

Cnemon, Crispus, and the Marriage Laws of Constantine in the *Aethiopica* of Heliodorus

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THE REIGN OF CONSTANTINE I initiated a revolutionary change in religious belief in the Roman Empire.¹ Even in his own day Christian authors celebrated Constantine's life and deeds in biographies such as Eusebius's *Life of Constantine* (published after the emperor's death in 337 but based on earlier works, particularly the *Ecclesiastical History*).² Later, legendary and hagiographical accounts of Constantine and other Christian leaders associated with his reign proliferated,³ and in the Greek Orthodox Church, Constantine is still regarded as a saint and as an apostle.⁴ However, this major shift in religious policy and practice made him a target of criticism for

¹ See recently P. Veyne, *When Our World Became Christian 312–394* (Cambridge 2010); T. D. Barnes, *Constantine: Dynasty, Religion, and Power in the Later Roman Empire* (Chichester 2011); R. Van Dam, *The Roman Revolution of Constantine* (Cambridge 2007); and the many works cited in them.

² For this see A. Cameron and S. G. Hall, *Eusebius: Life of Constantine* (Oxford 1999), esp. 1: “the VC presents a view of Constantine that is . . . extremely pro-Christian,” and 34–39 on Eusebius' portrayal of Constantine, especially his ‘vision’ in 312.

³ S. N. C. Lieu, “Constantine in Legendary Literature,” in N. E. Lenski (ed.), *The Cambridge Companion to the Age of Constantine* (Cambridge 2006) 298–321; M. S. Bjornlie, *The Life and Legacy of Constantine: From Late Antiquity to Early Modern Memory* (London 2016); cf. E. Alleeva et al. (eds.), *Costantino I: Enciclopedia Costantiniana sulla figura e l'immagine dell'imperatore I–III* (Rome 2013).

⁴ P. Keresztes, *Constantine, a Great Christian Monarch and Apostle* (Amsterdam 1981).

those who continued to uphold the traditional religion.⁵ The emperor Julian, in particular, launched scathing attacks on his wife's grandfather, especially in his *Caesars* (318a, 335b, 336a–b).⁶ Julian was not alone in his criticisms, as the sophist and historian Eunapius (as recorded by Zosimus, who shared his view) also blamed him for the impiety and misgovernment that led to the decline of the Roman Empire (2.29, 2.34). Constantine was a cardinal figure in the religious conflicts of the fourth century, and both the main contenders, Christian and pagan, were eager to portray his actions to suit their own purposes.

The Aethiopica and its context: the fourth century

The balance of the evidence for the date of the *Aethiopica* increasingly favours the fourth century.⁷ If this date is accepted, then the most likely context for the composition and publication of the novel is the short reign of Julian (361–363). In his eighteen months as emperor Julian attempted to revive traditional religion and make it compete with Christianity for dominance. Prominence was to be given to the cult of Helios, blood sacrifices were to be performed on a large scale, life was to be breathed into the ancient oracles, especially Delphi, and an austere and

⁵ On the highly contested accounts of the end of Constantine, for example, see G. Fowden, "The Last Days of Constantine: Oppositional Versions and their Influence," *JRS* 84 (1994) 146–170.

⁶ T. D. Barnes, *Constantine and Eusebius* (Cambridge [Mass.] 1981) 272–273; G. W. Bowersock, "The Emperor Julian on his Predecessors," *YCS* 27 (1982) 159–172.

⁷ This is not the place for a full discussion of the date of the novel. Indeed, part of the purpose of the present study is to add to the already considerable evidence for the later dating. Arguments for the fourth-century date: e.g. G. W. Bowersock, *Fiction as History: Nero to Julian* (Berkeley/Los Angeles 1994), esp. 149–160; J. R. Morgan, "Heliodoros," in G. L. Schmeling (ed.), *The Novel in the Ancient World* (Leiden 1996) 417–456; J. L. Hilton, "Emeralds and Embassies in the Ethiopian Story of Heliodorus," *Akroterion* 61 (2016) 25–42. There is of course a considerable body of earlier scholarship on this question, especially in relation to the siege of Nisibis, the use of cataphract troops, and so on, but these questions cannot be reprised here.

almost puritanical sexual morality was to be promoted.⁸ All these elements are prominent in the *Aethiopica*. Moreover, literature was to play an important part in this renaissance: a clear statement of this is given by Libanius (*Or.* 18.157–159), who says that the emperor Julian “revealed” (ἔδειξεν “published”?) his *Hymn to the Mother of the Gods* and *Oration 7 Against the Cynic Heraclius* because he believed that “literature and the worship of the gods are twin sisters” and that one was completely done away with, while the other was mostly so (ὁ δὲ νομίζων ἀδελφὰ λόγους τε καὶ θεῶν ἱερὰ καὶ τὸ μὲν ὄλως ἀνηρημένον ὄρων, τοῦ δὲ τὸ πλέον). According to Libanius, this was part of Julian’s policy (διάνοια) to entrust the government of cities to those who “understood how to speak” (τοῖς λέγειν ἐπισταμένοις), such as his associates Sallustius and Nymphidianus, who knew the works of poets, historians, and writers and could deduce the ἀρετή of a ruler from them. In 362 Julian also passed a controversial edict requiring all teachers to be approved by municipal senates and decurions (*Cod. Theod.* 13.3.5, cf. *Ep.* 36 [Wright]).⁹ Christian intellectuals responded with eloquent protests (e.g. Greg. Naz. *Or.*

⁸ See G. W. Bowersock, *Julian the Apostate* (London 1978) 83–85; P. Athanassiadi, *Julian: An Intellectual Biography* (London/New York 1992); R. Smith, *Julian’s Gods: Religion and Philosophy in the Thought and Action of Julian the Apostate* (London/New York 1995); K. Rosén, *Julian: Kaiser, Gott und Christenhasser* (Stuttgart 2006); H. C. Teitler, *The Last Pagan Emperor: Julian the Apostate and the War against Christianity* (Oxford 2017). The sexual austerity that Julian promoted can be seen in his reshaping of the myth of Cybele (*Hymn to the Mother of the Gods*), his retelling of the story of Antiochus and Stratonice (*Mis.* 347a–348a), and his advice to priests not to read erotic fiction (*Ep.* 89b). Cf. J. L. Hilton, “Myth and Narrative Fiction in the Works of the Emperor Julian,” *LF* 140 (2017) 39–70. For the connection between Julian and Heliodorus, J. L. Hilton, “The Cult of Neoptolemos at Delphi in Heliodorus’ *Aithiopika*,” *AClass* 55 (2012) 57–68, and “Speaking Truth to Power: Cynics, Ethiopian Philosophers and Roman Emperors,” in P. R. Bosman (ed.), *Intellectuals and Power* (London 2017) 202–215.

