**Bronach Kane**

Courtship, Childbearing & Gender in Late Medieval England  
(in English language)

Existing studies of premarital pregnancy in late medieval English society have focused on manorial fines imposed on sex and childbearing before marriage, as well as the Church’s attempts to channel sexual activity into the bonds of matrimony. This article uses extensive litigation from the church courts to argue that, while childbearing mattered little under formal canon law, pregnancy and parenthood were integral to narratives of courtship and marriage in practice. For female plaintiffs in particular, discourses of stability, cohabiting, and love underpinned legal arguments to enforce marriage contracts. Male parties could, in turn, exploit cultural perceptions to depict sexual relationships as temporary and based solely on desire. Despite these gendered patterns, young women could appropriate and reconfigure cultural models that were hostile to female sexuality in order to advance claims of marriage. Ultimately, this article argues that the discursive agency exercised by female plaintiffs and deponents suggests that gendered models were more flexible in social practice where courtship and childbearing were concerned.

**Duane Henderson**

Der unglückliche Bund: Zur Praxis der gerichtlichen Ehetrennung vor dem Freisinger Offizialat im Spätmittelalter  
(in German language)

The paper investigates the practice of marriage separations “from bed and board” (*a mensa et thoro*) at the bishop’s court of Freising at the end of the fifteenth century. Beginning with a brief summary of the position of late-medieval canon law and legal opinion defining the grounds for a separation “from bed and board” and regulating its modalities, the study points out the extent of regional and individual variations in the application of these rules as has been revealed by recent research. On this evidence it becomes apparent that the medieval practice of marriage separation must primarily be studied at the local jurisdictional level, such as is documented in the records of the consistorial court of Freising (1424/1462-1524). Drawing from this both detailed and comprehensive source material, the paper presents the case study of a prolonged marital conflict which was pursued in a series of legal suits from 1476 to 1481. In its various phases, this court battle addresses the major legal and social questions involved in late-medieval marital separation cases in Freising and reveals the problems and advantages of a legal settlement.

**Johann Weißensteiner**

Böswilliges Verlassen und „tolerierte“ Partnerschaften im katholischen Bereich: Die Entscheidungspraxis des Passauer Offizialates in Wien von 1558 bis 1592  
(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.

**Iris Fleßenkämper**

Wann ist mein Mann mein Mann? Zur Gültigkeit von Eheschließungen in der protestantischen Grafschaft Lippe im 17. Jahrhundert

(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.

**Andrea Griesebner**

Ausweg und Sackgasse zugleich: Eheverfahren vor katholischen Konsistorien von der Mitte des 16. bis ins ausgehende 18. Jahrhundert

(in German language)

Following a brief explanation of canon law the first section provides an outline of the sources for marriage litigations in the archduchy Austria below the Enns. It will highlight the possibilities and limitations the protocols of the consistories offer. The second section provides insights into the variety of marriage litigations made possible at early modern ecclesiastical courts, as well as quantitative trends. Based on a case study the third section provides deepened insight into the various contexts motivating women and men to sue their spouse. Between 1765 and 1781 Magdalena Pürckin and Peter Pürck conducted 13 proceedings, some initiated by the wife, some by the husband. The analytical focus is directed to the particular interest of the plaintiff and the defendant respectively as well as their discursive strategies to get a verdict in his or her own favor. The summary argues that the catholic marriage politics generates the various proceedings the ecclesiastical courts are dealing with. Nevertheless the persistence Peter Pürck in suing his wife for cohabitation and Magdalena Pürckin’s resistance is exceptional.

The article is based on long standing research on churchly marriage jurisdiction in the archduchy Austria below the Enns, financed by the Austria Research Fund and backed by the University of Vienna between October 2011 and October 2015.
Susanne Hehenberger

Das fehlende fleischliche Band: Sexuelles Unvermögen als Scheidungsargument vor dem Passauer und Wiener Konsistorium (1560–1783)
(in German language)

