women supposedly involved.\textsuperscript{95} Sandra R. Joshel maintains that "disinformation" concealed reality in cases of women used as rhetorical tools: in these instances, "the sexual clings to the political."\textsuperscript{96} As Edwards notes, these accusations were intended to convey an impression of the overall nature of the accused, and one should not assume that the Romans who heard these claims believed that they were true. However, such charges would not have been interpreted by audiences as "empty or meaningless"; they were more likely to have been "attempts to associate political rivals with the female license which was perceived as emblematic of threats to the well-being of the state."\textsuperscript{97} Although such accusations may not have been factual, their very existence, and the fact that they were not summarily dismissed, suggests that the men before whom they

\textsuperscript{93} Leen, "Clodia Oppugnatorix" 161. For another discussion of the criticism of Clodia's character, see Hillard, "Republican Politics" 172-3.

\textsuperscript{94} \textit{Cic. Clu.} particularly 12-18 and 188-99. Cicero accuses his opponent Oppianicus of having brought false charges against Cluentius at the urging of Cluentius' mother Sassia, who was also Oppianicus' mother-in-law. Cicero describes Sassia as lustful and licentious in an effort to discredit her and Oppianicus by virtue of his connection to her in this case. Cicero takes a similar approach in \textit{Har. resp.} 9 and 42, and \textit{Cael.} 31, 34, 38, 47, and 49.

\textsuperscript{95} L'Hoir emphasizes this need for skepticism strongly, directly criticizing the assumptions of some scholars for swallowing "Ciceronian and Sallustian rhetoric hook, line, and sinker" (\textit{Rhetoric of Gender Terms} 46 n. 54).

\textsuperscript{96} Joshel, "Female Desire" 226-7.

\textsuperscript{97} Edwards, \textit{Politics of Immorality} 10-11; quotes pages 11 and 46.
were presented may have believed that their female contemporaries needed to be but were no longer under the control of the men whose responsibility it was to ensure their continued observance of *pietas*.

The elegiac poets of the late Republic and early principate also paint a picture of declining *pietas* among contemporary Roman women, depicting scenarios that present "extra-marital affairs with women of the upper class as a romantic ideal." The work of the poet Catullus, composed in a time of great civil discord, portrays the narrator’s mistress, Lesbia, as a fickle, vain creature who indulged in scandalous behavior. Taking on one adulterous lover after another, she was faithless and unreliable at best. She clearly violated her familial *pietas* and failed serve the interests of the state or fulfill her duty to the gods. In contrast to his time, Catullus portrays the world of the mythical past as one that allowed nearly perfect unions, blessed with mutual love and trust between couples, such Peleus and Thetis. By his lifetime, however, he claims that the world "*scelere est imbuta nefando*", "was stained by abominable crime." Women engaged in incestuous relationships with their unknowing sons. No one feared or respected the gods. Brian Arkins suggests that

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98 As Edwards expresses it, "Elite adultery in ancient Rome...was not readily tolerated by all but a few moralists...If it had been, Roman texts would not be so insistently preoccupied with it" (*Politics of Immorality* 57). Cicero's successes in cases where he essentially defended the men he represented by defaming the women associated with the prosecuting men may speak to the importance attached in Roman men's minds to the problems of licentious behavior in general and adultery in particular. *Treggiari, Roman Marriage* 307.

100 Catull. 11 and 58. There is also one poem, 58, that describes an adulterous wife, and one that refers to an unchaste lover, 76.23-24.

101 Catull. 64, 398-406. Although Peleus and Thetis were mythical figures, as we have seen with Sallust (page 34-5 above), references to a perfect past were not uncommon among Roman authors in general. (See also Dixon quote, page 38, and page 38, n.104.)

102 Catull. 64.
Catullus' approving descriptions of loving relationships between the characters in several of his poems are indicative not only of the unachievable mutual love and devotion the poet longed to have with his unfaithful mistress Lesbia, but also the "sexual vices of 'the sick society'" in which he lived. However, this is almost certainly an overly literal reading. As Suzanne Dixon points out, "it was a truism of antiquity that the current age had degenerated from lofty ancestral standards. Roman historians and epic poets were particularly prone to shape works around this view." It is far more likely that Catullus' remarks are an instance of this poetic tendency to contrast contemporary society with an idealized past.

Whether or not Catullus' portrayals of the past are accurate, his poetry demonstrates that the idea of promiscuous female behavior was not unknown by the middle of the 1st century B.C. As A.H.M. Jones observes, the works of the Augustan poets intimate, rather indelicately, "that among the upper classes at Rome standards of sexual morality were very lax." It is important to note that while Catullus' descriptions of Lesbia's impietas came during a period of significant civil turmoil for Rome, the relevant works of Horace, Propertius, Tibullus, and Ovid, poets who wrote at a time when this turmoil was purportedly resolved, all describe the same loose behavior of women. Augustus had defeated Antony and "restored" the Republic, the doors of Ianus had been closed and the civil wars were supposedly over, yet the poets

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103 Brian Arkins, *Sexuality in Catullus* 117-18. Not only could Catullus' narrator never receive this reciprocation of feeling from his adulterous mistress, the characters whose relationships he idealized were also married, a bond he could not achieve with the already wed Lesbia.

104 Dixon, *Reading Roman Women* 56.

continued to write of Roman women who habitually engaged in sexual misconduct.\textsuperscript{106} This consensus suggests that, although it was apparently not being used in reference to an ongoing state of civil disturbance, the theme of women’s disregard for \textit{pietas} continued to exist in the minds of Roman poets. Augustus tolerated these repeated poetic mentions of female \textit{impietas}, a decision that seems far more explicable if his intention was to use this perception of impending civic crisis to his advantage than it does if he truly wished to eradicate this socially threatening behavior.\textsuperscript{107}

Galinsky describes Horace, a member of the oldest generation of Augustan poets, as a man of “independent thinking” who was not “a mere imperial versifier.”\textsuperscript{108} He may not have been an Augustan propagandist, but like that of the other poets of the Augustan age, Horace’s work supports the belief in the existence of a continued threat to the state, writing of numerous women who indulge in licentious lifestyles rife with \textit{impietas}. He describes the ensnared lovers of the deceitful temptress Barine as incapable of leaving her. Barine’s allure makes mothers fear for their sons and newly wed wives for their husbands.\textsuperscript{109} As a child, a girl contemplates adultery; as a young, married woman, she engages in marital infidelity, seeking out her lovers in her

\begin{footnotes}
\item[106] The gates of \textit{Ianus} had been closed after Octavian’s victory at the battle of Actium signaled the end of the civil war.
\item[107] Had Augustus wished to do so, he might well have arranged for works referring to female impiety to be suppressed and the (fabricated) success of his reforms touted. The \textit{princeps} was certainly not unable or unwilling to stifle the voice of a poet when he saw the need to do so, and he did eventually exile Ovid, possibly for the scandalous verses he published.
\item[108] Galinsky, \textit{Augustan Culture} 255, 257. Conte also asserts that Horace’s poetry was not “propaganda in verse” (\textit{Latin Literature}, 309).
\item[109] Hor. \textit{Carm.} 2.8.17-20.
\end{footnotes}
husband’s very presence. Horace’s characterization of older women is no less critical. He advises the aged mother, “mature propior...funeri,” “in maturity closer to... a funeral”, who continues to behave scandalously, to abandon her unseemly activities which are more suited to a girl her daughter’s age.

Propertius, a member of a younger generation who had not experienced the civil wars, continues the use of the literary motif of the adulteress, describing women very much like those in Horace’s poetry. His narrator declares that “ut solet amoto labi custode puella / perfida communis ne meminisse deos,” “when her guardian has withdrawn, a girl is accustomed to fall into error / faithless, to not be mindful of their common gods.” Apparently appalled by the rumors he has heard about her behavior, he asks his lover, “Hoc verumst, tota te ferri, Cynthia, Roma, / et non ignota vivere nequitia?” “Is this true, Cynthia, that you are talked about all over Rome and that, knowingly, you live in wickedness?” In begging her to mend her faithless ways, he finds himself confounded and concludes that “non ullis tutum credere blanditiis,” “it is not safe to trust any of their charms.” Comparing Cynthia to Homer’s virtuous ladies, Penelope and Briseis, Propertius’ narrator concludes that his lover is nothing like these women who were faithful to their men even under the worst

\[\text{\footnotesize References:}\]

110 Hor. Carm. 3.6.23-26.
111 Hor. Carm. 3.15.4.
112 Propertius was probably born between 49 and 47 B.C. in Assisi (Conte, Latin Literature 331).
113 Prop. 1.11.9-10.
114 Prop. 2.5.1-2.
115 Prop. 1.15.42.
of circumstances. Accusing her, he states that “vobis facilest verba et componere
fraudes: / hoc unum didicit femina semper opus,” “it is easy for you to compose
excuses and deceptions: woman always learned this one art.”116 Apparently having
mastered these skills,

matrona incedit census induta nepotum
et spolia opprobrii nostra per ora trahit.
nullast poscendi, nullast reverentia dandi,
aut si quast, pretio tollitur ipsa mora.

(3.13.11-14)

The matron parades, draped in the valuables of spendthrifts,
and trails the spoils of scandal before our eyes.
There is no shame in demanding, no shame in giving,
or if by any chance there is, hesitation itself is eliminated for a price.