⁹ G. Downey, “The Emperor Julian and the Schools,” *CJ* 53 (1957) 97–103, esp. 100, “For both Christians and pagans, politics and religion were inseparably associated”; T. Banchich, “Julian’s School Laws: *Cod. Theod.* 13.5.5 and *Ep.* 42,” *AncW* 24 (1993) 5–14.

4.5), but also sought to shape education on Christian principles (cf. John Chrysostom's *Homily on Vainglory and the Right Way for Parents to Bring up their Children*).¹⁰

Abduction marriage in the Aethiopica

Donald Lateiner has shown that Book 4.17.3–18.1 of the *Aethiopica* constitutes an example of 'abduction marriage'.¹¹ According to Judith Evans-Grubbs, abduction marriages occur when a bride or young woman engaged to be married is carried off by force by a rival suitor.¹² The abducted woman may be raped, but in other cases, particularly when she is opposed to the marriage arranged by her parents, she may consent to her own violent seizure. In both situations, however, the marriage arranged by the parents of the woman is effectively annulled because public opinion considers her no longer marriageable and to some extent responsible for the incident.¹³ The abduction of young women had of course a long history in Greek literature, and was widely practised in the Greek East in late antiquity, although it is also attested in a wide variety of cultures.¹⁴

In the *Aethiopica* the heroine, Chariclea, is forcibly taken from

¹⁰ Gregory's invectives against Julian (*Or.* 4 and 5) are: *PG* 35.531–720; transl. C. W. King, *Gregory Nazianzen's Two Invectives against Julian and Libanius' Monody* (London 1888). Chrysostom: F. Schulte, *S. Joannis Chrysostomi, De Inani Gloria et De Educandis Liberis* (Münster 1914); transl. M. L. W. Laistner, *John Chrysostom: Vainglory and the Right Way for Parents to Bring up their Children* (Ithaca 1951). Gregory's speeches on Julian were probably delivered in 362/3. On the difficulty of dating Chrysostom's work see Laistner v–ix, but it is likely to have been in the last few decades of the fourth century.

¹¹ D. Lateiner, "Abduction Marriage in Heliodorus' *Aethiopica*," *GRBS* 38 (1997) 409–439. Lateiner (418) dates the *Aethiopica* between 350–400, but also allows for a date during the reign of Constantine.

¹² J. Evans-Grubbs, "Abduction Marriage in Antiquity: A Law of Constantine (*CTh* IX. 24. 1) and its Social Context," *JRS* 79 (1989) 59–83. On abduction marriages generally see J. K. Campbell, *Honour, Family and Patronage* (London 1964).

¹³ Evans-Grubbs, *JRS* 79 (1989) 64–65.

¹⁴ Evans-Grubbs, *JRS* 79 (1989) 67–71 (Greek literature), 71–79 (late antiquity), 63–64 (other cultures).

her lodgings in Delphi by her lover, Theagenes, at the suggestion of their priestly confidant and advisor, Calasiris, the Egyptian priest of Isis, in order to prevent an arranged marriage with her adoptive father's nephew, Alcamenes. The adoptive father, Charicles, searches for his daughter widely and eventually discovers that she is in Ethiopia, where he petitions the Persian satrap, Oroondates, for custody of her (10.34.3). Oroondates forwards Charicles' claim to Hydaspes, the Ethiopian king who had recently defeated the Persian army. During his interview with Hydaspes, Charicles discovers Theagenes among the attending crowd (10.35.1). He arrests him and charges him with impiety against Apollo for abducting Chariclea from the god's temple. But Charicles' claim falls away when Chariclea's identity as the true daughter of the king, Hydaspes, and her engagement to Theagenes, are revealed. Hydaspes recognises that his daughter had been restored to him by "the will of heaven" (θεῶν βούλητι) and ratifies the marriage (10.40.1–2).¹⁵

Lateiner stresses that Heliodorus takes pains to ground this narrative in historical reality.¹⁶ He argues that Heliodorus may have modelled his narrative on an actual incident in 355/4 BCE, related by Diodorus Siculus (16.26.6), in which a Thessalian called Echeocrates seized and raped the Delphian prophetess. Nevertheless, Lateiner also notes that the dramatic date of the novel is not strictly maintained and that the exaltation of sexual purity in the novel shows the influence of Christian ideas. This is particularly clear in respect of Chariclea's initial determination to lead a life of virgin purity (2.33.4) and in the emphasis

¹⁵ The narrative of the ending of the *Aethiopica* is extremely complex and cannot be fully explored here. For more detail see J. R. Morgan, "A Sense of the Ending: The Conclusion of Heliodorus' *Aithiopika*," *TAPA* 119 (1989) 299–320.

¹⁶ Lateiner, *GRBS* 38 (1997) 418–420, esp. 420, "This narrative ploy, like many in the novel, is grounded on social experience." For the 'historical pose' of Heliodorus see J. R. Morgan, "History, Romance and Realism in the *Aithiopika* of Heliodorus," *ClAnt* 1 (1982) 221–265.

given to the male chastity of Theagenes (5.4.5).¹⁷ Lateiner remarks that “Christian ideas may have influenced the pagan author from Emesa in Syria,” but that pagan and Christian thinking on the issue was largely shared.¹⁸

Constantine’s legislation on abduction marriage

Evans-Grubbs speculated that a particularly shocking instance of abduction marriage that is unknown to us might have occurred during the reign of Constantine, provoking him to take legislative action.¹⁹ Judging by the tone of the legislation, he was evidently angered by the way in which betrothals and parental authority were being circumvented in this way,²⁰ and in 326 he

¹⁷ An emphasis on male chastity is often seen as a Christian phenomenon. For this point and the general connection between the ancient novels and Christian narrative see I. Ramelli, “The Ancient Novels and the New Testament: Possible Contacts,” *AN* 5 (2006) 43–62, esp. 54; D. Konstan and I. Ramelli, “The Novel and Christian Narrative,” in E. P. Cueva et al. (eds.), *A Companion to the Ancient Novel* (Chichester 2014) 180–197. On pagan and Christian attitudes to marriage see J. Evans-Grubbs, *Law and Family in Late Antiquity: The Emperor Constantine’s Marriage Legislation* (Oxford 1995) 54–102. However, D. Konstan, *Sexual Symmetry: The Representation of Love in the Ancient Novel and Related Genres* (Princeton 1985), esp. 48–56, argues that under the Roman Empire the convergence of male and female attitudes to sexual constancy was more widespread, and, as noted above, Julian promoted a programme of sexual restraint.

