the “Torah is a critical part of the Tanakh…” (p. 83) is akin to stating that the Digest is a critical part of the Corpus Iuris Civilis, and a reference to the synagogue (p. 117) also makes no sense to this reviewer.

The language is rich and varied, including such phrases as ‘pederasty’ (p. 139) and ‘syncretism’ (p. 145), though a few sentences needed more careful editing; ‘at li’ (p. 82 f.109) is a typographical error; ‘intent bent’ (p. 134) is awkward and ‘traditionally … traditionally’ (p. 244) is superfluous. The author left the word ‘harusplex’ (p. 232) as in the original Latin, and according to the Oxford English Dictionary this is indeed a part of the English language, as this reviewer discovered.

In conclusion, the author has taken on a daunting task, and – despite some weaknesses noted above – has produced a fine book that sheds a very bright light on some varied and interesting aspect of Roman law. This book cannot be ignored by specialists writing on Collatio, fourth century Christian-pagan relations or fourth century Roman law, and anyone with an interest in the history and evolution of Roman law will find this book rewarding and enlightening.

ARYE SCHREIBER


As the name suggests, “Fifty Years of Family Law: Essays for Stephen Cretney” celebrates the diverse and profound contribution of one of the foremost legal scholars of the last century. Cretney’s career has spanned a range of legal professions, including practice as a city lawyer, Law Commissioner, Professor and Dean of Law at Bristol University and Senior Research Fellow at All Souls College, Oxford. In addition to these achievements, he has produced textbooks that have guided generations of students through the quagmire that is modern family law, including the authoritative Principles in Family Law, and Family Law in the Twentieth Century: A History, which was described in the Times Literary Supplement as “the book of the century”.

Likewise, the authors who have come together to honour Cretney hail from a cross-section of legal professions at a variety of career levels – from up-and-coming researchers to revered professors, a practicing barrister to a Supreme Court judge.

If it were not already clear from the calibre of authors who rushed to contribute to this book, the esteem and affection in which Cretney is held as an academic and an individual is patent in every chapter. As the editors make clear, “[t]his book is a labour of love”. The result is an excellent volume of 23 contributions, which provides a fascinating snapshot of the spectrum of family law issues, and highlights the scope of Cretney’s influence. There are too many chapters to do each author justice, so with apologies to many valuable contributions, I will focus on some few chapters that illustrate some of the central themes that run throughout this collection.

Thanks to Cretney’s seminal contribution in elucidating and understanding the history of family law in England, many of the chapters draw on a historical perspective in undertaking their analysis of the subject in question. This
is particularly enlightening in the chapters of Rebecca Probert, Christine Piper and Sonia Harris-Short. Drawing on Cretney, Probert examines the history of marriage as a civil or sacred rite, and the consequences this has for the current debate concerning the celebration of civil partnerships on religious premises. Harris-Short likewise traces the (somewhat shorter) legal history of adoption in England, and the place of birth parents in decisions concerning a child’s adoption, while Piper analyses the motivation for reform of child-focused legislation, and the factors that influence it. Of course, these subjects particularly lend themselves to such use of historical material. However, even in chapters that are not so specifically historically based, the sheer number of references to *Family Law in the Twentieth Century* shows the profound influence that this work has had on family law.

Cretney’s work as Law Commissioner, and the role that this institution has played in the evolution of family law over the past fifty years, also form the core of many of the contributions in this volume. In her opening chapter, Baroness Hale writes of Cretney’s impact on the Commission’s work, and makes the case that his greatest contribution lies not in the substance of the reforms that he helped bring about, but in establishing the Law Commission as a tool for family law reform. This is further emphasised in the following chapter written by two current Commission research assistants, a role that Cretney was influential in establishing. In detailing the working procedures of the Law Commission, Joanna Harwood and Penny Lewis demonstrate its continuing importance as an independent forum that, in Cretney’s words, “bridg[es] the gap between the government and the governed”. Andrew Bainham also examines the work of the Law Commission, focusing on its specific treatment of the issue of illegitimacy in the 1970s and 80s and its subsequent legacy.