Tibullus, another poet of Propertius’ generation, offers a similar description of
the price women place upon their favors as lovers, concluding that women’s avarice
was brought on by their lovers’ expensive gifts. For lavish enough offerings, even
locked doors and guard dogs can be overcome.117 Tibullus’ narrator includes his own
lover among these impious women, but admits that he is a slave to her, and, if she
were to command it, he would sell his ancestral home and even his lares.118 Like
Propertius’ Cynthia, the women of Tibullus’ poems are faithless both to husbands and

116 Prop. 2.9a.31-32.
117 Tib. 2.4.29-34. According to Conte, Tibullus may have been born between 55 and 50 B.C. in Latium
(Latin Literature, 326).
118 Tib. 2.4.3-5, 53-54. For further mention of the defeat of love by lavish gifts, see 1.5.60, 67-68. It
should be noted that Tibullus also writes of young boys as lovers desirous of gifts: women are not the
only lovers who exhibit greedy tendencies (1.4.57-58).
lovers. They readily abandon one in favor of another, regardless of the devotion shown by the former.\textsuperscript{119} While some learn their tricks from other women, one of Tibullus' narrators apparently has only himself to blame.\textsuperscript{120}

\begin{quote}
Ipse miser docui, quo posset ludere pacto
Custodes: heu heu nunc premor arte mea,
Fingere nunc didicit causas, ut sola cubaret,
Cardine nunc tacito vertere posse fores.
Tum sucos herbasque dedi, quis livor abiret,
Quem facit impresso mutua dente venus.
\end{quote}

\textsuperscript{(1.6.9-14)}

I myself, wretch, taught her the manner in which she is able to deceive her guardians: alas, alas, now I am blocked by my own art, then she learned motivations to contrive to sleep alone, then to be able to turn the doors silently on the hinge: then I gave her the juices and herbs with which the bruise, that mutual lovemaking creates from biting, disappears.

Having taught his lover these tricks for the purpose of deceiving her watchful husband, the narrator now suffers, suspicious that she is using them to carry on affairs with other men.\textsuperscript{121} He exhorts her to limit herself to their adulterous relationship, warning her that, in old age, the mistress who does not confine herself to one lover will find herself weaving wool for hire, forced to bear the laughter of the young who believe that she deserves such a fate for her faithlessness.\textsuperscript{122}

\textsuperscript{119} Tib. 1.5.9-18; 1.6.5-9. Again, Tibullus also writes of unfaithful young boy lovers, so, like greed, the disloyalty of women is not confined to the members of their sex (1.9).
\textsuperscript{120} One unfaithful wife learns her arts from her sister (1.9.53-66).
\textsuperscript{121} Tib. 1.6.5-8.
\textsuperscript{122} Tib. 1.6.77.82. Tibullus also calls for the wealth of the faithless mistress to be burned while men look on, refusing to help; or, if she should die, that no one mourn her passing or bring funeral offerings for her (2.4.39-44).
Ovid, who lived through none of the disturbances of the civil wars and was only a small child when the second triumvirate ended, takes an even more perilous approach than Tibullus’ narrator, one that would end with his exile. Ovid’s narrators offer suggestions to the young men and women of Rome in how to conduct successful affairs with members of the opposite sex. Although Ovid inserts disclaimers in several of his works, explaining that his poems are intended for those not bound by the Augustan family legislation, the recommendations therein could easily be used by those who were required to obey the laws. In the *Ars Amatoria*, he begins with two books suggesting places where youths might find women. The narrator recommends the theater, not a place for the chaste, in addition to horse races and gladiatorial combats, or even triumphal processions. He explains to his pupils that they should be confident because women can always be had: “*utque viro furtiva venus, sic grata puellae:* *vir male dissimulat: tectius illa cupit,*” “and just as secret love is to a man, so it is pleasing to a girl: the man dissimulates badly: she desires covertly.” Ovid’s narrator proceeds to offer advice on the best methods of winning over the woman of

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123 Such phrases occur at *Ars am.* 1.31-34, 2.599-600, 3.57-58; *Met.* 10.300-303; *Tr.* 2.245-250. Davis discusses this issue in *Ovid and Augustus* 85-91. Davis argues that Ovid is inconsistent in his claims that his poetry is not intended for those who are violating the family legislation, pointing out that certain language the poet uses is suggestive of adulterous relationships: *Ars am.* 1.488, for instance, where Ovid speaks of the “litter” of a mistress which Davis takes as a reference to the conveyance of an upper class woman (91).

124 Ov. *Ars am.* 1.91-92. It is, of course, worth noting that Ovid was later exiled for one of his books.

125 Ov. *Ars am.* 1.275-276.
choice, as well as the best times at which to try. He even recommends making an effort to please the girl’s husband, since he can prove to be a valuable friend, clearly indicating that the women these lovers pursue might be married.\(^{126}\)

In book two, Ovid presents a discussion of the sorts of things that should be done in order to maintain a love affair. The narrator points out that the lover should be at pains to remain on peaceful terms with his lady, telling her only what she wants to hear since quarrels belong to the married couple, drawing a sharp distinction between the relationship these youths seek and that of marriage.\(^{127}\) Ovid devotes the third book of the *Ars Amatoria* to the education of young women. Here, the narrator encourages women not to miss out on the opportunity to take lovers while they are young, since they will derive as much pleasure from the relationships as the young men will.\(^{128}\) He even goes so far as to advise them on how to prevent their husbands from discovering their infidelities.\(^{129}\)

Although it has been noted that Ovid was a member of a younger generation whose life experiences differed significantly from those of his poetic forebears, he still describes Roman citizens who are far from respectful of *pietas*, men and women alike who enjoy indulging their sexual appetites in adulterous relationships. Although the men in Ovid’s poetry are as lascivious as the women, their extramarital sexual encounters were permissible as long as they were not undertaken with married women.

\(^{127}\) Ov. *Ars am.* 2.153-155.
\(^{128}\) Ov. *Ars am.* 3.61-100.
\(^{129}\) Ov. *Ars am.* 3.611-656.
Women, however, particularly members of the Roman elite, were not to engage in extramarital sexual relations with men of any status. Thus, Ovid’s work, too, with its numerous representations of impious conduct, would have lent support to Augustus’ claims of a need for the revival of pietas. That Augustus apparently tolerated Ovid’s compositions for almost a decade before banishing him is certainly suggestive. If women had been acting with disrespect for pietas and if Augustus had been truly committed to reforming their conduct, surely Ars Amatoria, first published in 1 B.C. or A.D. 1, would have drawn Augustus’ attention and likely his wrath long before he exiled the poet in A.D. 8. Perhaps Augustus, rather than viewing Ovid’s teachings as a threat to the already precarious situation supposedly faced by Rome, considered it an asset, all the more advantageous because it was unsolicited.

Propertius’ narrator, in spite of his lover’s infidelity, expresses relief over the repeal of a law that either taxed or was intended to tax unmarried men. He goes on to declare that even if he were able to abandon his mistress and marry another woman, he will not father soldiers.¹³¹ He also professes little confidence in Augustus’ ability to enforce respect for pietas in Rome, remarking that,

¹³⁰ Conte, Latin Literature 340-1. There has been much scholarly speculation on the matter, but I will not here address the question of what led to Ovid’s exile.
¹³¹ Prop. 2.7.14. This is generally interpreted as a reference to c.27 B.C. It has been suggested that in this year Augustus either passed a marriage or adultery law that was subsequently repealed, or that he proposed a law that was never enacted. Most recently, Besnier has written on this as a dropped proposal in “Properce” 191-203. However, in “Phantom Marriage Law,” Ernst Badian suggests that there was no law passed or proposed in c. 27 B.C., but that Propertius’ remark is on the lifting at this time of a tax which was a hold-over from the triumviral period. See also Bauman, WPAR 107, 244 n.20-22. Tibullus makes no reference to such a law, and, as he probably died in late 19 or early 18 B.C., he does not mention the Augustan family legislation (Conte, Latin Literature 326).
tu prius et fluctus poteris siccare marinos,
altaque mortali deligere astra manu,
quam facere, ut nostrae nolint peccare puellae

(2.32.49-51)

You will be able to dry up the waves of the sea,
and gather the high stars with your mortal hand,
before you will make it so that Roman girls are unwilling to sin.

Not surprisingly considering works such as 2.7 and 2.32, it has generally been assumed that Propertius was not in favor of Augustus’ reform program, which, as with Ovid, raises questions as to why the princeps did not openly object to his work.¹³²

The answer to this dilemma may be that, like Ovid’s, Propertius’ poetry would have reinforced the idea that a need for social reform existed. By depicting his narrator as a man enthralled by his mistress and either unwilling or unable to tear himself away from her even to serve the state, Propertius presents a scenario in which the impious woman poses a threat to Rome in relation to even more than her betrayal of her husband. The possibility of danger from such a source would have argued for the importance of Augustus’ efforts to control female sexual behavior.

