

# Abstracts

Ellinor Forster

*A New Social Order at the End of the 18th Century? A Comparison between Austrian and Tuscan Legislative Proposals*

Using private legal texts and drafts of constitutions, the article investigates the status of male and female citizens in the Austrian lands and Tuscany. In the second half of the eighteenth century, both territories were governed by Enlightenment-influenced rulers, who wished to realise ideas for the equalisation of a society still characterised by corporate and noble privileges. While discussion about these changes proved interesting and nuanced, the implementation of reforms was only partially successful, not least because many of the texts did not move beyond the draft stage. Nevertheless, a number of changes are discernible across the fifty-year span studied by the author.

Andrea Griesebner/Georg Tschannett

*Marriages before the Courts (1776–1793). Marriage Disputes in Vienna at the Consistory Court of the Archbishop and before the City Magistrates*

In the Habsburg Monarchy, the Catholic Church was the authority with jurisdiction over marital matters until the end of the eighteenth century. The Marriage Ordinance, enacted by Emperor Joseph II in January 1783, transferred jurisdiction over marital matters from the diocesan courts to the civil courts. In Vienna, reform of the municipal authorities in 1783 likewise awarded jurisdiction in this area to the city council. Both canon law and civil law-makers rigidly adhered to the idea of the indissolubility of marriage and stipulated that Catholic married couples could only file a petition for separation from bed and board. Comparing the marital jurisdiction of the Viennese diocesan court and the municipal council, the article closely examines the continuity and discontinuity in legal practice between November 1775 and December 1793. As well as describing the change in legislation, it considers the legal and social ramifications thereof.

Margareth Lanzinger

*Competition between State and Church Law: Marriages between Kin and the Practice of Dispensations in Tyrol at the end of the Eighteenth Century*

The period of the Enlightenment brought marked changes in the practice of marriage law because the state now intervened in a sphere previously dominated by the Church. In the Habsburg Monarchy, the Marriage Patent promulgated by Emperor Joseph II in 1783 was followed by massive conflicts. The struggle over competence and powers therefore affected the granting of marriage dispensations for couples who were blood relations or related by marriage. From both Church and state perspectives, different measurements were applied to the degree of proximity under which a close relationship would lead to a ban on marriage. Moreover, bishops were attributed different powers of competence according to whether or not they oriented themselves more towards Rome or towards Vienna. For Tyrol, the article analyzes the consequences of this institutional competition, which led to a centralisation of dispensation practice, to great uncertainty and to extensive difficulties in the granting of dispensations, but also to the use of different forms of evasion of state directives.

Beatrice Zucca Micheletto

*The Introduction of the Napoleonic Civil Code in Turin: the Patrimonial Marriage Regime between Norms and Practice*

This article focuses on the impact of the Napoleonic Civil Code on Turinese society at the beginning of the nineteenth century. It shows how far people adopted the Code and in what ways they negotiated their way round – or even bypassed – some of the laws concerning the economic relationship between the family members. The new legislation fostered a new marriage settlement based on joint property between husband and wife or, as an alternative, it authorized a new dowry regime which contained important differences when compared to the traditional dowry of the Ancien Régime. For example, the new code established that the endowed girl should not renounce other inheritance rights pertaining to her family estate, contrary to what had previously been the case. In addition, the husband was now obliged to pay back the whole dowry to the wife's family if she died before him and remained without children. In spite of this, the analysis of a sample of endowment contracts from the Napoleonic period suggests that families could get round these new laws by using specific juridical expressions and other technical expedients, or they could even manage to ignore the new stipulations altogether.

Pavla Slavičková

*Guardianship as part of the Legal Protection of Children in Bohemia and Moravia before 1811*

Legal protection of children in the past can be divided into two separate categories: paternal authority and guardianship authority (the protection of orphans by a guardian). Paternal authority was seen as the sum of special privileges belonging to the head of the family, the *pater familias*, in relation to his wife, children and other descendants in the male line. Guardianship was defined as the protection of – and power over – a person who was deemed incapable of defending and protecting him- or herself, due to his or her immaturity. The main objective of the article is to describe the key principles of the legal protection of children in the history of the Czech lands. In particular, it compares the content of the General Civil Law Book (*Allgemeines Bürgerliches Gesetzbuch*) of 1811 with the previous legal codes valid in these territories before the end of eighteenth century, with regard to the systems of both municipal and provincial law.

Francesca Brunet

*Women Assassins. The Gender Dimension in Penal Trials in Lombardy-Venetia*

The subject of this article is the penal trials, conducted against accused women and concluding with a sentence of capital punishment, at tribunals in Habsburg-ruled Lombardy-Venetia in the period prior to the 1848 Revolutions (the *Vormärz* era). Having clarified the juridical and institutional context in which the trials took place, the author begins by considering, first of all, different aspects of female criminality and its judicial treatment (e.g. the frequency of crimes, their typology, and the proportions of pardons and sentences carried out). Secondly, the author analyzes the reports of the Lombardo-Venetian Senate of the Supreme Tribunal of Justice (that is to say, the third judicial instance in Lombardy-Venetia), which highlight the judges' predisposition to interpret criminal actions according to parameters linked to the gender of the accused or the victims. In particular, it is evident that women's sexual conduct played a very important role in the Senate's decision whether or not to recommend to the Austrian Emperor that a pardon should be granted to the condemned.