

streitpaar - Verfahren in Ehesachen

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Teil 2 der Vorschau stellt die Beiträge von Johann Weißensteiner und Iris Fleßenkämper vor:

Böswilliges Verlassen und „tolerierte“ Partnerschaften im katholischen Bereich

Die Entscheidungspraxis des Passauer Offizialates in Wien von 1558 bis 1592

Johann Weißensteiner

(in German language)

In examining the records of marriage litigation at the consistory of the diocese of Passau in Vienna (established in the 14th century for the parts of the diocese Passau situated in the archduchy of Lower Austria) for the period 1558–1592 the author made the observation, that there was a lot of cases, in which abandoned spouses, whose mates had disappeared without their knowledge and consent, and lived since some years together with a new partner, asked for permission to remarry. Although they got not the license for a second marriage, their new partnership was tolerated. Such couples usually got a certificate by the consistory about this toleration and were also permitted to receive the eucharist in the churches. This practice, which was also common in the dioceses of Freising and Regensburg and in other parts of Europe, lasted till 1579. On 12 October of this year two prominent Jesuit fathers forced the consistory of the diocese of Passau in Vienna to stop this practice. The decision can be seen as an act of “social disciplining” by which the Catholics enforced their particular rules for all aspects of life and so also in the field of family life. Indeed the appointment of the later cardinal and bishop of Vienna Melchior Klesl as official of the diocese of Passau in Vienna was the startup of the Counter Reformation in the Habsburg countries. Thus since 1580 catholic spouses, who were separated from their former mates, did no more get a license to live in a new partnership unless they could proof the natural death of their former husband or wife. At the same time in protestant villages in Lower Austria some landlords in similar cases divorced the first marriage and permitted the

abandoned part to remarry.

Wann ist mein Mann mein Mann?

Zur Gültigkeit von Eheschließungen in der protestantischen Grafschaft Lippe im 17. Jahrhundert

Iris Fleßenkämper

(in German language)

The legal and social conceptions of marriage profoundly changed within the course of the German Reformation. In denying the sacramentality of marriage, Luther and his followers re-interpreted marriage, family, and sexuality as genuinely worldly affairs and attached them to the realm of the earthly kingdom. The Lutheran reforms of marriage resulted from the need to overcome fundamental contradictions of Canon law with regard to the legitimacy of clandestine marriage formations. In this paper I will ask for the influence Protestant marriage reforms had on the culture of norms and jurisdiction in the Protestant County of Lippe, Germany, and I will explore the roles and functions of the clergy in implementing these reforms. Various marriage-related cases brought before the local consistory court show that the new regulations concerning marriage formation were neither thoroughly enforced by court nor observed by the subjects. Following the legal practice of former episcopal marriage courts, the consistory of Lippe still adhered to principles and concepts of common law that had already been prevalent in medieval times.