¹⁸ Lateiner, *GRBS* 38 (1997) 426, adding “The world’s psycho-social, half-enunciated assumptions were not yet unified and dogmatized, but pagan and Christian values often flowed in parallel streams.” There are ample grounds to believe that in the fourth century paganism vied with Christianity for the same moral high ground with respect to sexual purity and virtues (see n.8 above), but their ultimate purpose was of course to establish their religion as the dominant one in the Roman Empire.

¹⁹ Evans-Grubbs, *JRS* 79 (1989) 81; A. H. M. Jones, *Constantine and the Conversion of Europe* (New York 1962) 244–245, thought that Crispus may have undertaken such a violent abduction, resulting in his execution, but this seems unlikely (see below). On Constantine’s legislation on the family see also J. Harries, “Constantine the Lawgiver,” *YCS* 34 (2010) 73–92; J. N. Dillon, *The Justice of Constantine: Law, Communication, and Control* (Ann Arbor 2012).

²⁰ Cf. Evans-Grubbs, *JRS* 79 (1989) 60, “The edict against abduction is clearly one of Constantine’s crueller and more irrational laws”; 66, “Later

issued a general edict laying down violent punishments for those involved: the kidnapper, the parents (if they colluded in the abduction), even the young woman herself, her nurse, and anyone else who assisted (*Cod. Theod.* 9.24.1).²¹ Constantine's legislation may also have been actuated by the view that abduction marriages subverted the Christian ideal of sexual purity.²² Christian writers certainly opposed abduction marriages,²³ although their solution to the problem was very different from the secular legislation of Constantine.

Lateiner's interest in the abduction episode in Heliodorus was in how it contributes to the characterization of the lovers in the novel. He did not address the wider relevance of the incident to the legislation of Constantine, although the novel was almost certainly composed only a few decades afterwards. It is highly likely that this account of a successful abduction marriage which enraged the general Hegesias into issuing threats to punish those responsible extremely violently was written with full awareness of the similarly violent and emotional tone of the laws enacted by Constantine, which also threatened those guilty of the abduction and their accomplices with extreme penalties.²⁴ The

imperial law realized that the penalties stipulated for abduction marriage by Constantine were unreasonably harsh."

²¹ Text and translation in Evans-Grubs, *JRS* 79 (1989) 59–60.

²² This is the view of L. Desanti, "Costantino, il ratto e il matrimonio riparatore," *Studia et Documenta Historiae et Iuris* 52 (1986) 195–217; Barnes, *Constantine and Eusebius* 220; and others. See Evans-Grubs, *JRS* 79 (1989) 75 n.78, for opposition to this view on the grounds that Christian leaders recognized that the ideal of sexual purity was for many unattainable, and sought to solve the problem very differently. Nevertheless, the general tenor of Christian opinion was opposed to violent attacks on virgins.

²³ See for example Basil Caes. *Ep.* 270: "I am greatly grieved that I do not find you either indignant over deeds which are forbidden or able to understand that this abduction (*harpagē*) which is going on is an unlawful outrage and a tyranny against life itself and the existence of man, and an insult to free men" (transl. R. J. Deferrari, corrected by Evans-Grubs, *JRS* 79 [1989] 74).

²⁴ *Aethiop.* 4.20.2: "I say that we must catch them as soon as possible and

narrative in the *Aethiopica* runs counter to the intent of the recent imperial edict on the subject and depicts the emperor, through the figure of Hegesias, as a man who blusters impotently against those who have thwarted him. Although the final book of the novel does admit the justice of Charicles' claim on his daughter, it is superseded by "the will of heaven," which resolves the complex family background of the heroine and restores her to her rightful father, Hydaspes. Human affairs are shown to be more complex than the legislation of Constantine allows and the true wisdom of the Ethiopian wise men who are consulted by Hydaspes (10.39.1) is shown to be superior to that of the priest of Apollo at Delphi, Charicles. This reading of the episode is supported by the strong resemblance between Constantine's execution of his son Crispus and the scandal involving the young Athenian Cnemon in the *Aethiopica*.

The story of Cnemon

The abduction marriage of Chariclea is not the only episode in the *Aethiopica* that pertains to the legislation of Constantine on marriage and the family. The story of Cnemon likewise contains details that indicate an awareness of these laws. Cnemon, a young Athenian who had fled Athens after being entrapped in a scandalous affair with his step-mother, Demainete, occupies a major part of the opening books of the novel (1.8.6–1.17.6).²⁵ At

impale them and deprive their children of their rights, carrying on the punishment to their descendants also" (transl. Morgan). Compare Constantine's edict (transl. Evans-Grubs): "And since often the watchfulness of parents is frustrated by the stories and wicked persuasions of nurses, these (the nurses) first of all, whose service is proved to have been hateful and whose talk is proved to have been bought, this punishment shall threaten: that the opening of their mouth and of their throat, which brought forth destructive encouragements, shall be closed by the swallowing of molten lead." For the tone of righteous indignation in imperial edicts of the fourth century see Evans-Grubbs, *Law and Family* 101–102.

²⁵ The further ramifications of the story of Cnemon are extended as far as 6.11.2. For an analysis of the story as a tale of immoral love contrasted with the chaste love of Theagenes and Chariclea see J. R. Morgan, "The Story of Cnemon in Heliodoros' *Aithiopika*," *JHS* 109 (1989) 99–113.

his first appearance in the novel, Cnemon embarks on a detailed account of his experiences, after being asked to do so by Theagenes and Chariclea. He identifies himself as the son of Aristippus, a moderately wealthy member of the “upper council” of Athens (βουλῆς δὲ τῆς ἄνω, τὴν περιουσίαν τῶν μέσων).²⁶ When Cnemon’s mother died his father decided to remarry rather than to rely on having only one son (ἐπὶ μόνῳ μοι παιδὶ σαλεύειν ἐπιμεμφόμενος); he chose to marry Demainete, whom Cnemon describes as a pretty enough woman but the essence of evil (γύναιον ἀστεῖον μὲν ἀλλ’ ἀρχέκακον, 1.9.1). She soon came to dominate her husband through her beauty and charm, and Cnemon himself became “ensnared” (σαγηνευθεῖς, 1.9.2) by her. When Cnemon came of age (ἐτύγχανον ... ἐφηβεύων, 1.10.1), Demainete attempted to seduce him, calling him her “son, sweet boy, and heir” (νῦν μὲν παιδίον νῦν δὲ γλυκύτετον ὀνομάζουσα καὶ αὐθις κληρονόμον, 1.9.4), but he rejected her advances. In this scene Demainete expressly invoked the myth of Phaedra when, on seeing Cnemon clothed in cloak and garland for the celebration of the Panathenaea, she called out “My young Hippolytus!” (ὁ νέος Ἰππόλυτος, 1.10.2).²⁷

²⁶ This historical information is provided to reinforce the dramatic date of the fourth century BCE. The phrase “upper council” may refer to the “presiding council”: “Whenever the *prytanes* convene a meeting of the council or the people, this man [the chairman of the prytany] picks by lot a presiding committee of nine (προέδρους ἐννέα), one councillor from each tribe except the tribe in prytany, and again picks one of the nine to be chairman ... They take over the agenda, are responsible for good order, put forward the subjects to be dealt with, determine the results of the voting, are in charge of all other arrangements and have the power to close the meeting” (*Ath. Pol.* 44.2–3, transl. Rhodes). Nevertheless, in terms of the fourth century of our era, the reader need only infer that Aristippus was a leading member of the government of the city.

