

Abstract

Laura D'Amati, *Parentalia e lemuria: quale rapporto?*

In the most ancient twelve-months Roman calendar, two festive cycles are attested that the living dedicated each year to the memory of the deceased: the *Parentalia*, celebrated in the month of February, and the *Lemuria*, celebrated in the month of May. Having established the simultaneous presence of these two official anniversaries, news of which has reached us through Ovid's *Fasti*, this research aims to understand whether the relationship between the two celebrations can be configured in terms of duplication, opposition or complementarity.

Dans le plus ancien calendrier hebdomadaire romain de douze mois sont attestés deux cycles festifs que les vivants consacraient chaque année à la mémoire des défunts : les *Parentalia*, célébrées au mois de février, et les *Lemuria*, célébrées au mois de mai. Après avoir constaté la présence simultanée de ces deux événements à caractère officiel, dont les informations nous sont transmises principalement par les *Fastes* d'Ovide, la recherche vise à comprendre si le rapport entre eux est configurable en termes de duplication, d'opposition ou de complémentarité.

Parole-chiave

Parentalia, Lemuria, Manes, Lemures, Larvae.

Parentalia, Lemuria, Manes, Lemures, Larvae.

Aniello Parma, *Chi parla a chi. Continuare a vivere nella voce dei passanti: esempi dalla Regio I.*

This paper investigates the communicative and memorial functions of Latin funerary inscriptions, focusing on examples from Regio I. Addressed to passersby—*viatores, hospites, praetereuntes*—these epitaphs created a symbolic dialogue between the living and the dead, inviting readers to stop, read aloud, and thus revive the memory of the deceased. Through formulas, acrostics, affectionate dedications, and even curses, funerary monuments became instruments of self-representation, revealing social values, familial ties, and religious beliefs. Writing served both a civic and sacred purpose, preserving the individual's *dignitas* while constructing a shared collective memory. The analysis highlights how these texts contributed to shaping communal identity and expressing accepted social norms within Roman society. Despite scholarly attention to such “speaking inscriptions,” a comprehensive and systematic collection capable of elucidating their legal and social significance is still lacking.

El artículo examina las funciones comunicativas y conmemorativas de las inscripciones funerarias latinas, especialmente aquellas procedentes de la Regio I. Dirigidas a los transeúntes —*viatores, hospites, praetereuntes*—, estas inscripciones establecían un diálogo simbólico entre vivos y muertos, invitando al lector a detenerse, leer y pronunciar en voz alta el nombre del difunto, reactivando su memoria. A través de fórmulas lingüísticas, acrósticos, dedicatorias afectivas o maldiciones, los monumentos funerarios se convertían en medios de representación personal y reflejaban valores sociales, vínculos familiares y creencias religiosas. La escritura cumplía una función cívica y religiosa al mismo tiempo, destinada a conservar la *dignitas* individual y a construir una memoria colectiva compartida. El análisis demuestra que estos textos contribuyeron a definir la identidad comunitaria y los modelos de conducta social reconocidos por la sociedad romana. A pesar de su interés académico, aún no existe una recopilación sistemática que explore plenamente su significado jurídico y social.

Parole-chiave

Roman funerary epigraphy; Memory and communication; Dialogue between living and dead; Social identity; funeral deprecations.

Epigrafía funeraria romana; Memoria y comunicación; Diálogo entre vivos y muertos; Identidad social; deprecaciones funerarias.

Raffaele D'Alessio, *Familia funesta*.

Starting from the reading of the Festus lemma *everriator* (Fest. s.v. *Everriator* [Lindsay 68]), the role of the *heres extraneus* in carrying out the funeral rites of the deceased will be observed. In light of the *officium pietatis* incumbent upon the *heres institutus* independently of the acceptance of the inheritance, the *argumentum* adduced by Gai. 3 *de verborum obligationibus* D. 45.3.28.4 to justify the capacity of the *servus hereditarius* to acquire the credit from *stipulatio* in favor of the *heres futurus* will be analyzed.

En partant de la lecture du lemme festin *everriator* (Fest. s.v. *Everriator* [Lindsay 68]), on observera le rôle de l'*heres extraneus* dans l'accomplissement des funérailles du défunt. À la lumière de l'*officium pietatis* incombant à l'*heres institutus* indépendamment de l'acceptation de l'héritage, on analysera l'*argumentum* invoqué par Gai. 3 *de verborum obligationibus* D. 45.3.28.4 pour justifier la capacité du *servus hereditarius* d'acquérir le crédit par *stipulatio* en faveur de l'*heres futurus*.