Many Catholic spouses filed for divorce or separation by bed and board in the early modern period. Only a few of them argued that their inability to execute the marital duty was the main cause. In this article, I focus on a small sample of 51 couples who used the argument of male or female impotence in the course of marriage litigations in the consistories in Vienna. After exploring the meaning of impotence and divortium in these sources, the article analyses the different interests of claimants (e.g. escape from an unhappy union or the desire for a new marriage) as well as the response of defendants to these allegations (denial, confession, counter-claim or negotiation). As canon law allowed the annulment of marriages only in cases of premarital, enduring and incurable impotence, consistories had to search for clear evidence before they rendered judgement. The appellate court - the nunciature in Vienna – then had to confirm the annulment before it would become effective. In theory, the evidence of one spouse confirmed by an oath cum septima manu (testimony of seven reliable men or women) would suffice as proof. In early modern practice, either the litigant or the consistory often demanded additional medical evidence, which was regularly provided by the medical faculty of the university in Vienna. In cases of female impotence, however, midwives were consulted. Even if evidence seemed clear and the carnal bond was missing, it became increasingly difficult to enforce a divortium quoad vinculum from the sixteenth to the eighteenth century. This situation was exacerbated after Pope Benedict XIV created the position of defensor matrimonii in November 1741, a figure who acted ex officio to protect marriage in the first instance.

Claire Chatelain

Ein adeliges Beamtenpaar vor Gericht: Der Einsatz von Kapitalsorten im Eheverfahren zur Trennung von Tisch und Bett am Ende der Regierungszeit von Ludwig XIV.
(in German language)

This paper presents a case study, focused on a trial of separation from bed and goods which occurred between a great magistrate and his wife (who came from a financial officer’s family), at the end of the Louis XIV reign. An exceptional documentation (based on summations and other sources, as notarial acts or courts sentences) allowed giving a micro analysis of this historical trial, led in front of the most important court of justice of the French kingdom, the Parlement de Paris, which was a secular one. What were the economic grounds of this marital separation? How the procedural followings which lasted five years long were shaped? What were the consequences on the couple and their children? This research is interested in the French Old Régime mechanisms of judicial way to break on kinship relationships especially those in the siblings. It leads to a comparative history in this field.

Margareth Lanzinger/Ellinor Forster/Janine Maegraith/Siglinde Clementi/Christian Hagen

Konfliktpotenzial und Streitgegenstände im Kontext ehelicher Vermögensregime
(in German language)

In early modern times, property and wealth constituted an area with considerable potential for conflict. The initial thesis of this paper is that the causes of discord and dispute depended decisively on the respective marital property and inheritance systems. Because this could give rise to competing interests in different constellations and situations: between siblings, in-laws, parents, step-parents, other relatives or guardians, and not least within marital context. One setting potentially prone to conflict was the end of a marriage. Previously, implications and consequences of widowhood and divorce or legal separation of bed and board were regarded separately. However, the aim of this paper is to bring post-marital property arrangements and stipulations regarding widowhood together with findings on marital conflicts and separations. The question is to what extent property related subjects of dispute differed depending on whether a marriage terminated because of the death of either husband or wife, or because of divorce or legal separation. Property brought in by brides, questions of livelihood, and post-marital presence in the husband’s family home have all proven to be relevant aspects in both contexts. The study
is situated in late medieval and early modern rural and urban areas of southern Tirol and is based on cases from the court books (“Verfachbücher”) and charters for several communities, noble family archives, as well as the consistorial records in the Diocesan archive in Brixen.

**Georg Tschannett**


(in German language)

In October 1848 Heinrich Georg Bayer initiated a matrimonial suit against his affluent wife, in order to claim maintenance from her. This case constitutes a rather unusual action in the Viennese divorce court from the end of the 18th to the mid-19th century, in its attempts to reverse the gender-specific allotment of conjugal duties and rights in general, and the statutory maintenance obligation of the husband in particular. The article will consider the relationship between spousal duties and rights and marital gender relations. In this context, marriage will be interpreted as a legal institution as well as a social relationship. The piece also aims to examine the practices of the Viennese divorce court in relation to maintenance proceedings, addressing the arguments that spouses used to win or to defend an action for maintenance. Perhaps most significantly, it will analyse in detail the negotiating positions that husbands and wives adopted in divorce settlements, and upon which they relied to secure the terms of their divorce.