²⁷ The MSS. reading ὁ νέος Ἰππόλυτος, ὁ Θησεὺς ὁ ἐμός is a notorious crux. A. Koraes, *Ἡλιοδώρου Αἰθιοπικῶν βιβλία δέκα* I (Paris 1804), suggests that ὁ Θησεὺς υἱός should be read. R. M. Rattenbury et al., *Les Éthiopiennes (Théagène et Chariclée)* I (Paris 1935), obelize ὁ Θησεὺς ὁ ἐμός. Rattenbury, “The Manuscripts and Editions of Heliodorus,” *CQ* 19 (1925) 177–181, states

The next day Demainete informed her husband Aristippus that “their common son” (ὁ κοινὸς ἡμῶν παῖς) Cnemon had discovered that she was pregnant and kicked her in the stomach (κύειν με πρὸς τινῶν αἰσθόμενος ... λάξ δὲ κατὰ τῆς γαστρὸς ἐναλάμενος, 1.10.4),²⁸ insinuating that he did so out of jealousy and a fear that he would be replaced as his father’s heir. She also told her husband that she had tried to get Cnemon to stop leading a debauched life. Aristippus immediately assumed that Cnemon was guilty and, without giving him a chance to defend himself, assaulted him and had him scourged by his servants (οὐδὲν εἰδότα πύξ τε ἔπαιε καὶ παῖδας προσκαλεσάμενος μάστιξιν ἠκίζετο, 1.11.1).

Not content with this revenge, Demainete laid a trap for Cnemon. She instructed her slave-girl (παιδισκάριον, 1.11.3), Thisbe, to seduce Cnemon. Thisbe was successful, and having gained his trust, she informed him that he could get his revenge on his mother-in-law by trapping her in the act of adultery, for which the penalty was death—not for women like herself, since she was a slave, but for her nobly-born mistress, who was married and so subject to the law against adultery. Cnemon agreed to go along with this, and went to Demainete’s bedroom, sword in hand, in order to exact his revenge and kill both parties. But instead of catching the adulterer (τὸν μοιχόν), he discovered that she was in bed with her husband Aristippus. Demainete immediately accused Cnemon of plotting against her husband (ὡς ἐπιβουλεύσει’ ἄν καιροῦ λαβόμενον); Aristippus refused to allow

that ὁ Θησεὺς “has surely arisen from ὁ Θησέως, a marginal gloss on Ἰππόλυτος” (178). A. Colonna, *Heliodori Aethiopica* (Rome 1938) and *Le Etiopiche di Eliodoro* (Turin 1987), retains the MSS. reading, but it is implausible that Demainete would shamelessly identify father and son together in an erotic context in the young man’s presence. Rattenbury’s suggestion that a marginal gloss has been included in the text, if accepted, is evidence of the interest provoked by the passage in the early stages of its transmission.

²⁸ This detail brings the narrative closer to the politics of the Roman Empire; Nero had notoriously kicked Poppaea in the stomach while she was pregnant, resulting in her death (Tac. *Ann.* 16.6.2, Suet. *Ner.* 35.3). This became a novelistic commonplace. In Chariton, Chaereas kicks Callirhoe in the stomach causing her to cease breathing as if she were dead (1.4.12).

Cnemon to explain himself (φράζειν οὐκ ἐπιτρέψας, 1.12.4). Cnemon was arrested and put on trial for attempted parricide.

At the trial, Aristippus accused his son of assaulting his wife and attempting to murder him. He begged for justice from the people, stating that, although by law he was entitled to put him to death, he preferred to put the case to the people, rather than to kill his own son (καταπέφυγα πρὸς ὑμᾶς καὶ προσαγγέλλω τοῦτον, αὐτόχειρ μὲν αὐτοῦ γενέσθαι, κατὰ τοὺς νόμους ἔξόν, οὐ βουληθείς, ὑμῖν δὲ τὸ πᾶν καταλιπὼν, νόμῳ βέλτιον ἡγούμενος ἢ φόνῳ παιδὸς τὴν δίκην λαμβάνειν, 1.13.2). Cnemon was found guilty and, after deliberation about whether he should be stoned, thrown into the pit (οἱ μὲν καταλεῦσαι οἱ δὲ εἰς τὸ βάραθρον πέμψαι κρίναντες), or exiled, he was sentenced to exile (ἐξηλαυνόμεν ἑστίας τε πατρώας καὶ τῆς ἐνεγκούσης, 1.14.1), since a sufficient number of the jurors realized that it was Demainete who had engineered Cnemon's predicament (1.13.5).

Cnemon took ship to Aegina, where he encountered an old friend, Charias, who informed him that Demainete had met her death; Charias had been informed of this by his lover, Thisbe (1.14.3–5). Charias told Cnemon that Demainete had turned on Thisbe for depriving her of the object of her passion, Cnemon. Thisbe realized that Demainete regretted her action against Cnemon and that she meant her harm; she decided to anticipate this by getting rid of her mistress. She pretended to know where Cnemon was and offered to entice him to the room of his girlfriend, Arsinoe, and to substitute Demainete herself in her place. Demainete went along with the plan.

Meanwhile, however, Thisbe confessed to Aristippus her part in Cnemon's disgrace. She told him that she had deprived him of his son, not willingly but as an accessory (τὸν παῖδα δι' ἐμὲ τὸ μέρος ἀπολώλεκας οὐχ ἑκούσαν μὲν ἀλλ' ὅμως συναιτίαν γενομένην). She claimed that she had told Cnemon of her suspicions concerning Demainete, out of fear that the adultery would be discovered by someone and that she would get into trouble (αἰσθομένη γὰρ τὴν δέσποιναν οὐκ ὀρθῶς βιοῦσαν ἀλλ' εὐνήν τὴν σὴν ἐνυβρίζουσαν, αὐτὴ τε περὶ ἐμαυτῆς δείσασα μή ποτε

κακὸν λάβοιμι, τὸ πρᾶγμα εἰ δι' ἄλλου φωραθείη, 1.16.2), and that this was why Cnemon had entered the bedroom, sword in hand. She then informed Aristippus that he could catch his wife in adultery; Aristippus, who regretted his unjust action against his son, agreed to Thisbe's proposal and promised her freedom. He duly discovered his wife in Arsinoe's room. Demainete realized that all was lost and cast herself into the pit in the Academy where the polemarchs used to sacrifice to Artemis and the heroes (1.17.5).²⁹ Aristippus remarked in delight that he was free of his wife: "I have justice from you, even before the laws [have taken their course]" (ἔχω παρὰ σοῦ καὶ πρὸ τῶν νόμων τὴν δίκην, 1.17.6).