Parole-chiave

Heres extraneus, *officium pietatis*, *servus hereditarius*, funeral rites

Heres extraneus, *officium pietatis*, *servus hereditarius*, rites funéraires

Gaetana Balestra, *La mors immatura. Tra l'arcaica disciplina del lutto e le leggi matrimoniali augustee*

The essay aims to underline the importance of early childhood (i.e. children under one year of age and up to three years of age) in the context of the regulation of mourning and the advantages that Augustan marriage law provided for couples in their mutual succession. This centrality is particularly evident in Tit. Ulp. 16.1a.

El estudio tiene como objetivo resaltar la relevancia de la primera infancia (niños menores de un año y hasta tres años) en lo que respecta a la normativa sobre el duelo y las ventajas que, según la legislación matrimonial augustea, se derivaban de este para la pareja en su sucesión recíproca. Esta relevancia se subraya notablemente en Tit. Ulp. 16.1a.

Parole-chiave

Childhood, mourning, Augustus, succession

Infancia, duelo, Augustus, sucesión

Maria Luisa Tacelli, *Agostino d'Ipbona e la prassi dei refrigeria*

The term *refrigerium*, derived in turn from the verb *refrigerare* in the meaning of to refresh, give relief, quietude, rest, indicates the funerary banquet that sources document as being in use from the 4th to the 7th century AD, consisting of the consumption of a meal near the tombs of the deceased, as well as in libation, that is, the offering of food and drink to the deceased themselves. This is, in truth, a ritual already practiced in pagan religion which then flowed into Christianity. In particular, when faced with this rite, the action of Catholic bishops was divided, at first, between tolerance and consent, only to then result in the repression of abuses and unruly conduct. From the sources – conciliar canons, patristic sources, and especially Augustinian writings – emerges the plague of alcoholism, precisely on the occasion of funerary banquets, which often degenerated into drunkenness and debauchery.

Le terme *refrigerium*, dérivant à son tour du verbe *refrigerare* dans le sens de rafraîchir, donner soulagement, quiétude, repos, désigne le banquet funèbre que les sources documentent comme étant en usage du IV^e au VII^e siècle apr. J.-C., et consistant en la consommation d'un repas près des tombes des défunts, ainsi qu'en la libation, c'est-à-dire l'offrande de nourriture et de boissons aux défunts eux-mêmes. Il s'agit, en vérité, d'un rituel déjà pratiqué dans la religion païenne puis reflué dans celle chrétienne. En particulier, se trouvant face à ce rite, l'action des évêques catholiques se divisera,

d'abord, entre la tolérance et le consentement, pour déboucher ensuite sur la répression des abus et des conduites déréglées. Des sources – canons conciliaires, sources patristiques, et surtout les écrits augustinien – émerge le fléau de l'alcoolisme, précisément à l'occasion des banquets funèbres, qui dégénéraient souvent en beuveries et débauches.

Parole-chiave

Refrigerium, funerary banquet, libation, augustinian writings

Refrigerium, banquet funèbre, libation, écrits augustinien

Yuri González Roldán, *Il postumo e la Lex Cornelia nel libro quarto delle epistole di Giavoleno*

The Cornelia law in the Republican era established the fiction that the *civis* who died in enemy territory was considered as if they had not lost their freedom and therefore, their will, made in homeland, would have had fully validity. However the problems tackled by Javolen in the fourth book of his epistles, concern the applications of this law by incorporating the assumption of the existence of a posthumous.

La ley Cornelia de edad republicana había establecido la ficción que el ciudadano muerto en territorio enemigo fuera considerado como se hubiera muerto cuando se encontraba en libertad, es decir, en patria, antes de la captura. Javoleno presenta algunos problemas de aplicación de la presente ley considerando como presupuesto la procreación de un hijo postumo.

Parole-chiave

Posthumous, testament, citizen, jurist, slave.

Póstumo, testamento, ciudadano, jurista, esclavo.