Such characterizations of women show marked disagreement with the stories of female exempla that were, like their elegiac counterparts, described by men. These virtuous women, unlike the impious women of Augustan elegy, all demonstrate qualities that were valued by men. The disparity of these two versions of womanhood

¹³² Cairns asserts that Propertius was, in fact, writing in favor of the Augustan legislation, particularly in elegy 2.7 (“Propertius” 185-204). Cairns also assumes that Propertius is writing of a real, living mistress, Cynthia, and argues that his poem is a special form of the progymnasma, normally used against active laws, attacking a law that was no longer, or may never have been, in effect. Stahl criticizes Cairns’ conclusions in Propertius 139-71.
suggests that they may both represent nothing more than the perceptions of men regarding women. This possibility warns against making any facile assumptions about the reality of elite women in the Augustan period on the basis of literary representations. However, given that an association of the depravity of women with civil discord already existed in the minds of Roman men, and impious women figured prominently in their literature, it may not have been terribly difficult for Augustus to maintain his fellow citizens’ belief in the importance of his legislation, and the position of the princeps, to Rome. Whether or not he believed that Roman women were habitually committing adultery, Augustus certainly took advantage of the opportunity afforded him by the supposed need for official intervention. His promotion of this crisis would also have been buttressed by beliefs concerning the availability and effectiveness of contraceptive devices, and the practice of abortion. The failure of upper class Roman women to produce children, or at least enough of them to satisfy the princeps, may have been thought to result from the availability of such means of family limitation. According to Treggiari, “there seems to have been a phobia that women could control their own fertility secretly, either by contraception or by procuring abortions.” Although Ronald Syme asserts “that there is no evidence” of contraceptive use by the people of Rome, Hopkins, in a study of the works of twenty-two ancient doctors, found that half of them offered their readers suggestions

\[133\] Treggiari, Roman Marriage 406.
and advice concerning methods of contraception.\textsuperscript{134} In his discussion of Soranus’ *Gynaecia*, Hopkins points out that, on the subject of contraception, it includes “both technique and theory to a level surpassed only in the last hundred years.”\textsuperscript{135}

Hopkins states that “it has long been recognized that upper class Romans in their desire for small families practiced abortion on a large scale.”\textsuperscript{136} Whether or not this is true, men in the ancient Greco-Roman world certainly seem to have believed that it was. Hippocrates writes of abortion as early as the 4th century B.C.\textsuperscript{137} In his *Laws*, Plato, too, refers to what is likely intended to mean abortion.\textsuperscript{138} Also, in *Theaetetus*, Socrates, speaking to Theaetetus of midwives, states that “εἶλεν νεόν ὅν δοξη ἀμβλίσκειν, ἀμβλίσκονσιν,” “if it seems good to abort the young, they abort it.”\textsuperscript{139} In describing the best midwives, Soranus states that they should not be greedy for fear that they will give abortions for money.\textsuperscript{140} He also prescribes a number of methods for aborting an unwanted fetus. As well as vigorous exercise, he recommends that a pregnant woman who wishes to abort should overburden herself, anoint her body with various oils, linger in cool baths which may be augmented by

\textsuperscript{134} Syme, “Bastards” 324; Hopkins, “Contraception" 10.
\textsuperscript{135} Hopkins, “Contraception” 131.
\textsuperscript{136} Hopkins, “Contraception" 124.
\textsuperscript{137} Hippoc. *Morb.* 1.5. Hippocrates is here discussing “opportune moments in medicine”, one of which is the time of delivering a woman who is giving birth or aborting.
\textsuperscript{138} Pl. *Leg.* 5.740d.
\textsuperscript{139} Pl. *Thet.* 149d; cited in Riddle, *Eve’s Herbs* 64. The translation is that of Fowler. The exact phrasing of this passage is debated. Schanz would replace “νεόν ὅν” with “νέυνον”, which he renders as “lawful”; Adam would substitute “νηΰδου”, “womb”, Fowler suggests “ἠνετον", which he renders as “permissible”. Riddle also uses “desirable”. Regardless, none of the above substitutions changes the fact that Plato, via Socrates (or vice versa), does establish that such things are possible, or at least believed to be so.
\textsuperscript{140} Sor. *Gyn.* 1.4. The fact that Soranus is writing one hundred years after the reign of Augustus suggests that the reforms the Emperor attempted to implement were ineffective, or, at best, short-lived.
various herbs, and apply poultices.\textsuperscript{141} Soranus also remarks that others have prescribed a number of methods in addition to those he suggests. Regarding these, he advises women to be cautious about using concoctions that are too strong, or removing the fetus by means of a sharp implement as it may cause injury.\textsuperscript{142} Ovid laments such a rash action on the part of his mistress Corinna, who, in attempting to abort her child, places her own life in grave jeopardy.\textsuperscript{143}

Drawing on medical texts and descriptions of the natural world, John M. Riddle notes a number of remedies the ancients believed would either act as contraceptives or produce abortions. Although his theories have generally been discredited by other scholars, his catalogue of family limiting methods is valuable for the insight it provides into men's beliefs regarding the limitations women were capable of placing on reproduction.\textsuperscript{144} The pomegranate is one of the many contraceptive methods Riddle mentions. Associated with the story of Persephone's stay in the underworld, it was thought to prevent fertility when used as a suppository.

\textsuperscript{141} Sor. \textit{Gyn.} 1.64. These are the means to be employed initially. If they fail to obtain the desired result, Soranus recommends more stringent methods.
\textsuperscript{142} Sor. \textit{Gyn.} 1.65.
\textsuperscript{143} Ov. \textit{Am.} 3.13. Ovid also mentions this means of abortion employed by Roman women in \textit{Fast.} 1.623-624.
\textsuperscript{144} Riddle, \textit{Contraception and Abortion} 25-86, and \textit{Eve's Herbs} 35-63. Those who argue against Riddle's assertions that such contraceptives and abortifacients allowed ancient family limitation and contributed to population decline include Bagnall and Frier, \textit{Demography of Roman Egypt} 135-55; Frier, "Natural Fertility" 318-33, and "More is Worse" 151-4 (Frier here acknowledges that there may have been some use of contraceptives within Roman marriages, although only to ensure a safe interval between successive births," 154); King, \textit{Hippocrates' Woman} 132-56; Scheidel, "Progress and Problems" 38-43. For further evidence regarding fertility patterns within marriage in ancient Rome that refutes Riddle's arguments, see Bagnall, Frier, and Rutherford, \textit{Census Register} 110.
Soranus prescribes the inside of the pomegranate rind mixed with water, along with other ingredients in some cases. Likewise, sylphium, identified as English “giant fennel,” was held to be effective as an oral contraceptive. Riddle cites the mention of sylphium by Catullus, who tells his lover that they can continue their affair as long as they can obtain this herb. Soranus, too, recommends sylphium with water once each month to prevent pregnancy, adding that it will also act as an abortive. Other, more common, herbs apparently used as contraceptives or to induce abortions included pennyroyal, Queen Anne’s lace and aloe. If men believed that these readily available ingredients could be employed to prevent or end pregnancy, it does not seem farfetched to suppose that they would have developed a fear of the control women might exercise over their fertility.

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145 Soranus, *Gynaecia* 1.62. Some of the other ingredients he suggests are alum, ginger, wine and rose oil, all of which should be used after menstruation.
146 Riddle, *Contraception and Abortion* 25-86, and *Eve’s Herbs* 35-63; for Riddle’s reference to sylphium as giant fennel, see *Contraception and Abortion* 28.
147 Riddle, *Eve’s Herbs* 45; Catull. 7.3-4. Riddle goes on to claim that sylphium was so popular and successful as a contraceptive that, by Late Antiquity, it had been harvested to extinction (46).
148 Sor. *Gyn.* 1.63.
150 King suggests that such a fear may be behind the belief among ancient Greek males that women could use certain plants effectively as contraceptives (*Hippocrates’ Woman* 156). It may be worth noting that, although the effectiveness of many of the contraceptive devices Riddle cites in support of his argument is questionable, there is now evidence that some ancient Egyptian medicinal formulas, which may well have been available to Romans, would have been effective. (This hypothesis is based on research on papyri of prescriptions conducted by Jackie Campbell at the KNH Center for Biomedical Egyptology, University of Manchester. See Campbell, “Health Care Plan.”)
Since most of the methods of contraception known in this time were believed to directly affect the female rather than the male body, it is quite likely that women would typically have been viewed as the active agents in the use of contraceptive devices. Even if the men were responsible for the use of contraceptives, it would have been difficult for them to employ many such treatments without women’s knowledge, and possibly consent as well, since many contraceptives took the form of a suppository to be inserted into the vagina in advance, or a concoction to be imbibed by the woman, again prior to intercourse.\textsuperscript{151} If reproductive success was the goal, a man engaging in sexual intercourse would be unlikely to employ such devices.

In theory, women in possession of such knowledge would not necessarily have been limited to the use of contraceptives in adulterous relationships. If they chose to, they could presumably use the same or similar methods in attempts to prevent pregnancies resulting from conjugal intercourse. This outcome could also have been a mere side effect, particularly in the cases of preventative measures that were administered once per month, as Soranus recommended for the use of sylphium.\textsuperscript{152} It seems likely that belief in the existence of methods of preventing or ending pregnancy, as well as their potentially widespread use, would have heightened men’s suspicions of women. This belief could have created support for the promotion of Augustus’ family legislation, which, in turn, could have strengthened his position.