The execution of Crispus

The story of Cnemon in the *Aethiopica* closely resembles the circumstances surrounding the executions of Crispus and Fausta in 326.³⁰ Crispus was the son of Constantine by his first wife, or, according to more hostile sources, his concubine, Minervina.³¹

²⁹ This is again for the dramatic date. According to *Ath.Pol.* 58.1 it was the duty of the polemarch to make sacrifices to Harmodius and Aristogiton: "The polemarch performs the sacrifices to Artemis of the Wild and to Enyalios, organizes the funeral contest for those who died in war, and performs the heroes' rites to Harmodius and Aristogiton." Pausanias (1.29.15) states that Harmodius and Aristogiton were buried in the Academy and that the road to the Academy was lined with many tombs of the heroic dead of Athens.

³⁰ For the problem of the execution of Crispus (*PLRE* I 233) see Jones, *Conversion of Europe* 243–247; P. Guthrie, "The Execution of Crispus," *Phoenix* 20 (1966) 325–331; J. H. Smith, *Constantine the Great* (London 1971) 204–216; N. J. E. Austin, "Constantine and Crispus, A.D. 326," *AClass* 23 (1980) 133–138; Barnes, *Constantine and Eusebius* 219–221 ("The precise details of his crime have been obscured by legend and invention," 220); H. A. Pohlsander, "Crispus: Brilliant Career and Tragic End," *Historia* 33 (1984) 79–106, and *The Emperor Constantine* (London 2004) 52–55; Van Dam, *Roman Revolution* 300–305; D. S. Potter, *Constantine the Emperor* (Oxford 2013) 242–247; D. Burgersdijk, "Constantine's Son Crispus and his Image in Contemporary Panegyrical Accounts," in *Imagining Emperors in the Later Roman Empire* (Leiden 2018) 137–157.

³¹ According to *Pan.Lat.* 7.4.1 Minervina was Constantine's wife, but Zosimus 2.20.2 refers to her as a concubine (Κρίσπον, ἐκ παλλακῆς αὐτῷ

Constantine later married Fausta, the daughter of Maximian, who produced three male heirs, Constans, Constantius II, and Constantine II, whose fortunes eventually eclipsed those of Crispus.³² Despite an important naval success against Licinius in 324, he was executed in 326 at Pola in Istria on Constantine's orders.³³ Crispus was probably subjected to some form of trial before Constantine himself.³⁴ His stepmother Fausta was killed in the baths a few months later.³⁵ The precise details of these dramatic events are obscure, highly sensitive, and controversial. For example, whereas Crispus had been praised by Eusebius as "an emperor most dear to God and like his father in all things" (*HE* 10.9.6, probably written between 324 and 325), his name is absent from the later Syriac text and the *Life of Constantine*, both composed after 326—indicating that he had fallen out of favour and that officially all record of his career was to be expunged from history.³⁶

γεγονότα Μινερβίνης ὄνομα). Zosimus' view is supported by *Epit. de Caes.* 41.4. The disparity between the sources is probably due to their ideological differences.

³² See P. Maraval, *Les fils de Constantin* (Paris 2013) 9–22.

³³ Amm. Marc. 14.11.20, *ubi quondam peremptum Constantini filium accepimus Crispum*.

³⁴ Barnes, *Constantine and Eusebius* 220 n.117. Firmicus Maternus (2.29.10) mentions another case of adultery in 336/7 involving Ceionus Rufus Albinus; cf. J. R. Bram, *Ancient Astrology: Theory and Practice* (Park Ridge 1975) 310 n.46 for bibliography. In this case, Constantine sentenced the adulterer to exile.

³⁵ *Epit. de Caes.* 41.11–12. The circumstances are obscure: see Smith, *Constantine the Great* 215; J. Rougé, "Fausta, femme de Constantin: criminelle ou victime," *CH* 25 (1980) 3–17; D. Woods, "On the Death of the Empress Fausta," *G&R* 45 (1998) 70–86, who speculates that Fausta died attempting to induce an abortion.

³⁶ See T. D. Barnes, "The Editions of Eusebius' *Ecclesiastical History*," *GRBS* 21 (1980) 191–201, at 196–198; A. Louth, "The Date of Eusebius' *Historia Ecclesiastica*," *JThS* 41 (1990) 111–123, at 111–114; R. W. Burgess, "The Dates and Editions of Eusebius' *Chronici Canones* and *Historia Ecclesiastica*," *JThS* 48 (1997) 471–504, at 483 n.30. For the *damnatio memoriae* of Crispus see Burgersdijk, in *Imagining Emperors* 146 n.36.

The Arian Philostorgius (*HE* 2.4a) states that the emperor Constantine executed his own son Priscus (an anagram for Crispus) in a fit of anger brought on by a slanderous report by his wife, Fausta, about her step-son.³⁷ Philostorgius' account is preserved in the *Life of Constantine* in the *Codex Angelicus*. The author of this *Vita* believed that the story was false (he attributes it to “those who are full of heresy and impiety,” οἱ δὲ τῆς αἰρέσεως καὶ δυσσεβείας ἀνάμεστοι) and that it was intended to denigrate the “pious and victorious” emperor Constantine. Nevertheless he repeats the story, since he was “making every effort to set down all the views expressed by those of old” (πάσας τὰς τῶν πάλαι φημιζομένας δόξας ἀναγράφειν διὰ πάσης ἐθέμην σπουδῆς). According to these writers, Fausta had fallen in love with Crispus, but he had rejected her advances. Her love turned to hatred and she plotted to bring about his death. She made up lies about him and told these to the emperor, who was persuaded by her, and without pausing to verify the facts, “became a Theseus to his son” (Θησεὺς γίνεται τῷ παιδί) and killed Crispus, just as Theseus had killed Hippolytus on the basis of an accusation made by Phaedra (ὄνπερ ἐκεῖνος τρόπον τῇ διαβολῇ τῆς Φαίδρας ἀνεῖλε τὸν Ἰππόλυτον). Constantine was so upset about Fausta's allegations that he could not bear to hear his son's side of the matter (“his inner sense of judgment [was] so shaken that he was unwilling even to exchange a word with him,” ἐπιταραχθεὶς τὸ δικαστικὸν τῆς ψυχῆς καὶ μηδὲ λόγου μηδενὸς αὐτῷ μεταδούς). However, Fausta was later caught in adultery with one of the imperial couriers (προδρόμων οὓς κούρσωρας εἰώθασιν οἱ Ῥωμαῖοι καλεῖν) and was killed in the baths on the orders of the emperor, who commanded his eunuchs to prolong