Aurelio Arnese, *Profili retorici in Plin. Epist. 8.18 sul testamento di Domizio Tullio*

In Epistle 8.18, Pliny recounts the will of Domitius Tullus, who was adopted together with his brother, Domitius Lucanus, by the famous orator Gnaeus Domitius Afer. The letter's structure effectively uses a variety of rhetorical devices, including pathos, which is prepared by surprise and fuelled by the description of positive feelings and behaviour, contrasting with sordid plots; irony, verging on sarcasm and the grotesque (which heighten the pathos); and antithesis, which follow one another in rapid succession and intertwine, evoking the technique of contradiction, or antilogia. The exposition is therefore lively and passionate, in accordance with Quintilian's principles (*Inst. or.* 12.9.3). Even the portraits of the characters are not ends in themselves but also represent rhetorical examples: those we need to learn how to live, as Pliny writes at the end of his speech (*ad rationem vitae exemplis erudimur*).

En la Epístola 8.18, Plinio relata el testamento de Domicio Tulo, adoptado junto con su hermano, Domicio Lucano, por el célebre orador Cneo Domicio Afro. La elaboración de la carta evidencia una notable destreza en la utilización de múltiples recursos retóricos, tales como el pathos, generado por la sorpresa y nutrido mediante la exposición de emociones y conductas virtuosas en contraposición a narrativas lúgubres; la ironía, que abarca desde el sarcasmo hasta lo grotesco, incrementando el pathos; y la antítesis, que se desarrollan en un ritmo acelerado y se entrelazan de manera intrincada, evocando la técnica de la contradicción o antilogía. La exposición se presenta de manera vivaz y concisa, ajustándose a los preceptos establecidos por Quintiliano (*Inst. or.* 12.9.3). Asimismo, los retratos de los personajes no se presentan como un objetivo en sí mismos, sino que también desempeñan un papel retórico al servir como ejemplos ilustres que nos permiten adquirir sabiduría vital, como lo expresa Plinio al concluir su discurso (*ad rationem vitae exemplis erudimur*).

Parole-chiave

Pliny, Domitius Tullus, pathos, Quintilian

Plinio, Domicio Tulo, pathos, Quintiliano

Filippo Bonin, *Prime osservazioni intorno al commentario ad legem Iuliam et Papiam di Ulpio Marcello*.

Die Untersuchung zielt darauf ab, einen ersten palingenetischen Rahmen der sechs im Digesten erhaltenen Fragmente des Kommentars *ad legem Iuliam et Papiam* von Ulpianus Marcellus zu liefern, zu dem es bis heute keine spezifischen Beiträge in der Literatur gibt. Nachdem versucht wurde, das Werk zu datieren und Hypothesen über die Struktur und die Redaktionstechnik desselben formuliert wurden, wird man sich auf jene Texte konzentrieren, die das Thema der Erbunfähigkeit direkt oder indirekt behandeln, welches in der Tat zentral innerhalb des von den römischen Juristen als '*lex Iulia et Papia*' bezeichneten normativen *Corpus* ist. Aus dieser Sicht erweisen sich als besonders bedeutsam ein Fragment aus dem ersten Buch, wo eine Präferenz für die väterliche Erblinie bei der Devolution der *caduca* erkennbar zu sein scheint, und eines aus dem dritten Buch in Sachen Scheidung.

L'intervention vise à fournir un premier cadre palingénésique des six fragments conservés dans le Digeste du commentaire *ad legem Iuliam et Papiam* d'Ulpianus Marcellus, sur lequel il n'existe à ce jour aucune contribution spécifique dans la littérature. Après avoir tenté de dater l'œuvre et formulé des hypothèses autour de la structure et de la technique de rédaction de celle-ci, on se concentrera sur les textes qui abordent directement ou indirectement le thème, en vérité central au sein du *corpus* normatif dénommé par les juristes romains '*lex Iulia et Papia*', de l'incapacité à succéder. De ce point de vue s'avèrent particulièrement significatifs un fragment du premier livre, où il semble possible de déceler une préférence pour la ligne successorale paternelle dans la dévolution des *caduca*, et un fragment du troisième livre en matière de divorce.