\textsuperscript{151} Sor. Gyn. 1.61-63; Riddle, Eve’s Herbs 46-63.  
\textsuperscript{152} Sor. Gyn. 1.63.
Horace praises Augustus for his efforts to reform Roman citizens' conduct, writing,

\begin{verbatim}
o quisquis volet impias
ciaedis et rabiem tollere civicam,
si quaeeret pater urbièm
subscripti status, indomitam audeat
refrenare licentiam,
clarus postgenitis
\end{verbatim}

(Carm. 3.24.25-30)

oh, whoever, if he seeks to be inscribed below statues as the father of the city, famous among future generations, may he be willing to abolish impious massacre and civil madness, dare to restrain uncontrolled license.

Horace later seems to laud the success of Augustus' legislation, as Winspear and Geweke point out, "rather prematurely."

\begin{verbatim}
nullis polluitur casta domus stupris,
mos et lex maculosum edomuit nefas,
laudantur simili prole puerperae,
culpam poena premit comes.
\end{verbatim}

(Carm. 4.5.21-24)

the chaste house will be polluted by no dishonors, custom and law will vanquish the stained crime, mothers are praised for their similar offspring, the attendant punishment will overcome fault.

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153 Winspear and Geweke, Reconstruction 182.
Although Horace does not name the law, his mention of a *lex* that will end any *stuprum* that would pollute a home seems very likely to be a reference to the *lex Iulia de adulteriis coercendis* and Augustus' professed campaign to restore the customs of the Roman people. The manner in which the narrator expresses his praise of Augustus' legislation, however, raises questions as to how straightforward it is meant to be. This stanza is placed in the middle of an ode whose narrator praises Augustus as the "Divis orte bonis, optume Romulae / custos gentis," "born of the good gods, and greatest guardian of the people of Romulus," and asks him to return to Rome. After making this request, the narrator introduces a condition, stating that "voltus ubi tuus / adfulsit populo," "when your countenance shines upon the people," good fortune will follow for Roman citizens. This suggests that only when Augustus returns, will abundance, piety, and peace flourish in Rome. The insinuation that these shares of good fortune are yet to come might be a more accurate reflection of reality than the assumption that they were already in existence when Horace composed these verses.

This poem is dated to 13 B.C. or later: Augustus had been away and returned to Rome in July of that year, five years after the passage of the first two acts of his family legislation. The laws had been largely unsuccessful and unpalatable to at least some members of the citizen population. Although he amended the laws himself in A.D.

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154 Hor. *Carm.* 4.5.1-2.
155 Hor. *Carm.* 4.5.6-7.
156 Hor. *Carm.* 4.5.17-28. This may also be meant to suggest that these good things are dependent upon Augustus' presence in Rome. It may even be a reference to the lapses of peace that occurred several times when Augustus declined the consulship held for him while he was away from Rome.
158 Augustus faced opposition at least from a segment of the *equites* population (Cass. Dio 56.1.2-9.3).
9, this third law would not mark the end of the effort to reform Roman citizens' *pietas* through legislation. The laws would be renewed several times by subsequent *principes* in apparent attempts to force Roman citizens to act with respect for *pietas*. As *princeps*, Domitian revived the Augustan adultery legislation. Septimius Severus also renewed the laws, but adjusted their restrictions and increased the rewards obedient citizens could hope to achieve.\(^{159}\) Marcus Aurelius and Commodus established further limits, declaring that marriages between those of senatorial rank and freed slaves were completely invalid.\(^{160}\) In A.D. 320, Constantine repealed the portions of Augustus' laws penalizing the childless and celibate, allowing them to accept legacies previously forbidden by the Augustan laws. However, he did not lift the ban on legacies between childless husbands and wives.\(^{161}\) In A.D. 458, Maiorian again enacted legislation requiring men and women, including widows, to marry and produce children.\(^{162}\)

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\(^{159}\) For Domitian's efforts, see Mart. 6.7; Suet. Dom. 8.3. For those of Septimius Severus, see Cass. Dio 76.16.4. Severus repealed the portion of the Augustan laws that banned the marriages of soldiers and added exemption from the burden of serving as a guardian to the rights of the *ius liberorum*. However, Severus also exiled a woman for having an abortion without her husband's approval.

\(^{160}\) *Dig.* 23.2.16 pr. See also *Dig.* 23.1.16, 23.2.34.3, 23.2.42.1. Such a union was considered valid, although not in accordance with the *leges Iuliacae*, and any children of the marriage were legitimate prior to the revisions made by Marcus Aurelius and Commodus.

\(^{161}\) *Cod. Theod.* 8.16.1. This ban on spousal inheritance pertained specifically to those not related within six degrees. The restriction was not repealed until A.D. 410, by Theodosius II, and A.D. 412, by Honorius (Theodosius, *Cod. Theod.* 8.17.2-3; Honorius, *Codex Theodosianus* 8.17.4).

\(^{162}\) Maiorian, Nov. 6, 458, from Ravenna. He required widows to remarry, although he allowed them five years rather than Augustus' one year. Severus, who succeeded Maiorian, repealed portions of these laws in A.D. 463 (Nov. 1, 463).
CHAPTER 3

THE AUGUSTAN FAMILY LEGISLATION

Like many earlier Roman laws, Augustus' family legislation was in part a codification of pre-existing customs.\(^{163}\) Although some of the legal punishments instituted by the *lex Iulia de adulteriis coercendis* for Roman citizens caught in adulterous relationships and the special court established to hear such cases were innovations, some elements of the law were social customs transformed into legal mandates by the *princeps*. The same is true of the *lex Iulia de maritandis ordinibus*, which made official the customary guidelines for marriage, as well as encouraging marriage and procreation.\(^{164}\) Fragments of these laws, along with the *lex Papia Poppaea* of A.D. 9, survive in the *Corpus Iuris Civilis*, a collection of Roman law and juristic commentary completed under the Emperor Justinian during the first half of the sixth century A.D.\(^{165}\) Portions of the adultery legislation are included in the *Codex*, a

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\(^{163}\) Mousourakis, *Legal History* 22-5. Among these earlier laws are the *lex duodecim tabularum*, the law of the twelve tables, of the mid-fifth century B.C., which was apparently a codification of existing customary laws; and the *lex Ovinia de senates lectione*, a law concerning the selection of the Senate, of the late fourth century B.C., which made the customary criteria for choosing members of the Senate legal requirements for the censors who were responsible for this task at the time.

\(^{164}\) Cass. Dio 54.16.3.

\(^{165}\) According to Justinian's account, its compilation involved the reading and abridgement of almost two-thousand volumes of ancient law. Mommsen, *Dig.* vol. 1 xi-xii. (The Latin text of this edition is that edited by Mommsen and published by Weidmann of Berlin in 1868.)
compilation of ancient law completed in A.D. 530, and revised in A.D. 534. Commentaries on these laws appear in the Digest, which was completed in A.D. 533, and became effective as law in December of that year.¹⁶⁶

The preserved clauses of lex Iulia de adulteriis coercendis and the juristic commentaries on the law reveal that Augustus legalized certain elements of Roman custom for the handling of sexual impropriety beginning with the moment at which the guilty parties were caught and extending to the aftermath of their trials. The legislation defined punishments for both adultery, which applied to married women, and stuprum, which concerned virgins, widows, and young, freeborn boys. According to the jurist Papinian, the law did not distinguish between the two crimes; the penalties for stuprum were the same as those for adultery, although the procedures for bringing suit against women accused of stuprum were different from those for adultery in certain cases.¹⁶⁷

The terms of Augustus’ family legislation also suggest that the princeps believed that elite women possessed a certain amount of power over their lives: the

¹⁶⁶ Dig., vol. I xi-xii. Although Justinian’s instructions for the Digest required the compilers to distill the fundamental rules of each law, omitting anything that was obsolete or already recorded elsewhere, including in the Codex, the results include numerous references to the Augustan family legislation. The clauses prohibiting celibacy and childlessness had been repealed by Constantine in A.D.320; Justinian eliminated the Senatusconsultum Persicianum, which had reinforced the marriage laws, and his Codex and Digest omitted parts of the marriage legislation because they were not in keeping with the value placed by Christians on celibacy and marrying only once (See Csillag, Augustan Laws 23-4).
¹⁶⁷ Dig. 48.5.35 (34).1; 48.5.6.1. Papinian also claims that the terms for adultery and stuprum are misused, although he is not specific as to how. The differences between the processes for accusing women of adultery and stuprum will be discussed below.
laws not only officially placed part of the reproductive responsibility of the upper classes on women, they also offered them some of the most notable rewards for fulfilling their now formally recognized duty as Roman citizens. Although elite women of the Late Republic often wielded considerable influence through their familial ties to powerful men, as well as their ability to bring cases against others in court by means of men who served as proxies, they were legally “nothing more than private citizens” and possessed no identity in Roman politics.  