**Zuzana Pavelkova Čevelová**

Ehestreitigkeiten vor dem erzbischöflichen Gericht in Prag in den 1860er-Jahren

(in German language)

The paper deals with marriage conflicts in the long 19th century in Bohemia. The first part concerns with the development of contemporary Czech historiography. The second part specifies an arrangement of archiepiscopal sources in Prague which are deposited in the National archive in Prague. The third part of the paper reconstructs the history of a married couple named Houška, who in 1857 fought for annulment of marriage in court. The reason that was put forward by the husband was health problems of his wife. Marriage had been neither nullified nor divorced. The micro historical approach gives an interesting illustration of social life in 19th century, contact of country and the city, expansion of medical science into common people life and the continuing power of the Catholic Church. The aim of the paper is to explain everyday live marriage in 19th century in the Bohemia countryside.

**Katrin Gäde**


(in German language)

Scandals, affairs and conflicts at noble courts have given rise to gossip ever since. Furthermore they were events of great interest for the public. At the same time divorce and legal separation were no uncommon phenomena among the nobility in the modern era. Against that background the present article examines separations and divorces of aristocratic couples from the 17th to the 19th century in Central Germany. This involves both - on a judicial level - the manifestation of the Protestant matrimonial law and on an actor-centred level – the people concerned, their strategies for action and related to that, the construction of social practice. By the example of interchurch-couples and their path through several bureaucratic procedures and lengthy negotiations about the further course of action and judicial responsibilities an attempt is made to visualize this aforementioned construction process. The appraisal of negotiations about jurisdictions in matrimonial matters allows the conclusion that individual rights and scopes of action were in need to be negotiated primarily in case of clashing legal standards and conceptions. In studying failed aristocratic marriages it is not only possible to get a deeper insight into gender relations but also to visualize actions and scopes of action as well as conflict settlement of the aristocratic world in modern Europe.
Ulrike Bohse-Jaspersen

Martina Vilvado y Balverde gegen Antonio Yta: Eine Klage auf Eheannullierung in Sucre aus 1803: Männlichkeitsentwürfe im spätkolonialen Bolivien
(in German language)

This paper describes a marriage annulment proceeding in the town of La Plata, today Sucre, constitutional capital of present-day Bolivia, in 1803. 22-year-old Doña Martina Vilvado y Balverde proceeds a claim before the Court of Appeal of La Plata, setting out that her husband, 32-year-old Spaniard Don Antonio Yta was in fact a woman who deceived her in order to marry and live as her husband with the blessing of the church. The article examines the argumentative strategies of the spouses, the members of the tribunal and other parties to the proceedings. The case is part of a compilation of marriage proceedings and other court sources, which are analyzed in the context of a dissertation in terms of concepts of masculinity in late colonial Bolivia (Provincia de Charcas) from 1750 to 1825. After an introduction to the historical context and an explanation of the legal framework, the course of the proceedings is described in chronological order until the end of the trial. The paper shows in which way the powers of the secular and ecclesiastical jurisdiction overlap. Given the complexity of the facts both jurisdictions try to avoid clear statements, although it can be demonstrated that there were different legal possibilities to reach a verdict. The argumentation tries to make clear that the scientific approach to the case must consider the diversity in gender so it needs more than an analysis of socially constructed gender and the historical-cultural aspects.

Open section

Anja Schumann

The pleasures and sorrows of sleeping: Writing about a mundane experience in early modern Germany
(in German language)

Though everybody has to sleep, sleeping is a widely individual phenomenon. It is framed by daily needs, social conditions and constraints as well as cultural habits and values. Thus, sleeping is not merely an anthropological necessity but a historically variable social practice. On the one hand, sleeping is intertwined with the very foundations of human life such as the body, time, economy and social status. On the other hand, sleeping is a natural and mundane practice. Hence, the sources far too often remain silent. To study early modern sleeping practices, diaries, however, provide rich material. This article is based on an in-depth analysis of three voluminous diaries: the ‘Gedenkbuch’ (memory book), written by 16th-century Cologne alderman Hermann Weinsberg, 17th-century cardinal Ernst Adalbert von Harrach’s daily notices and 18th-century pietistic handyman Ulrich Bräker’s diaries. Accordingly, this paper tackles two questions. First, which circumstances and experiences caused these authors to think and write about sleeping? Second, how did they perceive and explain different sleeping practices. As a result, it can be shown that writing about sleeping is also a social practice which is itself shaped by cultural norms and social conditions. Thus, it can only be explained through a sensitive historical contextualization. Considering this framework enables us to analyse and compare particular sleeping patterns and its partly contradicting narratives to reveal the relation between sleep and everyday life.