Parole-chiave

Palingenetischer Rahmen, Erbunfähigkeit, Väterliche Erblinie, Devolution der *caduca*

Cadre palingénésique, incapacité à succéder, ligne successorale paternelle, dévolution des *caduca*

Roberto Goffredo, Luigi Lambusta, *Morti inquieti e riti atipici: l'archeologia può documentare la paura?*

Inflictions, prone burial positions, post-mortem mutilations, ligatures: the archaeology of funerary landscapes increasingly and accurately documents the material evidence of rituals and prophylactic treatments performed on the deceased. The aim of these treatments was perhaps to render the deceased harmless, prevent their 'return' and avert the risk of dangerous forms of contact between the living and the dead. Reflection on the post-mortem projections of the individual, or rather on social life after death (cf. Adriano Favole), is thus enriched by the contribution that contemporary archaeology of traces can provide, in a necessary and intense dialogue with written sources, physical anthropology, cultural anthropology, and the history of law and institutions.

Inflictions, positions funéraires couchées, mutilations post mortem, ligatures: l'archéologie des paysages funéraires documente de manière toujours plus précise les preuves matérielles des rituels et des traitements prophylactiques pratiqués sur les défunts. L'objectif de ces traitements était peut-être de rendre les défunts inoffensifs, d'empêcher leur «retour» et d'éviter le risque de contacts dangereux entre les vivants et les morts. La réflexion sur les projections post mortem de l'individu, ou plutôt sur la vie sociale après la mort (cf. Adriano Favole), s'enrichit ainsi de la contribution que peut apporter l'archéologie contemporaine des traces, dans un dialogue nécessaire et intense avec les sources écrites, l'anthropologie physique, l'anthropologie culturelle et l'histoire du droit et des institutions.

Parole-chiave

Funerary landscapes, rituals, the living and the death

Paysages funéraires, rituels, les vivants et les morts

Constantin Willems, *The Garden Rules: Gärten in den römischen Rechtsquellen zwischen Muße und Macht*

Modern scholarship on Roman law tends to treating the topic of gardens as being a wallflower, picked up along the way when discussing legal issues concerning the colonization of land or neighbourhood relations, such as the delimitation of land boundaries or servitudes. However, the Roman jurists explicitly mention gardens also in other contexts, namely on the field of testamentary dispositions. Gathering these sources not only allows for a different perception of the different forms of Roman gardens, but also gives testimony of the division of power between the various land owners and other persons having a mere right of use in the land. Departing from the legal sources, the paper presents the bouquet of the Roman garden between leisure and power.

Nella dottrina sul diritto romano, il tema dei giardini gioca un ruolo marginale, trattato spesso soltanto en passant quando si affrontano questioni relative alle basi storiche della colonizzazione della terra o del rapporto di vicinato, come le questioni legali riguardanti la delimitazione dei confini o le servitù. Tuttavia, i giuristi romani parlano esplicitamente di giardini anche in altri contesti, in particolare nel campo del diritto delle disposizioni testamentarie. L'insieme di queste fonti permette non solo di avere una diversa visione delle varie realtà dei giardini romani, ma testimonia anche la divisione del potere tra i vari proprietari di terra ed altre persone avente un mero diritto d'uso. Con questo, l'articolo presenta l'immagine del giardino romano tra ozio e potere come dipinto nelle fonti legali.

Parole-chiave

Garden, *hortus*, neighbourhood relations, servitudes, bequests.

Giardino, *hortus*, rapporto di vicinato, servitù, legati.

Paolo Costa, *Infrastrutture idrauliche nella provincia d'Asia: provvedimenti romani e amministrazione indiretta*

This paper examines selected Early Imperial epigraphic sources from the province of Asia that record provisions issued by emperors (e.g. *I.Ephesos* II, 401; V, 1523–1524; *I.Sardis* I.10; II, 416; *I.Aphrodisias*²⁰⁰⁷, 11.412) and proconsuls (e.g. *I.Eph.* III, 695; *I.Eph.* II, 415–416; VII.1, 3217A–B; *I.Kibyra* 19) concerning the management of aqueducts. These inscriptions provide a valuable vantage point for investigating the relationship between provincial cities and both imperial and proconsular administration during the Principate.

Analysis of the epigraphic evidence reveals significant differences linked to distinct civic statuses, closely corresponding to recent scholarly reconstructions of the dynamics of indirect rule characteristic of the eastern provinces. Special attention will be devoted to contrasting proconsular provisions regarding *civitates liberae* with those regarding *civitates stipendiariae*.