In his adultery legislation, Augustus emphasized women’s roles in improper sexual relationships. The restrictions imposed upon women were far more stringent than those upon men. In spite of the punishment outlined for the male participant, Roman males had long looked on adultery as a woman’s crime: being generally inapplicable to men, except in situations involving affairs with married women of their own or a superior class, “the question of adultery...arose only in the case of women.” Female citizens were to have sexual relations with their husbands only. At times during which they were unmarried, women were to remain celibate. Men had a much greater degree of sexual freedom. They could have sexual relations with

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168 For a discussion of women exerting influence, see Dixon, “A Family Business.” According to Dixon, these women possessed influence within their households, and were capable of bringing cases in court through men who may or may not have been members of their families. For the quotation and regarding women’s lack of legal political roles, see Milnor, *Gender* 63 (quotation), 233. On both issues, see also Ruggini, “Juridical Status.”  
169 Corbier, “Divorce and Adoption” 51.  
170 There were few such times in an adult woman’s life since her primary purpose was the production of children. See above pages 14-18.
their slaves, prostitutes, or other women of lower social classes. If a man committed adultery, his wife could not sue him, although she, too, could be convicted of adultery if she took a bribe in connection with his misconduct.\textsuperscript{171} There were only two situations in which a man who had not committed adultery was punishable in connection with it, both of which resulted from the crime of a woman: if a husband knowingly married a woman who had been convicted of adultery or if he condoned or profited from adulterous behavior on the part of his wife, he faced legal penalties. The man who married an adulterous woman, knowing beforehand of her past, was punishable for adultery; if a husband turned a blind eye to his wife’s lack of \textit{pietas} or profited from it, he was liable to the charge of \textit{lenocinium}, or pandering.\textsuperscript{172} Both of these acts were equated with adultery and were punished as such.\textsuperscript{173}

Defying the restrictions of the \textit{lex Iulia de adulteriis coercendis} could also place a woman and her lover in mortal danger. If a father were to catch his married daughter in a sexual act with a man other than her husband, he had the right to kill both participants.\textsuperscript{174} This right existed prior to the passage of the \textit{lex Iulia de

\textsuperscript{171} See \textit{Dig.} 48.5.34 (33).2 for the statement of a wife’s guilt for complicity. For a discussion of women exerting influence, see above page 60, n. 168. Women who had connections and influence could, as mentioned above, presumably bring adultery accusations against men through other male proxies.\textsuperscript{172} \textit{Dig.} 48.5.30 (29).3-4. In a situation in which a husband does not divorce his adulterous wife, no one can accuse her unless first accusing her husband of \textit{lenocinium} (\textit{Dig.} 48.5.27 [26]).\textsuperscript{173} \textit{Dig.} 4.4.37.1 defines these crimes as adultery and states that the punishments will be the same as those for men who themselves commit adultery.\textsuperscript{174} \textit{Dig.} 48.5.21-24.3 (20-23). Additionally, the adulterers had to be caught either in the house in which the father or the husband actually lived, and the killer could be either the natural or the adoptive father of the girl, but she had to be in power to him in order for his act to be considered legitimate. The social status of the adulterous male did not affect the father’s right to kill him, although it did matter in the case of the husband (see page 59 below for the husband’s rights).
adulteriis coercendis; its earlier form, however, was based not on a legal declaration, but on the social custom of patria potestas.\textsuperscript{175} The lex Iulia de adulteriis coercendis did not permit a cuckolded man to kill his wife even if he discovered her in the act of adultery; however, he could kill her lover if the man was a slave, a freedman, or infamis.\textsuperscript{176}

If the father did not or was not able to kill the adulterous couple, the husband was expected to divorce his wife, after which either he or the woman's father could sue her for adultery. If the husband or father did not bring a case against the adulterous woman within sixty days, any third party had the right to do so for four months following the initial sixty days after the divorce. In cases in which the husband did not divorce his wife, no one could accuse the wife of adultery without first accusing and securing the condemnation of her husband on charges of

\textsuperscript{175} Dig. 48.5.21-22 (20-21); Kertzer and Saller, Family 230. There are restrictions on this clause. The act of murder is never encouraged, and if the father is in power to another man, he is not permitted to kill the adulterers. Harris observes that the actual exercise of the vitae necisque potestas of Roman fathers was fairly rare both before and after the passage of the Augustan marriage and adultery laws. This infrequency of use and Augustus' restriction of the right to certain circumstances suggests that the murder of one's child may have been viewed as a potential act of impietas. As such, it would be necessary for anyone killed according to this right to have been in such violation of pietas that it would be considered justifiable for the father to act with what might otherwise be seen as further impietas. For Harris' observations, see "Roman Father's Power." Saller also remarks that the father's vitae necisque potestas over his children was merely a formal matter at law and "had little practical bearing on behavior" (Patriarchy 159).

\textsuperscript{176} Dig. 48.5.25 (24). To be regarded as infamis in this context, a man must be a pimp, a former actor, singer, or dancer, or one convicted in court in a criminal case and not restored to his pre-conviction status. Additionally, the husband who kills his wife's lover must immediately divorce his wife.
The same temporal limitations applied in the case of a widow and the individual with whom she committed *stuprum*, and to a husband who committed *lenocinium*. The maximum limit in the case of a man who failed to divorce his wife was five years; after this time it was apparently thought better not to dredge up the crime. Once convicted of adultery or *stuprum*, a woman would be exiled, losing half of her dowry and one-third of any property she held; she also suffered the stigma of *infamia*, the same punishment dispensed to those who committed a criminal act, or prostituted themselves or anyone else.

*Quae in adulterio deprehensa est, quasi publico iudicio damnata est. proinde si adulterii condemnata esse proponatur, non tantum quia deprehensa est erit notata, sed quia et publico iudicio damnata est. quod si non sit deprehensa, damnata autem, idcirco notetur, quia publico iudicio damnata est*  

(Dig. 23.2.43.12)

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177 Dig. 48.5.27 (26). Accusation could not be made against the wife alone if her husband had not divorced her.

178 Dig. 48.5.30 (29).5-8. The six month timeframe in these cases begins with the date on which the offense is committed. There was no maximum limitation in the case of a man who committed forcible *stuprum* because this crime was classed as *vis publica* (Dig. 48.5.30 (29).9; 48.6.5.2).

179 Paulus, Sent. 2.26.14. The woman would be branded *infamia* even if she was not caught in the house of her husband or her father, if she was caught but not convicted, or if she was convicted although not caught in the act (Dig. 23.2.43.12). If the man in question in the case was later convicted, he would be sent to a different island from that to which the woman was banished. The order in which the accusations must be brought may vary: if the adulterous wife has remarried in the interim, the accuser had to bring suit against the male participant before accusing the remarried woman. If the man is accused first and acquitted, no suit may be brought against the woman in question (Dig. 48.5.20.3 [19.3]). If the woman accused of adultery is a widow, however, the accuser may bring suit against either of the adulterous pair first (Dig. 48.5.5). With regard to the latter circumstance, the legislation is not clear as to whether the widow's spouse was living or dead at the time of her offense; thus, the crime could technically have been adultery or *stuprum*. There is no clear explanation of the distribution of property confiscated from the convicted woman. However, in the case of a couple caught in adultery who later married each other, either the man or the woman having been convicted of the crime, their union was not considered legal and neither party could inherit from the other: whatever inheritance or legacy was forfeited under such circumstances would become the property of the imperial treasury (Dig. 34.13).
A woman caught in adultery is in the same position as one convicted of a criminal offense. So if she is shown to be guilty of adultery, she will be branded with *infamia* not just because she was caught in adultery but also because she has been convicted of a crime. However, if she was not caught in adultery, but was convicted of it, she will suffer *infamia* because of the conviction.

A man convicted of adultery, however, was generally not branded *infamis*, although he, too, was punished with exile and the confiscation of half his property.\(^{180}\)

The penalty of *infamia* essentially demoted the elite women who violated the law to the level of the dishonored, preventing them from participation in the life of the class into which they had been born. Their punishments were socially in line with the restrictions placed upon prostitutes, procuresses, and pimps, all of whom were classed “in a category of the most degraded citizens” because of their trade.\(^{181}\) Much like adultery, *stuprum*, or *lenocinium* in the cases of respectable members of society, prostitution involved its practitioners, directly or indirectly, in sexual acts that were considered social crimes. As a consequence, they had very little potential for upward mobility. Individuals who engaged in prostitution, of themselves or of others, were, at least through social custom during the Republican period and law after the enactment

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\(^{180}\) *Dig.* 3.2. Only if a man were in the army and discharged in disgrace would he be marked *infamis*; this could also occur if he committed a number of other crimes unrelated to adultery (*Dig.* 3.2.1). The punishments for a man convicted of *stuprum* were the same (*Paulus, Sent.* 2.26.14. *Edwards, Treggiari,* and *Richlin* differ in their interpretations of this penalty, *Edwards* claiming that the male lost one-third of his property, *Treggiari* and *Richlin* claiming the punishment was one-half of the man’s property (*Edwards, Politics of Immorality* 40; *Treggiari, Roman Marriage* 290; *Richlin, Garden of Priapus* 216). *Paulus* states that the adulterer will lose one-half. As with the property seized from the adulteress, there is no clear indication as to how the property confiscated from the adulterer would be distributed.

