



[Letter of Domitian concerning marriage rights \(JRS, 76 \(1986\) p. 147-243\)](#) [1]

Typology (Honorific / Funerary / etc.): Letter/Municipal Charter

Original Location/Place: Irni, Hispania

Actual Location (Collection/Museum): Museo Arqueológico de Sevilla, Spain

Date: 91 CE

Physical Characteristics: An imperial 'letter' added to the final tablet of the *lex Irnitana*, beneath the main text.

Material: Bronze

Measurements: Height: 57.5 cm

Width: 91.5 cm

Language: Latin

Category: Roman

Publications:

González, Julián and Crawford, Michael, "A New Copy of the Flavian Municipal Law" in *Journal of Roman Studies*, 76 (1986) p. 147-243

Commentary: This text is found inscribed beneath the final chapter (97) of the *lex Irnitana*, the municipal charter from the otherwise unknown town of Irni in Baetica, Spain (for a discussion of the form and origin of this charter, see the introductory paragraphs of the [Lex Flavia Municipalis](#) [2]). The text is often described as a letter (or an extract from one) that was sent to the inhabitants of Irni by the emperor Domitian and which contained an official pronouncement, hence its inclusion at the end of the municipal charter. Melvin Cooley has described this 'letter' as "distinctive in its expression," and Julián González noted its "contorted style and curious usage," perhaps in response to its unusually curt tone and brevity (Cooley, *Flavians*, p. 130; González, "Flavian Municipal Law," p. 237). However, although this could just be an extract from a longer epistolary text, it is hard to confirm that it was indeed originally a letter; comparison with other examples of letters from Domitian to provincial audiences which do survive (e.g. the letter to the Falerienses, *ILS* 6092), reveals that the 'letter' from Irni lacks the diplomatic characteristics of a formal greeting at the start, and valedictory statement, such as *vale* or *valete*, at the end, both of which we might expect to be included, even in the case of an extract, as evidence of the formality with which the letter had been issued (Mourgues, "So-called Letter," p. 79). Jean-Louis Mourgues instead believed the text to be a *subscriptio*, or rescript of the Emperor, that was issued in reply to a question posed by the community (Mourgues, "So-Called Letter," p. 79). If it is indeed a *subscriptio*, then this would explain the direct tone and seeming absence of detail; indeed, Mourgues argues that the "mixture of directness and relative complexity of expression are all characteristic of subscripts", and that they were intended to be read in conjunction with the *libellus*, or original petition, that they sought to answer, which negated the requirement of a more formal or solicitous tone (Mourgues, "So-called Letter," p. 81).

If the text added at the end of the *lex Irnitana* is indeed a rescript from Domitian, then what kind of issue did it attempt to resolve, and why was it added at the bottom of the municipal charter? The rescript was offered as a final decision on the part of the emperor concerning legal marriages in Rome's provinces; it stated that although some marriages were legal because they were "covered by the Latin statute" (*Conubia comprehensa quaedam lege latv*), it would appear that some had entered into illegal marriages carelessly, or without realisation (*aliqua si quit sollicitudo uestra indi/cat parum considerate coisse*), indicating that there was some abuse of the system taking place. According to Roman law, a marriage was only legal (according to *ius civile*, or civil law) if both parties had *conubium*, or the right to enter into marriage. Roman citizens automatically had *conubium*, but non-citizens did not unless it was especially applied for and granted (Borkowski, *Textbook*, p. 123). Therefore, a marriage in which one or both parties did not have *conubium* was not legally recognised by civil law (*ius civile*), meaning that the rules of *potestas* that delineated from the head of the family did not apply. The marriage would have been recognised by the *ius gentium* (the 'law of nations', or 'common law'), but any children that arose from it would take the status of their mother, rather than their father, and would not be eligible as an heir (Borkowski, *Textbook*, p. 123). The marriage laws also allowed that a man of Junian Latin status could marry a woman of Roman Latin status, and that once their offspring reached the age of one, the entire family would be awarded Roman citizenship (Gaius, *Institutes* I.28-29). Domitian's rescript therefore appears to suggest that not only had some abuse of this process been taking place, but that responsibility for it did not rest solely on the native population. As Andrew Fear has noted, Roman officials might have demanded proof of citizenship or *conubium* as a way of exerting power in local



communities, perhaps accepting bribes for the recognition of Roman citizenship and withholding it from those who deserved it (*Rome and Baetica*, p. 150). Such occurrences had clearly been brought to the attention of Rome, with Domitian making a final, reactive statement of Rome's approach; Rome had acted generously to past instances of these unions, but his *indulgentia*, 'lenience', was now used up.

There is some debate as to whether or not the rescript applied specifically to the town of Irni or whether it was a more general statement that was copied into Irni's official municipal charter from elsewhere. The text of the rescript refers to an organised group, to whom the provisions of the decision will clearly apply: 'your anxiety' (*sollicitudo vestra*) and 'I demand that in future you remember the statute' (*me / mineritis legis*) (see Mourgues, "So-Called Letter," p. 82, n. 28). However, there is no indication that the Irnitani are that organised group or that Domitian's rescript applied to, or was dated specifically to their new municipal status. Jean-Louis Mourgues prefers to interpret the *subscriptio* then as a "response to an unknown petition by an unknown community, and integrated into the inscriptions put up in Irni" ("So-Called Letter," p. 83). He further notes that the legal rubric of the rescript is in fact quite vague, and that it is not clear whether the 'statute' that he asks the unknown community to remember is the Flavian Municipal Law specifically or Roman Law in general ("So-Called Letter", p. 84). This might explain why the rescript is positioned at a somewhat odd place, beneath the last chapter of the municipal charter but before the titles that record the magistrates who undertook the erection of the inscription; however, if it is understood as responding to the legal statement made in that final chapter of the charter, the situation becomes a little clearer. Chapter 97 of the *lex Irnitana* refers to freedmen and women receiving Roman citizenship as a result of their sons or husbands holding office (*per honores liberto/rum suorum aut uirorum ciuitatem Romanam consecuti / consecutae erunt*). Intermarriages between Roman citizens and non-citizen, freedwomen must therefore have been one important way for freed families to improve their status in society and ensure further promotion and prosperity (Mourgues, "So-Called Letter", p. 85-6). If these marriages were not recognised because the freedwomen had not sought the right of *conubium*, then the marriage did not grant her Roman citizenship and legally she remained in the *potestas* of her former *paterfamilias*, and not in that of her husband, which presented a number of legal and social difficulties. Domitian's response therefore sought to emphasise the rubric of chapter 97, ensuring that the obligations of patronage could not be complicated by any changes that the municipal law brought – such as grants of citizenship – whilst also warning against future instances of legal abuse.

Keywords in the original language:

- [conubium](#) [3]
- [lex](#) [4]
- [sollicitudinis](#) [5]
- [indulgentia](#) [6]
- [littera](#) [7]

Thematic keywords:

- [Roman law](#) [8]
- [Flavian municipal charter](#) [9]
- [Municipal Charter](#) [10]
- [lex Irnitana](#) [11]
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- [Roman citizenship](#) [22]
- [freedman](#) [23]
- [freedwoman](#) [24]



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