

Comparison of marriage law 534 – 1234

| | Justinian Roman law | Gratium Decretum | Liber Extra |
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| What constitutes marriage | <ul style="list-style-type: none"> • Consent between participants and parents of participants | <ul style="list-style-type: none"> • Consent between participants and consummation | <ul style="list-style-type: none"> • <u>Either</u>: <i>de presenti</i> consent between participants • <u>Or</u>: <i>de futuro</i> consent & consummation |
| Restrictions on marriage | <ul style="list-style-type: none"> • Need to maintain rank and status • Close relatives by consanguinity and affinity • Betrothal age: 7 for women, • Marriage age: 12-50 for women, 14 for a boy. | <ul style="list-style-type: none"> • 7 degrees of consanguinity • Betrothal age: 7 for all • Marriage age: 12 for a girl, 14 for a boy. | <ul style="list-style-type: none"> • 4 degrees of consanguinity • Betrothal age: 7 for all • Marriage age: puberty |
| Clandestine marriage | <ul style="list-style-type: none"> • Discouraged for elite as lack of proof could make subsequent property/inheritance issues difficult to prove. | <ul style="list-style-type: none"> • Discouraged, but not invalid | <ul style="list-style-type: none"> • Illegal but not invalid |
| Dissolution of marriage | <ul style="list-style-type: none"> • Agreement • If not agreed a range of criteria including: <ul style="list-style-type: none"> • entering religious life • procuring an abortion • attempting marriage with another man • making a habit of bathing in the company of men other than her husband | <ul style="list-style-type: none"> • Non-consummation • Serious misapprehension by a marriage partner • Entering religious life after consent but before consummation • Both partners agreeing to end a marriage to enter the religious life • Adultery is a cause of withdrawal, but not of dissolution | <ul style="list-style-type: none"> • Inability to consummate • Mutual agreement to enter religious life prior to consummation • Assumption of death of one of the partners. |

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| <p>Re-marriage</p> | <ul style="list-style-type: none"> • Few restrictions for men. In some cases remarriage may be prevented for a period of time depending on nature of divorce offence • Women to wait a year before remarrying after either divorce or death of husband | <ul style="list-style-type: none"> • A dissolved marriage was not a marriage, and so participants were free to remarry without penalty • If a partner enters religious life before consummation, the remaining partner was free to remarry without penalty • Widows and widowers discouraged from remarriage, but no penalty for those who do | <ul style="list-style-type: none"> • A dissolved marriage was not a marriage, and so participants were free to remarry without penalty • If a partner enters religious life after <i>de futuro</i> consent but before consummation, the remaining partner is free to remarry without penalty • Those who had previously received the nuptial blessing were prohibited from receiving it again. |
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