³⁷ Text H.-G. Opitz, “Die Vita Constantini des Codex Angelicus 22,” *Byzantion* 9 (1934) 535–593; transl. P. R. Amidon, *Philostorgius: Church History* (Atlanta 2007). The use of the anagram can be explained as a strategy to avoid directly naming Crispus, who was the subject of *damnatio memoriae* in Philostorgius' day, even though his identity would be clear from the context. See further F. Krüpe, *Die Damnatio Memoriae: über die Vernichtung von Erinnerung. Eine Fallstudie zu Publius Septimius Geta* (Gutenberg 2011).

her stay in the hot bath by taking turns to relieve each other (κατὰ διαδοχὴν ἀλλήλους διαναπαύοντας). The biographer of Constantine characterizes Philostorgius as a liar (Φιλοστόργιος ὁ φιλοψευδέστατος) but does not provide his own explanation of how or why Crispus and Fausta died.³⁸

The *Epitome de Caesaribus* (41.11–12) also alleges that Constantine put his son to death after Fausta incited him to do so (*Fausta coniuge, ut putant, suggerente*). Later, when his grieving mother Helena criticised him for this, he had Fausta killed in the baths (*uxorem suam Faustam in balneas ardentis coniectam interemit, cum eum mater Helena dolore nimio nepotis increparet*). Furthermore, the pagan sympathizer Zosimus (2.29.2) declares that Constantine killed his son Crispus without taking into account the law of nature (τοῦ τῆς φύσεως θεσμοῦ μηδένα λόγον ποιησάμενος), “on suspicion on having had intercourse with his stepmother, Fausta” (εἰς ὑποψίαν ἐλθόντα τοῦ Φαύστη τῇ μητρiviᾷ συνεινῆαι). Zosimus gives the same version of the manner of her death, stating that Constantine had Fausta killed in an overheated bath, but adds that he did so to appease his mother, Helena, who was agrieved at the killing of Crispus. Eutropius (10.6.3) merely states that Constantine executed his son, his sister’s son, his wife, and later many of his friends.

Some scholars speculate that Crispus was eliminated because he had hoped to be elevated to the rank of Augustus in 326, the tenth anniversary of his appointment as Caesar.³⁹ Others surmise that, although he was popular, he was illegitimate and stood in the way of Constantine’s legitimate heirs.⁴⁰ Jones links

³⁸ John Chrysostom provides an entirely different account of the death of Fausta. According to him, she was exposed to wild beasts in the mountains: *Hom. in Ep. ad Phil.* 4.15.5, PG 62.295; cf. Pohlsander, *Historia* 33 (1984) 101.

³⁹ See J. Wienand, *Der Kaiser als Sieger: Metamorphosen triumphaler Herrschaft unter Constantin I* (Berlin 2013) 340–342, and “La famiglia e la politica dinastica de Costantino,” in *Enciclopedia Costantiniana* 1 23–52, esp. 38–39.

⁴⁰ Guthrie, *Phoenix* 20 (1966) 327; Barnes, *Constantine and Eusebius* 220. But Pohlsander, *Historia* 33 (1984) 79–106, and J. W. Drijvers, “Flavia Maxima Fausta: Some Remarks,” *Historia* 41 (1992) 500–506, at 504, effectively show

Crispus' death to Constantine's edict against abduction marriage, which had been passed at Aquileia on 1 April 326—a place and time not far from Pola, where Crispus was executed in the same year.⁴¹ However, the social dynamics of abduction marriage as a means of subverting an arranged marriage do not apply to Crispus, who was already married to Helena with whom he had evidently had at least one child, since Constantine celebrated the birth of this grandchild on 30 October 322 by pardoning all criminals except sorcerers, homicides, and adulterers (*Cod. Theod.* 8.38.2). Furthermore, a poem of Publilius Optatianus Porfyrius (*Carm.* 10) may imply that Helena was expecting her second child in 324.⁴² The suggestion has also been made that Crispus may have been implicated in the practice of magic, but there is no direct evidence of this.⁴³

The historical reason for the executions of Crispus and Fausta is not the primary focus of this article, which has a narrower aim: to demonstrate that the narrative of Cnemon in the *Aethiopica* alludes to the circumstances surrounding their deaths, and, more specifically, to the legislation of Constantine on marriage and the family.

Cnemon's story in the light of Constantine's legislation on adultery

The allusion to Theseus, Phaedra, and Hippolytus in the *Aethiopica* (1.10.2) and in Philostorgius 2.4a is a striking indication that the narrative of Crispus' disgrace and the story of Cnemon are related in some way, particularly if Rattenbury is right to suggest that the words ὁ Θησεύς were incorporated into the text from an early marginal gloss (see n.27 above). The allusion is also picked

that illegitimacy would not have prevented Crispus from inheriting power from Constantine and that this theory does not explain the execution of Fausta.

⁴¹ Jones, *Conversion of Europe* 244–245.

⁴² T. D. Barnes, "Publilius Optatianus Porfyrius," *AJP* 96 (1975) 173–186, at 181, and *Constantine and Eusebius* 220 and n.118.

⁴³ Austin, *AClass* 23 (1980) 133. This theory depends on the arguments in T. D. Barnes, "Two Senators under Constantine," *JRS* 65 (1975) 40–49.

up in the *Passion of Artemius*.⁴⁴ In this account, the emperor Julian stated (43) that the gods had driven Constantine away from their society and religion because of his unholy crimes in executing his innocent son, Priscus (= Crispus),⁴⁵ and his wife, Fausta. Artemius replied that Constantine had rightly put his wife to death because she had “imitated Phaedra of old” and had caused him to kill his own son by falsely accusing him of assaulting her by force, “just as Phaedra accused Theseus’ son, Hippolytus” (45).

The stories of Cnemon and Crispus are remarkably similar in their overall structure, as well as some particular legal details, which suggests that Heliodorus had the story of Crispus in mind when composing his narrative about Cnemon. The following analysis seeks to test this hypothesis in detail.