\(^{181}\) *McGinn, Prostitution* 344.
of the Augustan family legislation, socially marginalized. Prostitutes were separated both by the restrictions placed on their dress and by the division between the respectable and the non-respectable in their civic roles and access to cult functions. Like convicted adulteresses, prostitutes were required to wear the man’s toga, which would have made them more easily identifiable and more easily separated from respectable society. Neither convicted adulteresses nor prostitutes could stand as witnesses to wills or give testimony in trials.\textsuperscript{182} Although they were not denied participation in cults, they were only permitted involvement in particular festivals, and they were barred from attending rites celebrated by respectable women.\textsuperscript{183}

Unlike convicted adulteresses, however, prostitutes were not completely excluded from Roman society. Although, because of their status, they were not restricted under the Augustan adultery legislation, they technically stood to benefit according to the terms of the \textit{lex Iulia de maritandis ordinibus} and the \textit{lex Papia Poppaea} if they were to marry and produce the requisite number of legitimate children.\textsuperscript{184} In this regard, even prostitutes could be viewed as privileged over

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{182} \textit{Dig.} 22.5.18; 28.1.20.6.
\item \textsuperscript{183} One would not, for instance, be likely to see a prostitute celebrating the \textit{Bona Dea} rites. McGinn, \textit{Prostitution} 156-68 and 171 on adulteresses and prostitutes wearing the toga, 24-6 on prostitutes’ involvement in cult functions.
\item \textsuperscript{184} While this possibility must be acknowledged, the scenario is unlikely at best. According to Ulpian, the husband of a prostitute could bring an accusation of adultery against his wife in court, but if the prostitute were a widow, she could commit \textit{stuprum} without penalty (\textit{Dig.} 48.5.14 [13].2). Marcian remarks that a prostitute can be kept as a concubine (\textit{Dig.} 25.7.3), and Modestinus states that a man may live with a prostitute in concubinage, but if he lives with a freewoman who does not prostitute herself, marriage is implied (\textit{Dig.} 23.2.24). McGinn also discusses this issue (\textit{Prostitution} 197-8). Former prostitutes were not permitted marry freeborn men, and pimps and procuresses were similarly prohibited from marrying freeborn individuals. Presumably former prostitutes and procuresses would be required to bear the same number of children as freedwomen given their inferior social status and
\end{enumerate}
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adulteresses: although once branded, neither prostitutes nor adulteresses could rise above *infamia*, those engaged in prostitution could, to some extent, improve their situations through marriage and parenthood, whereas *matronae* convicted of adultery were expressly forbidden to remarry and would thus have been denied any privileges achievable under the family legislation.\(^{185}\)

Again in contrast to the penalties for adulteresses, Augustus rewarded non-elite freeborn citizens: in accordance with the terms of the marriage legislation he offered monetary gifts to those who could present him with legitimate Roman children.\(^{186}\)

Among the elite, fathers standing for office were granted preference over those who were childless, and men who were too young to hold office were advanced in standing by one year for each legitimate child they fathered.\(^{187}\) He even went so far as to allow men of the elite, with the exception of members of the senatorial class, to marry freedwomen. Any children they had would be considered legitimate.\(^{188}\)

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\(^{185}\) For the potential privileges, see pages 63-4. According to the terms of the *lex Iulia de adulteriis coercendis*, any man who married an adulteress would be considered guilty of *lenocinium*. The adulterous man and woman were not permitted to marry legally.

\(^{186}\) Suet. *Aug.* 46.

\(^{187}\) *Dig.* 4.4.2. This provision did not allow men under twenty-five to receive their property from their guardians early, however. For a time, this reward was exploited by childless and unmarried men through the adoption of an individual, and emancipation of the adopted person immediately upon reception of the office. Restrictions were later placed on adoption in order to prevent this abuse (Cass. Dio 53.13.3; Tac. *Ann.* 15.19).

\(^{188}\) Cass. Dio 54.16.1-2; *Dig.* 23.2.23.
However, as Jones observes, among those who complied with the family legislation, “the highest privileges went to women with...children.”

According to Gaius,

*Tutela autem liberantur ingenuae quidem trium [liberorum iure libertinae vero quattuor, si in patroni] liberorumue eius legitima tutela sint; nam [et cetera] quae alterius generis tutores habent, [velut Atilianos aut fiduciarios], trium liberorum iure tutela liberantur.*

(*Inst. 1.194*)

Women of free birth are released from tutory in right of their having three children. [Freedwomen in the tutory-at-law of their patrons or patrons’ children are released from it in right of four;] but if they have any other sort of tutors, Atilian, for instance, or fiduciary, they are also released in right of three.

This privilege, the *ius liberorum*, was the only way in which a woman could be granted freedom from guardianship: *“tantum enim ex lege Iulia et Papia Poppaea iure liberorum a tutela liberantur feminae,”* “for it is only in respect of the Iulian and Papia-Poppaean law as mothers of children, that women are freed from tutory.”

For freedwomen, the reward was even greater as they also acquired the right to make wills without the approval of their patrons. The privilege of making a will and the freedom from guardianship would have been perceived as significant changes in the status of women who were normally subject to male authority from birth to death.

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190 Gai. *Inst.* 1.145. According to Gaius, the Vestal Virgins were freed from tutelage by the Twelve Tables.
191 Ulp. 29.2ff. Freeborn women possessed the right to make wills from the age of twelve, at which time they could marry (*Dig. 28.1.5*).
In the *Digest*, the *lex Iulia de maritandis ordinibus* and the *lex Papia Poppaea* are generally conflated, although there are a few instances in which specific reference is made to an aspect of the legislation that was an amendment to the original law. Referred to collectively as the *lex Iulia et Papia*, these two laws regulated numerous aspects of marriage, placing restrictions not only on whom one could and could not marry according to social status, but also penalizing those who failed to marry or produce children. The strictest of these regulations pertained to the types of women whom men of the senatorial class could marry. No male member of the senatorial elite could marry a freedwoman without imperial permission, nor could such a man marry an actress, a former actress, or a woman whose parents were actors. The same rules applied to a senator’s sons, grandsons, and great-grandsons.\(^{192}\)

Engaged couples, who were treated as though already married under the Augustan family legislation, enjoyed all of the benefits conferred upon the married. However, men abused this privilege by becoming engaged to children who were often well below twelve years of age, the minimum for marriage of females. To prevent this, the *lex Papia Poppaea*, passed in A.D. 9, required that all marriages take place within two years of betrothal. The only exceptions were in cases of ill health, the loss of a parent by either party, charges of capital crimes, or the necessary undertaking of a long journey.\(^{193}\)

\(^{192}\) *Dig.* 23.2.23, 23.2.44; 23.2.31 establishes that a senator may legally marry a freedwoman if he has imperial permission. According to a comment of Modestinus, this restriction also applied to the female descendants of a senator to the third generation (*Dig.* 23.2.42).

\(^{193}\) *Dig.* 23.1.17; Cass. Dio 54.16.7, 56.7.2; Suet. *Aug.* 34; Brunt, *Italian Manpower* 560; Treggiari, *Roman Marriage* 65. The *Digest* states in that once they are betrothed, a future husband and wife were 65
Augustus also penalized unmarried men and women. The new laws stipulated that, in order to inherit property from anyone other than a close relative, an individual had to be married and the parent of legitimate children. Anyone who did not fulfill the marriage requirement forfeited the legacy; the married but childless individual could inherit only a portion of the legacy.\textsuperscript{194} The lost bequests went to the imperial treasury, or according to Cassius Dio, they might be transferred to men who did possess three or more children.\textsuperscript{195} Women who were unmarried or childless suffered an additional penalty in the form of a tax on their property.\textsuperscript{196}

Although Augustus' family legislation could prove very costly for those who failed to comply, the laws also created restrictions on inheritance that could provide protection for property, something the Roman elite of his day might have valued more than they did pietas. For the citizens of Rome, particularly the elite, "property was essential to the well being and status of the family."\textsuperscript{197} The paterfamilias, the head of the Roman household and owner of its property, was at pains to not only care for and increase the wealth and property he owned, but also to pass it on to following generations, but the unpredictable nature of mortality in the Roman world made this last goal a complicated matter. Property could be left largely as the paterfamilias

\textsuperscript{194} Dig. 38.17.2.1; Cass. Dio 54.16.7. Gai. Inst. 2.111, 144, 286-286a; Ulp. 22.3.
\textsuperscript{195} Cass. Dio 54.16.7.
\textsuperscript{196} Rowell, Rome 209.
\textsuperscript{197} Saller, Patriarchy 155.
pleased, including to individuals outside his family if he was childless. The limitations the *lex Iulia et Papia* placed on inheritance among the unmarried and childless could have helped to keep property within the families to which it had belonged during the previous generations. The most important element in the inheritance process would, in this context, be the possession of heirs. If a testator lacked familial heirs who also had children, he or she could leave property to *extranei*, people outside the family, who had children to whom they could later leave the inherited property. Failing this, the Roman treasury could take possession of the property, thus profiting the state, or allowing the *princeps* to redistribute the property or wealth to other families whom he deemed deserving. The historian Tacitus claims that the legislation was partly motivated by a desire to swell the imperial coffers. Although this claim could be accurate, for a significant increase, it would require Roman citizens to fail to comply with the family legislation in large numbers, or for very wealthy families to do so. It would seem rash for Augustus to have assumed that such opportunities would have presented themselves, which suggests that this was not one of the *princeps*’ primary goals. While this aspect of the legislation may not have enriched the state, it may have improved Augustus’ image and increased the stability

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198 Saller, *Patriarchy* 155-63. Saller notes that there is no evidence that Roman testators tried to engage in perpetual entail through an unbroken line of male heirs, and that a *paterfamilias* did not have to be childless in order to leave the larger part of his property outside his family (162-3).