Ulrike Denk

Von Bursen und Bettelstudenten: Essen und Trinken in den Wiener Studentenhäusern des Mittelalters und der Frühen Neuzeit
(in German language)

During the Middle Ages and Early Modern Times students had to join student houses (bursae) where they lived and learned together under a master’s supervision. The masters themselves were controlled by the university: It gave the permission to run these hostels; it approved their statutes and visited them periodically. One reason for
the strict regulation of student life was that the majority of scholars frequented the faculty of arts which offered preparatory instruction for further studies. Therefore most of them were at the age of today’s high school pupils. Because bursae were not only learning but also living communities their statutes deal with ‘private’ subjects such as how to dress, to behave or to eat properly. Viennese statutes show the communal meals as rites to strengthen the community spirit. The tablemates had not to miss the meals (tolerated exceptions were illness or excused absences) and had to observe certain rules like speaking prayers before and after the meals or using Latin while sitting at the table. The knowledge of these rules identified them as part of the student community – contrary to admitted guests. Food was also used as disciplinary measure: Violations of the statutes like neglecting studies or religious obligations were punished with the deprivation of meat or wine.

Practical aspects such as composition and preparation of food take little space in the statutes. Invoices show that the meals consisted of meat, bread, vegetables and wine as beverage. Visitation reports prove various defects such as poor quality, excessive prices or unlicensed service. Nevertheless the food served in the bursae was of better quality than that of the average population. The scholars, even the poor ones, got meat every day, other people just on few days of the year.

Hansdieter Körbl

Landesfürstliche Politik und private Interessen: Johann Baptist Kunitz (1613–1686) und das Scheitern eines innovativen Mautprojekts
(in German language)

This essay deals with the timeless problem to consider risk vs reward of a commercial enter-prise. Johann Baptist Kunitz, a nobleman in Austria above/below the river Enns (Österreich ob/unter der Enns), who had achieved a small fortune, was tempted into participating in a project, which was at the time innovative: a consortium offered to operate all imperial toll offices along the Danube river and collect the duties at their sole risk. A revised tariff (only one rate when entering the area) should come into effect at the same time. This venture involved organisational skills to eliminate the existing mismanagement and incurred significant payments to the Emperor in advance. Kunitz was the partner responsible to provide necessary finance.

For the Emperor it was an interesting project, not at least because the increased tariff for toll duties promised long lasting higher income. Additionally, an extremely high front-end payment had been undertaken. Thus, the project started in April 1672. Several groups who felt to be discriminated in their interests organised heavy opposition to such an extent that the Emperor discontinued the project in less than six months.

This situation was extremely bad for Johann Baptist Kunitz because he had pledged all his property to raise funds in order to enable the advance payment. The Emperor had used the funds for most urgent necessities already and was not able to refund the amount received. This left Kunitz with the debt and consequently he had to sell his estate to fulfil his obligations.

Jan Kilián

Die Causa „Klostergrab 1617“: Sprengkapsel des Dreißigjährigen Krieges in Böhmen
(in German language)

Borbála Gulyás

Inscriptions All’antica of the Sepulchral Monument of Emperor Maximilian I in Innsbruck by the Calligrapher György Bocskay
(in English language)

György (George) Bocskay (†1575) served as admired calligrapher, royal court secretary and royal councillor at the Hungarian Royal Chancellery in Vienna for nearly 30 years. The calligrapher decorated writing model books and charters for the Habsburg emperors (also Hungarian kings) Ferdinand I and Maximilian II as well as letters patent (grants of arms) for Hungarian noblemen. However, it is less known that Bocskay also prepared inscriptions on stone applying a recently invented technique, known as acid etching (“Steinätzung”). Ferdinand I ordered him to carry out the inscribed marble plates on the sarcophagus of the sepulchral monument of Emperor Maximilian I in Innsbruck. The calligrapher received the commission on account of an extraordinary manuscript
imitating Roman epigraphic monuments which had been dedicated by Bocskay to Ferdinand I in line with the final design of the cenotaph. The paper is to give a brief overview of the process carried out by the calligrapher in Vienna based on archival sources (1563–1568) as well as to place the prepared Latin inscriptions *all'antica* in the wider context of the antiquarianism of the court of Ferdinand I in Vienna in the middle of the sixteenth century.