The first detail of note is that in both narratives the enraged father refuses to listen to his son’s side of the story. When Demainete accuses Cnemon of assaulting her, Aristippus cannot bear to hear his son out and has him whipped by his slaves, without knowing the true facts (οὐδὲν εἰδόμενα πύξ τε ἔπαιε καὶ παῖδας προσκαλεσάμενος μάστιξιν ἠκίζετο, 1.11.1). Later, on finding him in his bedroom armed with a sword, he again refuses to hear him (φράζειν οὐκ ἐπιτρέψας, 1.12.4) but has him put on public trial for attempted parricide. In Philostorgius’ account Constantine was so unbalanced by Fausta’s allegations that he did not listen to his son’s version of events (ἐπιταραχθεὶς τὸ δικαστικὸν τῆς ψυχῆς καὶ μηδὲ λόγου μηδενὸς αὐτῷ μεταδούς) and had him summarily executed. Kraft believed that Crispus

⁴⁴ The Arian Christian Artemius had been appointed to the post of *dux Aegypti* by his fellow Arian Constantius II. He was executed by Julian in 360 on the insistence of the people of Alexandria, who were angered by his cruelty towards the supporters of Athanasius (Amm. Marc. 22.11.2, cf. Julian *Ep.* 60, *PLRE I* 112). The surviving account of his martyrdom is usually attributed to ‘John the Monk’ (9th cent.). See Lieu’s introduction and notes to Mark Vermes’ translation, in S. N. C. Lieu, *From Constantine to Julian: Pagan and Byzantine Views: A Source History* (London/New York 1995) 210–262.

⁴⁵ The text here has the anagram *Priscus* for *Crispus*, as in Philostorgius *HE* 2.4, a strong indication that the *Passio* draws on Philostorgius for this episode.

was tried by the senate of Pola, but Pohlsander questions whether he was given a trial at all and suggests instead that he was allowed to commit suicide by taking poison,⁴⁶ as stated in the fifth century by Sidonius Apollinaris (*Ep.* 5.8.2). On the other hand, it has been suggested that Crispus was in Pola because he was on his way to exile there,⁴⁷ and banishment does suggest that some legal process was followed. In the narrative of Heliodorus, Aristippus states that, although legally permitted to put Cnemon to death, he preferred to put him on trial in order to avoid having to kill his own son (1.13.2). Crispus may have committed suicide by poison on his way to exile, and Cnemon leaves Athens for Aegina under similar circumstances.

Second, the Thisbe's statement that Demainete, as a nobly born woman, would be liable to the death penalty if caught in adultery, while she herself, as a slave, would not be, is striking (1.11.4, εἰ γὰρ ἐμὲ θεράπαιναν οὖσαν καὶ ἀργυρώνητον ἢ ἡ χαλεπὸν εἶναι σοι προσομιλοῦσαν ἀλῶναι, τίνος ἂν ἐκείνην ἀξίαν εἴποις τιμωρίας, ἢ καὶ εὐγενῆς εἶναι φάσκουσα καὶ νόμῳ τὸν συνοικοῦντα ἔχουσα καὶ θάνατον τὸ τέλος τοῦ παρανομήματος γινώσκουσα μοιχᾶται;). It recalls the rescript issued by Constantine on 3 February 326 (*Cod. Theod.* 9.7.1) in which he ruled that only respectable women were to be charged with adultery, whereas slave women and women involved in sordid trades were not to be held liable. Thus a female owner of a tavern could be held culpable for adultery whereas serving women could not. This was in line with Roman law and was upheld by the later Christian emperors.⁴⁸ Thisbe's statement ties Heliodorus' narrative closely to the recent legislation of Constantine, especially because her impunity under Constantine's law makes her intricate subterfuge possible. She clearly thinks that things would be difficult (χαλεπὸν) for her if she were caught in a sexual relationship with Cnemon, but feels confident

⁴⁶ H. Kraft, *Kaiser Konstantins religiöse Entwicklung* (Tübingen 1955) 128–132, supported by Guthrie, *Phoenix* 20 (1966) 325; Pohlsander, *Historia* 33 (1984) 104.

⁴⁷ Woods, *G&R* 45 (1998) 79–80.

⁴⁸ Evans-Grubbs, *Law and Family* 205–208.

enough to approach Aristippus with a confession of her involvement with his son, thus enabling her to arrange her trap for Demainete.

Third, the slave girl Thisbe's fear of getting into trouble as a result of her involvement with Cnemon can only be explained if there was some legal sanction against it, since neither was married and so could not be charged with adultery. A law had indeed recently been passed that would explain her concern. In 318 Constantine enacted a law that a decurion who abandoned his financial responsibilities to live in *contubernium* with slave women was to be deported, his property confiscated, and the slave woman sent to labour in the mines (*Cod. Theod.* 12.1.6).⁴⁹ This law was aimed at the decurions' failure to fulfil their responsibilities, rather than at their cohabitation with slave women, but a later law, passed in 331, prevented a freeborn male from passing off his children as free (4.8.7). Similarly, men of high rank (*perfectissimi*, *clarissimi*, and municipal magistrates) were prevented from marrying slave women and from passing off their children as freeborn (4.6.3). Such laws attempted to address the problem of the erosion of the clear distinction between free and slave.⁵⁰ These laws made it clear that sexual relationships between slaves and high-born men were not approved of and are sufficient to explain Thisbe's apprehensions.

Fourth, the family context of both narratives is appropriate to recent procedural changes in the law against adultery. A ruling by Constantine on 25 April 326 restricted the right to bring charges of adultery to male relatives of the accused woman (*Cod. Theod.* 9.7.2). Previously, Augustan legislation had thrown the field wide to potential accusers, in the interest of giving the law greater weight. Restricting the number of accusers would eliminate malicious accusations by those not affected by the woman's behaviour. At the same time, the ruling freed the husband who

⁴⁹ J. Evans-Grubbs, "‘Marriage more shameful than adultery’: Slave-mistress Relationships, ‘Mixed Marriages’ and Late Roman Law," *Phoenix* 47 (1993) 122–154, at 147–148.

⁵⁰ Evans-Grubbs, *Phoenix* 47 (1993) 149, 153.

could not prove his case from undergoing the same penalty that the accused would have suffered if the charges were proven. Since at this time the death penalty could be imposed in cases of adultery, this measure got rid of a major deterrent to prosecution and made it possible for a husband to bring a charge of adultery on suspicion alone. These changes effectively made adultery a family matter and, since the right to kill an adulterous woman and her partner caught *in flagrante* was maintained, and even extended under Justinian, punishment of the guilty parties became more private.⁵¹ These conditions suit the narrative of events in Heliodorus and in Philostorgius well and to some extent may explain the obscurity surrounding the death of Crispus at Pola.