199 Tac. *Ann.* 2.37-38. Dio also claimed that Caracalla’s extension of citizenship to all free inhabitants of the empire was financially motivated because it allowed a broader imposition of taxes; it would also have added opportunities to exact the penalties for violation of the marriage laws (78.9.4-5).
of his position. During the second triumvirate, he had been heavily involved in the proscriptions. By demonstrating a desire, real or feigned, to protect the property of the elite rather than take it from them, Augustus might have hoped to improve his relationship with the upper classes.

The restrictions Augustus established, particularly those regarding adultery, might also have satisfied the request that the princeps take responsibility for supervising the observance of customs as there was at least some superficial truth in his claims to be restoring the traditions of ancient Romans. What Augustus' adultery law defined as a crime against the state had previously been viewed as a social transgression, unacceptable but not necessarily treasonous. Augustus' law magnified the seriousness of the crime, particularly the guilt of the adulterous wife. Before the enactment of the *lex Iulia de adulteriis coercendis*, a husband could divorce his wife for a number of offenses while keeping a portion of her dowry. Adultery was included among these offenses, but a husband who divorced his wife for adultery was not permitted to keep a significantly larger portion of her dowry than he could if she had committed other offenses.²⁰⁰ Cato the Elder claims that, during the republic, a husband could kill his wife if he caught her in the act of adultery.²⁰¹ As Edwards

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²⁰⁰ Ulp. 6.12.
²⁰¹ Gell. *NA* 10.23.2-5. Treggiari considers the possibility that this was not necessarily a right, but that a husband might be able to count on persuading a court that he had acted rightly in killing his wife under the circumstances. She also suggests that a Roman man had no such right because of Julius Caesar’s praise of the existence of this right among the Gauls (*Roman Marriage* 270, 275).
points out, however, there are no known examples from the republic of husbands killing their wives for adultery, although there were a few instances of *aediles* punishing *matronae* found guilty of adultery or *stuprum*.\(^{202}\)

There were also precedents for Augustus' system of incentives, notably the gift of monetary rewards to those who presented him with legitimate citizen children. In 46 B.C., Iulius Caesar, having observed that the population had declined as a result of the Civil Wars, gave prizes to families with large numbers of children.\(^{203}\) Like his pecuniary rewards, Augustus' attempts to penalize those who did not marry and have children were not without precedent. As early as 403 B.C., Roman censors were attempting to compel people to marry and have families to increase the Roman population. According to Valerius Maximus, older bachelors were fined by the censors for their failure to marry and have children, which was their civic duty.\(^{204}\) According to Plutarch, Sulla had passed some legislation attempting to dictate proper behavior to Roman citizens, and Richard Baumann points out that both Suetonius and the jurist Paulus refer to some of Augustus' laws as revisions of pre-existing legislation, which he suggests was that of Sulla.\(^{205}\) Unlike the Augustan family legislation, however, these earlier attempts did not focus on women. The censors of

\(^{202}\) Edwards, *Politics of Immorality* 41. These instances date to the 3rd century B.C. Some *matronae* were fined (Livy, *AUC* 10.31.9), while others were exiled (Livy, *AUC* 25.2.9). There was at least one case in which a man was prosecuted on and acquitted of charges of adultery (Livy, *AUC* 8.22.2-3; Val. Max. 8.1), and another in which a man was accused of attempting to bribe a matron (Val. Max. 6.1.8).

\(^{203}\) Cass. Dio 43.25.2. Dio implies that Caesar enacted a law to provide for these rewards, but it is only one in a list of legislative measures he records, and he does not offer detailed descriptions or names for any of these laws.

\(^{204}\) Val. Max. 2.9.1.

\(^{205}\) Plutarch attributes his knowledge of this to Sallust in *Comparison of Lysander with Sylla* 3.2; Suet. *Aug.* 34.1; Paulus in Volterra, *Collatio Legum* 4.2.2; Bauman, *WPAR* 107. Bauman does not mention Dio's reference to the acts (and possibly laws) of Iulius Caesar in this context.
403 B.C., for instance, specifically penalized men for not marrying and producing legitimate children. These previous efforts neither established a permanent court for trying adulteresses, nor did they go to the extreme of rewarding women independently of men and offering something most of them would never have had under ordinary circumstances: life without the guardianship of a male.

This elevation of status appears, on the surface, highly problematic. However, the practice of awarding women with a status that had previously been the sole preserve of men would be conceivable if placed within a paradigm of masculinity based on the exercise of self-discipline, a model that has been proposed for both ancient Greek and Roman societies. As Craig A. Williams points out, "masculinity was not fundamentally a matter of sexual practice; it was a matter of control." While a Roman man could be branded effeminate for a wide variety of offenses, sexual or otherwise, they all relate to the question of self-control. "By indulging in an excessive focus on his appearance or making himself look like a woman...by subjugating himself to others for the sake of pleasing or entertaining them, or by yielding to his own passions, desires, and fears," a Roman man could lay himself open to charges of effeminacy, even if he habitually and/or aggressively sought to play the...
penetrative role in sexual acts with women. Augustus essentially offered women recognition for conducting themselves in a manly way by exercising self-control, a definitive feature of Roman masculinity.

If Augustus' goal was to restore citizens' respect for pietas and, in turn, increase the population, he apparently met with little success. In spite of his proclaimed good intentions and the historic precedent set by his adoptive father and Sulla, as well as the censors of previous generations, Augustus' efforts to legally punish the unmarried and childless were met with opposition. In A.D. 9, the equites protested the laws so vociferously that Augustus was forced to amend them by the passage of the lex Papia Poppaea. It was on this occasion that he delivered a "populationist" speech, possibly in part quoted from a speech delivered by Q. Caecilius Metellus Numidicus. This is also the only known occasion upon which Augustus singled out the male elite population for criticism, suggesting that they should also do their duty to the state by marrying and having children. The incident began with demonstrations against the laws staged by the equites in the theater. Augustus summoned the equites to the Forum. After they had arrived, he separated them according to their marital status. Comparing the numbers of married men and unmarried men present, Augustus found that there were far more bachelors than husbands. He praised the married, rewarding them and promising them even greater

208 Williams, Roman Homosexuality 141.
209 Suet. Aug. 89. Suetonius merely refers to the original speaker as Q. Metellus. Livy also refers to it in Per. 59, where he identifies the speaker as Q. Caecilius Metellus Macedonicus, who was censor in 131 B.C. Fragments of the speech are also related by Gellius in NA 1.6.1-2. Gellius attributes it to Q. Caecilius Metellus Numidicus and dates it to 102 B.C. McDonnell presents a convincing case for the identification of the speaker in question as Metellus Numidicus in "The Speech of Numidicus."
prizes than those he had already given. Turning then to the unmarried men, he questioned their identities as men, citizens, and Romans. Stating that he was “ὑπὲρ γὰρ τῆς πολυανθρωπίας ὑμῶν ἀεὶ τε πάντα ποιῶν,” “forever doing things on every side for the sake of a large population among” them, he wished that they were either as numerous as the married, included among them, or simply “μηδὲ εἶναι,” “did not even exist.”

In response to these protests, however, Augustus arranged for the enactment of the lex Papia Poppaea, which increased the benefits for marrying and rearing families, including enlarging the amount of the legacies some of the married could inherit. To those who were not yet married he granted a one year period of grace, during which time they should remedy this fault. At the same time, he granted ius liberorum to the Vestal Virgins, who were required to remain childless. The obvious fact that these women did not qualify for the ius liberorum according to the stipulations of the law demonstrates another aspect of the legislation. The privileges of the ius liberorum were not restricted to those women who complied with the legislation through procreation, but could be extended to women who served the state in other, self-sacrificing ways. Although they were certainly not contributing to the increase of population since celibacy was a requirement of the position they held, the Vestal

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210 Cass. Dio 56.1.2-9.3, for the quotations, see 56.4.3; discussed in Jones, Augustus 132-3.
211 Cass. Dio 56.10.1-2. The benefits bestowed here on women were contrary to the decree of the lex Voconia, which prevented women from being instituted as heirs or inheriting more than heirs with whom they were also named in a will. This privilege was extended to Livia after Augustus’ death, supposedly as a consolation following the death of her son Drusus (Cass. Dio, 55.2.5-7). Suetonius claims that Livia and Augustus had one child, but the birth was premature and the child presumably did not survive (Aug. 63).
Virgins were acting in the interests of the state. Unlike other women, they remained celibate in order to do their duty. The modifications seem to have been no more successful than the original Iulian law if their purpose was to increase the birthrate: in A.D. 20, Tacitus wrote that the *lex Papia Poppaea* had failed to instill in Roman citizens a desire to marry and have families, and that another request was made during Tiberius' reign that the law be moderated.

