

“Till death do you part.” The Roman Catholic Church holds the view that a sacramental marriage bond is established at the wedding, a bond which can only be declared as invalid by the annulment or dissolved by the death of the spouse. The starting point of the research projects was the question of which options Catholic couples who no longer wanted or could live together had before the introduction of civil marriage.

At the beginning of the first research project (2011-2015) knowledge of matrimonial conflicts and their in-court and out-of-court negotiations procedures was extremely limited in Austrian historiography. That early modern craftsmen and craftswomen, peasants or workers hired for day-to-day work could negotiate their marital conflicts at courts seemed to be unthinkable. Although it was known that **Joseph II's Marriage Patent** transferred the marriage jurisdiction to secular courts, neither legal practitioners nor historians knew which secular courts had jurisdiction over marriages after 1783. Researchers did not agree over who had jurisdiction over matrimonial affairs before 1783. Was it local church courts or, more likely, the Holy See in Rome? In general, matrimonial jurisdiction was not given much attention or seen as being particularly important since the prevailing opinion was that Catholic marriages could not be divorced and therefore – with the exception of annulments – there were no matrimonial proceedings before the introduction of the civil marriage.

In an initial step it was therefore necessary to determine the legal norms and the responsible courts in the Archduchy of Austria under the Enns (now Lower Austria and Vienna) over the long investigation period. The second step was to determine where the source documents from these institutions were archived. Therefore, the main focus of the first research project was the search for and the survey of the matrimonial proceedings in order to be able to make source-based statements on the practices of marriage courts in the areas examined.

For selected time periods between 1558 and 1783, we examined the marriage proceedings negotiated at the ecclesiastical courts of the Lower Officials of the Diocese of Passau and the (Arch) Diocese of Vienna. We examined selected time periods of the jurisdiction of the Civil Magistrate of the City of Vienna between 1783 and 1850.

While analyzing the various matrimonial proceedings our interest was mainly in answering the question of which arguments were being used by the married parties in order to present their interests. Which strategies did they use (in consultation with their lawyers) in order to

assert their demands? What expectations did the individual married parties attach to marriage in general and, specifically, to cohabitation?

While we could see from the minutes and documents remaining from the consistories how the married parties justified their demands, we often didn't find out where the married couples lived, how old they were, or how they made their living. In the second project (2015-2018) we therefore extended the source base in three ways: regionally, for divorces which were approved or decided upon either by the magistrates of Eggenburg, Langenlois, Tulln and Perchtoldsdorf or by the local courts of the dominions of Seitenstetten and Sitzendorf. Temporally, for marriage proceedings carried out by the Catholic matrimonial courts of St. Pölten and Vienna, whose jurisdiction over matrimonial matters was reinstated from 1857 - 1867 after the Concordat of 1855. And finally, also socially, in that for all recorded couples further sources were sought, making it possible to provide more information, not only about the marriage itself, but also on the social classification of the couple or one of the spouses.

The research done on further personally relevant sources did not serve the particular purpose of creating a prosopography, but rather was meant to allow for a well-founded evaluation of the matrimonial proceedings, an evaluation which differentiates between cities, towns and the countryside on the one hand, and takes social differences into consideration on the other. This differentiation is also a prerequisite, not only for distinguishing between men and women, but also to place gender in relation to other categories, to use gender as a manifold relational category.

By using the parish records we tried to find the date of the marriage, the civil status of the spouses, the baptism of common children and the life data of the spouses. In-depth personal searches for 396 couples filing for a contested divorce between 1783 and 1850 at the civil magistrate of the city of Vienna were funded by the Cultural Department of the City of Vienna between March and June 2018 (MA 7-755941/17).

The main focus of our current research, the results of which are made available on a regular basis on the web portal, is the question of how separated and divorced couples divided the marital property and regulated the custody of the children.

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Next sub-item: Courts investigated

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