Finally, the narrative in the *Aethiopica* is pertinent to the context of imperial succession. Aristippus remarried after the death of his first wife because he did not want to rely on only one son to be his heir (1.9.1). This detail is reinforced when Demainete refers to Cnemon as her “son and heir” (παίδιον ... καὶ ... κληρονόμον, 3.9.4) and when she alleges that he kicked her in the stomach, as Nero did to Poppaea.

Conclusion

Imperial legislation against adultery had been initiated by the emperor Augustus in the final years of the first century BCE.⁵² Despite early opposition, the law remained in place and was revisited from time to time by emperors up to and including Justinian.⁵³ The importance and controversial nature of this social legislation was reflected in erotic fiction, especially in the

⁵¹ Evans-Grubbs, *Law and Family* 208–215.

⁵² See T. A. J. McGinn, *Prostitution, Sexuality, and the Law in Ancient Rome* (Oxford 2002), esp. 140–215; L. F. Raditsa, “Augustus’ Legislation Concerning Marriage, Procreation, Love Affairs and Adultery,” *ANRW* II.13 (1980) 278–339; P. Csillag, *The Augustan Laws on Family Relations* (Budapest 1976). On Roman attitudes to sexual morality more generally see R. Langlands, *Sexual Morality in Ancient Rome* (Cambridge 2006).

⁵³ The continued enforcement of the Julian law on adultery is recorded in *Digest* 48.5. On the later history of the *lex Julia de adulteriis* see the summary in Evans-Grubbs, *Law and Family* 94–102.

Metamorphoses of Apuleius.⁵⁴ So by the fourth century there was a long history of imperial intervention in the sexual lives of citizens, reflected in prose literature, but under Constantine legal action against adultery became especially harsh. Early in his reign (3 November 313 or 314) he enacted that adultery was to be considered a serious crime along with homicide and magic and one that would be punished with the extreme penalty, provided that guilt could be established by a confession or irrefutable evidence (*Cod. Theod.* 9.40.1).⁵⁵ Furthermore, as noted above, legal procedure in cases of adultery became more of a family matter. Like the Augustan legislation, the laws of Constantine on marriage were controversial and became an area of contention among those opposed to his new order, especially those attached to, or acquainted with, the imperial court.⁵⁶

In the light of these changed conditions, the story of Cnemon cannot be read as merely reflecting common knowledge about the deaths of Crispus and Fausta. The polarisation of the sources alone makes this most unlikely: Eusebius writes Crispus out of his *Ecclesiastical History* and *Life of Constantine*, and the narrative in the *Codex Angelicus* implies that the story was made up by enemies of the new Christian order, whereas those who upheld traditional pagan religion, such as Zosimus and the *Epitome de Caesaribus*, provide copious details about the scandal.⁵⁷ In the context of Julian's satirical treatment of the new regime in his *Caesars* and in his "autobiographical myth" in *Oration 7* (227c–

⁵⁴ J. W. Osgood, "‘*Nuptiae Iure Civili Congruae*’: Apuleius's Story of Cupid and Psyche and the Roman Law of Marriage," *TAPA* 136 (2006) 415–441.

⁵⁵ This is also clear from Jerome *Ep.* 1.

⁵⁶ Whether the legislation passed by Constantine was effective or not, or even whether it was widely circulated or not, is irrelevant if it is accepted that the *Aethiopica* was written by someone close to the court of Julian. Given that most scholars now accept the fourth-century date, this is the only plausible context for the composition of the work.

⁵⁷ For the hostility between Constantine and pagans in respect of blood sacrifices see S. Bradbury, "Constantine and the Problem of Anti-Pagan Legislation in the Fourth Century," *CP* 89 (1994) 120–139, esp. 138–139.

234c),⁵⁸ any allusion to the court of Constantine in a work of fiction emanating from Julian's court, as the *Aethiopica* most probably did, should be read, at the very least, as touching on a very sensitive nerve. The story of Cnemon cannot be read in strictly neutral terms. As Morgan argues,⁵⁹ the sexual intrigues surrounding Cnemon in Heliodorus' fictional Athens are contrasted with the ideal love of Theagenes and Chariclea. Moreover, traditions of satire were alive and well in the fourth century, as is well shown by the satire on Rome in Ammianus Marcellinus,⁶⁰ and the satirical writings of Julian, especially the *Misopogon*.⁶¹

From the evidence set out above it is apparent that the fourth-century narrative of Heliodorus alludes to a highly controversial incident in the reign of Constantine, especially when it is taken together with the novel's inclusion of an episode of successful abduction marriage. While this narrative is fictional and ostensibly set in the fourth century BCE rather than the fourth century CE, it can nevertheless be read as an implied criticism of the scandalous deaths of Crispus and Fausta. There are, of course, disparities between the two narratives. For one thing, the Athenian Cnemon eventually returns home safely, whereas Crispus, of course, does not, and the manner of Demainete's death and that of Fausta are very different. However, the core of both narratives

⁵⁸ See Hilton, *LF* 140 (2017) 58–60.

⁵⁹ Morgan, *JHS* 109 (1989) 110–111: “we may contrast the outcome of Athenian love with that of the ideal. Love leads Demainete to humiliation, judicial arrest and death in a pit, the βόθρος where sacrifices were made to chthonic heroes. It leads Thisbe to the threat of judicial torture and then to death under ground, in an Egyptian cave at the hands of Thyamis. It leads Knemon to judicial conviction for attempted parricide, to a narrow escape from execution by being hurled into the βάραθρον near the Akropolis, then to exile. It leads Aristippos to judicial confiscation of his property, then to exile. But Charikleia's love leads her home from exile to a final pageant of light and joy.”

⁶⁰ A. J. Ross, “Ammianus, Traditions of Satire, and the Eternity of Rome,” *CJ* 110 (2015) 356–373.

⁶¹ See for example M. Gleason, “Festive Satire. Julian's *Misopogon* and the New Year at Antioch,” *JRS* 76 (1986) 106–119.

—the rash and unjust punishment of a son by his father on the allegation of his step-mother—and, more importantly, the explicit references to the legal details involved, are remarkably similar. The two narratives bear so many resemblances that a perceptive fourth-century reader is unlikely to have missed them. Indeed, there is some evidence to support this conclusion, since at least two writers, Philostorgius and the later author of the *Passion of Artemius*, do pick up the allusion to the myth of Hippolytus in their accounts of Crispus' execution, and, if Rattenbury is right to think that the words ὁ Θησεύς were added to the text of the *Aethiopica* at an early stage in the transmission, this indicates that the fictional story of Cnemon elicited a similar contemporary response. On this analysis, the *Aethiopica* of Heliodorus emerges as a work of fiction firmly embedded in the fourth century and, in all probability, one that emanated from the intellectual circles surrounding the imperial court, namely that of the emperor Julian.⁶²

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