Augustus' immediate response to the complaints of the *equites* in A.D. 9 suggests that he considered the male members of the population equally responsible for perpetuating the citizenry. This further supports the notion that Augustus was using women as a political tool against elite males. As the orators of the Roman republic did to defend or advance the interests of their clients, Augustus employed the rhetorical device of uncontrolled women to promote his legislation and, in turn, his position. Several issues suggest that Augustus was motivated by a desire to make the role of the *princeps* seem vital to the stability of the state, while maintaining, in a limited sense, the illusion that he had restored the republic. The first of these is the fact that Augustus made very decisive efforts to transform his public image. Although the nude portraits in question were honorary commemorations, Augustus ordered them removed, in all likelihood because of their eastern, non-Roman character, an element that might have created animosity or simply provided his enemies with ammunition to

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212 Other women would also be granted these privileges for services that did not involve childbirth: under Claudius, women who paid for the construction of ships for transporting grain during a famine were awarded with the *ius liberorum* (Suet. *Claud.* 19). Suetonius also records here that citizen owners of ships were freed from the restrictions of the *lex Papia Poppaea.*

use against him. A number of the decisions he made regarding the family legislation also imply that Augustus was attempting to concentrate power in his own hands and to establish the princeps as indispensable to Rome without nominally adopting the position of a lifelong ruler. Dio's description of the incident in which the Senate pressured Augustus to tighten the strictures of the original family laws because elite women and young men were still living dissolutely is suggestive. Augustus refused the requests of the senators, claiming that nothing more could be done to attempt to regulate people's behavior by law. In A.D.9, nearly three decades later, in spite of his bluster against the equites, Augustus moderated his family legislation in the face of their protests.

Both of these affairs seem to indicate a decided reluctance on Augustus' part to put himself or his position at risk. Not only was he unwilling to chance angering Roman citizens by attempting to impose stricter controls on their private lives, he also yielded to demands that the restrictions already in place be loosened. Perhaps some of the most revealing choices Augustus' made were the decisions to have both his daughter Iulia and his granddaughter, also Iulia, exiled for violating the adultery law. In strict adherence to the law, he refused to allow them to return to Rome, in spite of requests from the populace to do so. Pressured repeatedly, Augustus eventually bowed to the people once again and transferred the elder Iulia to the Italian mainland.

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214 Cass. Dio 54.16. According to Dio, the senators claimed that this debauchery was the reason they were reluctant to marry.
and eased the restrictions he had placed upon her.\textsuperscript{215} He did not, however, allow her to return to Rome, an act that would have left him open to criticism and made his position vulnerable.\textsuperscript{216}

\textsuperscript{215} Cass. Dio 55.10, 13; Suet. \textit{Aug.} 65; Tac. \textit{Ann.} 3.24; Vell. Pat. 2.100 (the elder Iulia). According to Suetonius, Augustus refused to allow the younger Iulia’s child, which was born after her exile, to be recognized or reared (\textit{Aug.} 65); he also forbade the inclusion of the ashes of either Iulia in his Mausoleum (\textit{Aug.} 101). For Iulia’s transfer to the mainland, see Cass. Dio 55.13, and Suet. \textit{Aug.} 65.

\textsuperscript{216} His direct violation of the law might have made him even more vulnerable than the crimes of his daughter and granddaughter.
CHAPTER 4

CONCLUSION: ESTABLISHING THE PRINCEPS

Examination of these responses and of Augustus' laws suggests that his rhetorical use of women was part of an effort to strengthen his position and preserve the belief that it was indispensable to the state. Claiming that he enacted his legislation in an effort to revive ancient customs that his contemporaries were neglecting, the princeps censured the elite, particularly women, for their impiety and professed his devotion to ancient Roman mores, particularly pietas.\textsuperscript{217} As Edwards suggests, Augustus' motivations were in part dynastic. Having recognized the dangers inherent in accepting an overtly monarchical role, Augustus created the position of the princeps to allow the exercise of ultimate authority over Rome without becoming a king or a lifelong dictator. His assertion that he was not ruling Rome, however, required him to find another means by which he could perpetuate his position and hand it on to a successor of his choice. By making the princeps a source of authority that seemed necessary to the interests of Rome, Augustus created an avenue by which he could establish a supreme dynastic power within the nominally republican Roman government. This theory is supported

\textsuperscript{217} Mon. Anc. 8.
by the *princeps*’ apparent reluctance to put too much pressure on the citizens whose approval sustained his *auctoritas*. Thus, his intention was to create for himself and his successors a position that would have been, perhaps not unassailable, but undoubtedly difficult for opponents to criticize: anyone who attacked his position would have been opening himself up to criticism for implicitly attacking the Roman traditions the *princeps* publicly championed.

The assumption, widely held by scholars, that Augustus enacted his program of family legislation purely in an effort to increase marriage and procreation among the elite overlooks the connections between the laws and the literature of the late republic and early principate.\(^{218}\) Although he was responding to the request of the Senate and the people, Augustus’ primary concern was not the welfare of the Roman state, an analysis which is supported by an examination of the background of the legislation. While many of the details of the laws were based on Roman social customs, the emphasis on female sexual misconduct clearly lies in rhetorical invective, particularly the perception that such uncontrolled women posed potential threats to the wellbeing of the state. Much like orators such as Cicero did to defame opponents, Augustus used

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\(^{218}\) For the scholarly consensus that Augustus was merely attempting to increase the population, see above pages 1, 3-7. Although the family legislation has often been utilized as evidence on which to base conclusions that the elegiac mistresses of Augustan poetry were once living, breathing Roman women, this notion has clearly been disproven by previous scholars. Thus, this argument provides no support for the conclusion that Augustus was fighting a losing battle against widespread disrespect for *pietas* and population decline caused by elite female debauchery. See the discussion of Augustan poetry for a fuller examination of the scholarship on elegiac mistresses, pages 25-7, 35-7 above.
women as rhetorical devices, representing elite men outside his own family as unable to control their female relatives. He took advantage of the deep-seated male anxiety that a behavioral problem existed among the elite women of Rome, promoting the idea that the situation required him to act in the interests of the state by patrolling private lives and controlling the sexuality of all Roman women, a task that would make the princeps appear crucial to Rome's continued prosperity.

The cultural context within which Augustus devised and enacted his family legislation provided all of the elements from which the princeps constituted his laws. The value of pietas was not an Augustan invention; it had been an important Roman virtue long before the beginning of the principate: the princeps merely modified it to emphasize the importance of pietas toward the state. Against this backdrop of pietas, women were often portrayed as less than respectful of the values of their ancestors. Orators of the late republic were already in the habit of associating their opponents with women who behaved in inappropriate ways, and the poets of the Augustan age continued to encourage the notion of sexually depraved elite women through their representations of lustful matronae committing adultery on a regular basis. Men appear to have believed that women were enabled in this habit of marital infidelity by a variety of contraceptives and abortifacients. Although many of these

219 It is in some ways deeply ironic that both the princeps Augustus and his successor Tiberius were completely incapable of restraining Julia.

220 Pietas was important enough to merit a temple in Rome, constructed by a father and his son, both named Manius Acilius Glabrio, between 191 and 181 B.C. The temple was later razed by Iulius Caesar for the construction of a theater that was completed under Augustus and dedicated to his son-in-law Marcellus (Livy, AUC 40.43.4; Coarelli, Rome and Environs 314; Galinsky, Augustan Culture 86).
devices may have had absolutely no effect on a woman’s fertility or pregnancy, the
fact that even ancient doctors wrote about them as methods of fertility control suggests
that men believed that women could successfully use such devices. Augustus based
his self-sustaining legislation upon this already existing belief in a potential crisis at
Rome.

Augustus was in an unprecedented position, one that he would only begin to
define during his lifetime. Given the obvious aversion Roman citizens had historically
shown to autocrats, his position of supreme power was complicated. Wisely, perhaps
cautiously, Octavian refused to accept titles that would link him too closely to the
position that had recently proven his adoptive father’s undoing, or to the despised
monarchs of more distant Roman history. Instead, he accepted the cognomen
Augustus, refusing a lifelong consulship and assuming instead the tribunicia potestas.
Through the authority this office granted him, Augustus enacted his program of family
legislation, honoring the request of the Roman people to supervise their respect for
customs without accepting an unprecedented political office and shattering the
republican façade behind which he concealed his monarchical power. However, when
it was suggested that he should make the laws stricter, Augustus refused. When
pressured by the equites to repeal some of his legislation nearly three decades later,
Augustus expressed his disappointment in their failure to marry and beget children,
and then mitigated the laws, once again seemingly hesitant to forcefully compel
Roman citizens to do their duty. This apparent reluctance supports the conclusion that

221 Mon. Anc. 5; Cass. Dio 54.1-2; Vell. Pat. 2.89.5.
there was more behind Augustus’ actions than a desire to increase the birthrate, that occupying an unprecedented place within the state, he felt a need to concentrate in his position as much power as possible and to establish the importance of the princeps to the continued vitality and prosperity of Rome. In doing so, he used the common rhetorical trope of lascivious women and embedded it within pietas, designing a legislative program that would help to define the princeps as a champion of traditional Roman values, a man who would take the steps necessary to prevent social decline.

This interpretation involves several wider implications. On a very simple level, it encourages greater skepticism about the elegiac mistress and her supposed counterpart in Roman reality, and about the assumptions upon which scholars base their interpretations of literary sources from the Roman world in general. This interpretation could also suggest new understandings of and approaches to other Augustan policies for future scholarship. At the very least, it presents another instance of women being used as negative rhetorical devices in the male-centered and male-dominated Roman world.

The interpretation of the family legislation as a political tool designed to strengthen his position also draws attention to the complex nature of Augustus’ role in Rome, and the manipulations he executed in order to create a position that he would be able to pass on to the man of his choice. It serves as a reminder that the role of the princeps did not spring fully formed from the victory at Actium. Even when he
already wielded supreme power over the empire, from behind the façade of the restored republic, Augustus felt that he could not simply name his successor, but had to create a position that would need to be perpetuated for the good of Rome.
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