The paper will also explore the extent to which proconsular regulations reflect the legal frameworks established for the city of Rome, as defined by *leges publicae* and *senatusconsulta*, highlighting a precise reception of central normative models within the provincial context. This process of reception calls for closer historical-legal analysis and explanation.

La contribution examine un ensemble de sources épigraphiques du Haut-Empire provenant de la province d'Asie, qui attestent des dispositions émanant tant des empereurs (par ex. *I.Ephesos* II, 401; V, 1523–1524; *I.Sardis* I.10; II, 416; *I.Aphrodisias*²⁰⁰⁷, 11.412) que des proconsuls (par ex. *I.Eph.* III, 695; *I.Eph.* II, 415–416; VII.1, 3217A–B *I.Kibyra* 19) relatives à la gestion des aqueducs. Ces inscriptions constituent un observatoire privilégié pour analyser les relations entre les cités provinciales et l'administration impériale et proconsulaire à l'époque du Principat.

L'analyse de la documentation épigraphique met en évidence des différences significatives liées aux divers statuts civiques, en étroite correspondance avec les reconstructions récentes des formes de gouvernement indirect caractéristiques des provinces orientales. Une attention particulière sera accordée à la comparaison entre les interventions proconsulaires dans les *civitates liberae* et celles concernant les *civitates stipendiariae*.

La contribution examinera en outre dans quelle mesure les réglementations proconsulaires reflètent

les cadres juridiques établis pour Rome, tels qu'ils résultent des *leges publicae* et des *senatusconsulta*, en soulignant une réception précise des normes centrales dans le contexte provincial. Ce processus de réception appelle une analyse et une mise en perspective approfondies sur le plan historico-juridique.

Parole-chiave

Roman Asia, legal epigraphy, hydraulic infrastructure, provincial chanceries, normative drafting. Asie romaine, épigraphie juridique, infrastructures hydrauliques, chancelleries provinciales, rédaction normative.

Tommaso Beggio, Filippo Bonin, *A proposito delle recenti tendenze della manualistica di diritto privato romano.*

This article aims to examine recent research trends in Roman private law studies by analyzing the recently published *Handbuch des Römischen Privatrechts* (Tübingen: Mohr Siebeck, 2023), edited by Ulrike Babusiaux, Christian Baldus, Wolfgang Ernst, Franz-Stefan Meissel, Johannes Platschek and Thomas Rüfner. The article's main objective is to examine the structure and methods employed in this 3,700-page, two-volume handbook (plus indexes), which seeks to provide an overview of the entire field of Roman private law from a primarily procedural perspective. The first part of the *Handbuch des Römischen Privatrechts*, however, deals with the fundamentals and institutes of private law from the point of view of substantive law, while the second part is properly devoted to litigation and the various *actiones* known to the Romans. Eventually, this contribution evaluates the role played by this handbook nowadays and in the future of Roman law studies, comparing it to the one played by Max Kaser's two seminal volumes on Roman private law and Roman private law procedure. In doing so, it recognizes that the *Handbuch des Römischen Privatrechts* would become an essential reference point for Roman law scholars for years to come.

Dieser Aufsatz hat zum Ziel, aktuelle Forschungstendenzen in den Studien zum römischen Privatrecht zu untersuchen, indem das kürzlich veröffentlichte *Handbuch des Römischen Privatrechts* (Tübingen: Mohr Siebeck, 2023), herausgegeben von Ulrike Babusiaux, Christian Baldus, Wolfgang Ernst, Franz-Stefan Meissel, Johannes Platschek und Thomas Rüfner, analysiert wird. Das Hauptanliegen des Artikels besteht darin, die Struktur und die Methoden dieses 3.700 Seiten umfassenden, zweibändigen Handbuchs (zuzüglich Register) zu untersuchen, das einen Überblick über das gesamte Gebiet des römischen Privatrechts aus vorwiegend prozeduraler Perspektive zu geben sucht. Der erste Teil des *Handbuchs des Römischen Privatrechts* behandelt dabei die Grundlagen und Institute des Privatrechts aus der Sicht des materiellen Rechts, während der zweite Teil dem Prozesswesen und den verschiedenen den Römern bekannten *actiones* gewidmet ist. Schließlich bewertet dieser Beitrag die Rolle, die dieses Handbuch gegenwärtig und künftig in den Studien zum römischen Recht spielt, und vergleicht sie mit derjenigen, die Max Kasers zwei grundlegende Bände zum römischen Privatrecht und zum römischen Zivilprozessrecht innehatten. Dabei wird erkannt, dass das *Handbuch des Römischen Privatrechts* zu einem unverzichtbaren Bezugspunkt für die Romanistik der kommenden Jahre werden dürfte.

