

The property issues resultant from divorce in the Roman Empire

Abstract

This work deals with the topic of property relationships between married couples in relation to their divorce in the Roman world of the emperors. The main property issues at hand are dowry, property connections between the individual families and presents between the husband and wife.

To understand the institutes involved properly, the work first presents the topic of marriage so that the reader may better understand the types of marriage, which naturally influence the divorce proceedings and their actual impact on the couple in question. The prerequisites of marriage are considered as well as the differences between marriage *cum in manum conventione* and marriage *sine in manum conventione*.

Next, details of property relationships between married couples in times before divorce are discussed, especially as relates to the possible types of marriage. The topic of dowry, bridegift and gifts between spouses are contemplated.

In its third chapter, the work deals with other forms of ending the marriage other than divorce, so that the institute of marriage in context of the Roman Empire can be better understood. The resultant viewpoint is that of marriage as a truly personal institution that must deal with the expectations and needs of the society.

The following chapter treats the divorce itself. Persons to whom divorce is forbidden are named, as well as the division into unilateral and bilateral divorce, its developments over time and the formal proprieties necessary for a divorce.

In its next sections, the work deals directly with the property issues related to divorce. Primarily, the return of dowry, its subdivision into contractual and non-contractual regimes and the development of these regimes in time is scrutinised. The return of dowry during the duration of the marriage is also briefly considered. Further to whom the dowry is returned to, who may be subject to a petition regarding the dowry, how time is measured for legal purposes and what exactly is returned under the term dowry is assessed.

Secondarily, the fate of different types of gifts in relation to divorce is discussed. The most noticeable is the difference between the different types, namely where the *donatio inter virum et uxorem* is forbidden whilst the *donatio divortii causa* is allowed. Last but not least the *arra sponsalicia* and its similarities in treatment to that of dowry is discussed.

Klíčová slova: marriage, divorce, dowry, *donatio*, *arra sponsalicia*