Cretney’s contribution not just to the content of family law, but to its study, is highlighted in the chapter of Simon Rowbotham, who praises the introduction of a student-centred approach to family law teaching through his revolutionary 1974 textbook, *Principles of Family Law*. Cretney’s policy-based approach to the law, looking at social developments driving its evolution, was an important move away from the black-letter, legalistic texts that existed at the time, and quickly established his work as the seminal text in the subject.

Apart from his various professional roles, a principal theme that runs throughout this volume is that of autonomy in the field of marriage and divorce, of which Cretney was a strong and vocal proponent. Cretney took the view, unlike many family lawyers, that individuals should be given more liberty to organise their affairs as they wish, subject to the overriding rule of law. In this context, Joanna Miles’ discussion of marital agreements in this context is one of the highpoints of the collection. Her intellectually engaging chapter draws cogently on Cretney’s work in the area to present a compelling critique of the current English law.

Jonathan Herring, Gillian Douglas, Neil Robertson, John Eekelaar and Jens M. Scherpe in their respective chapters all continue on this theme of individual autonomy. Herring picks up on Cretney’s proposal that couples should be able to divorce without having to resort to the court system, and considers the Family Justice Review’s (FJR) proposal for private ordering in divorce. His discussion of “divorce by internet” is valuable for its balanced consideration of the associated advantages and drawbacks, and his urge for caution despite the united voices of the FJR and Cretney himself bears serious consideration. Douglas, on the other hand, discusses the competing
considerations of autonomy and vulnerability in private ordering, and the consequences this could have on financial relief upon divorce. Focusing on Cretney’s 1994 text *Simple Quarrels*, in which he collaborated with Gwynn Davis and Jean Collins, she highlights the difficulties associated with balancing these two interests, especially given the dearth of information pertaining to the family justice system available to researchers.

Scherpe also considers financial relief on the termination of marriage, examining the way in which matrimonial property regimes may inhibit both party autonomy and the discretion of the courts to remedy injustice caused by the vulnerability of one party. He presents an interesting overview of the operation of such regimes throughout Europe, comparing the community of property and separation of property regimes with the current English approach. He concludes that Cretney was not far wrong when he predicted that England was moving towards a matrimonial property regime, cogently but surprisingly showing that the English courts are progressively implementing a combined “rule-based discretionary” regime through their case law.

The theme of autonomy is continued by Eekelaar in his consideration of a 2011 Bill which aimed to stop the determination of family disputes under Shari’a law. He presents a convincing case for the proposition that the law should give individuals the space to follow alternative family law norms if they so wish, including religious arbitration, although he argues that the enforceability of agreements must be subject to the general law of the state, in line with Cretney’s position.

The picture the reader is left with upon completion of this collection is of the enormous contribution that Cretney has made to informing the work of judges, academics and practitioners alike. This is made clear by Stephen Gilmore, in his chapter examining the influence of Cretney on the common law, when he details the way in which judges have cited his work extensively in providing historical context for judgments, and by Miles, who notes that in preparing to write each of her chapters for the first edition of her textbook, she first read the relevant chapters of Stephen Cretney’s *Family Law in the Twentieth Century*.

If there were one criticism I would make of this work, it lies with the approach of a small minority to the central theme of the collection. While the majority of authors engaged with Cretney’s work, and used this as a starting point for their own analysis, some few chapters were notable for their lack of real engagement of any kind with Cretney’s work or legacy, save for a passing reference. Given the wide range of material with which they were blessed, this omission is surprising in a work of this kind.

In summary, this is a fascinating volume that provides an interesting perspective on where family law has come from, and where it is going. Each chapter has individual academic merit, and collectively they provide a thoroughly deserved celebration of the acknowledged leader of the field of family law in England.

CLAIRE SIMMONDS