Parole-chiave

Handbook, Roman private law, Roman private law procedure, Roman law studies, procedural perspective.

Handbuch, römisches Privatrecht, römisches Zivilprozessrecht, römische Rechtswissenschaft, prozessuale Perspektive.

Francesco Verrico, Partus sequitur ventrem: *nota minima su Grimm, Savigny e l'antichità di una regola*

The paper aims to trace a path that, through an examination of Jakob Grimm's biography, works, unpublished notes, and correspondence, allows the reader to pinpoint the moment at which Grimm encountered the phrase *partus sequitur ventrem*, which he cites in his 1815 essay *Von der Poesie im*

Recht as an example of an ancient legal rule. Situating this choice within the broader framework of the Romantic conception of law championed by Grimm helps to illuminate what might otherwise appear to be a chronological inconsistency.

Der Beitrag versucht, anhand einer Untersuchung von Jakob Grimms Biographie, Werken, unveröffentlichten Notizen und Korrespondenz den Zeitpunkt zu bestimmen, zu dem Grimm erstmals auf die Wendung *partus sequitur ventrem* stieß, die er in seinem Aufsatz *Von der Poesie im Recht* (1815) als Beispiel aus dem «altlateinischen Gerichtswesen» #anführt. Die Einordnung dieser Wahl in den weiteren Rahmen der von Grimm vertretenen romantischen Rechtsauffassung trägt dazu bei, einen Sachverhalt zu erhellen, der andernfalls als chronologische Inkonsistenz erscheinen könnte.

Parole-chiave

Jakob Grimm, *partus sequitur ventrem*, Friedrich Carl von Savigny, Romantic legal thought, Legal history.

Jakob Grimm, *partus sequitur ventrem*, Friedrich Carl von Savigny, romantische Rechtsauffassung, Rechtsgeschichte

Werner Eck, *Der Testator des stadtrömischen. Testaments in CIL. VI 10229: ein Senator konsularen Ranges – kein libertus.*

Since a fragmentary inheritance document was published by Mommsen in CIL VI 10229 with a lengthy commentary, it has been clear to everyone that the testator had senatorial, probably even consular rank. Initially, it was assumed that his name was Dasumius Hadrianus, but today it is widely believed that he is identical with Domitius Tullus, mentioned by Pliny the Younger. However, in 2005, Joshua C. Tate claimed: “We must remain open to the possibility that the testator was not only an Ignotus, but an Ignotus libertus.” This claim lacks any knowledge of Roman social reality. The author cannot explain why so many high-ranking persons appear as recipients of legacies in the will, including Emperor Trajan himself, Sosius Senecio, consul iterum, and Iulius Ursus Servianus, also consul iterum at the time, whom the testator addresses very familiarly as *Servianus meus*. In all its aspects, the entire will fits only a testator who belonged to the senatorial, consular elite of Rome.

Da quando Mommsen pubblicò un testamento conservato solo in forma frammentaria in CIL VI 10229 con un lungo commento, fu chiaro a tutti che il testatore aveva il rango di senatore, probabilmente addirittura quello di console. Inizialmente si pensava che il suo nome fosse Dasumius Hadrianus, mentre oggi si suppone che fosse identico a Domitius Tullus, menzionato da Plinio il Giovane. Tuttavia, nel 2005 Joshua C. Tate ha affermato: “dobbiamo rimanere aperti alla possibilità che il testatore non fosse solo un Ignotus, ma un Ignotus libertus”. Questa affermazione denota una totale mancanza di conoscenza della realtà sociale romana. L'autore non è in grado di spiegare perché nel testamento compaiano come beneficiari di legati così tante personalità di alto rango, tra cui lo stesso imperatore Traiano, Sosius Senecio, consul iterum, e Iulius Ursus Servianus, anch'egli all'epoca consul iterum, che il testatore chiama con grande familiarità *Servianus meus*. Il testamento nel suo complesso, in tutti i suoi aspetti, corrisponde solo a un testatore che apparteneva all'élite senatoria e consolare di Roma.

Parole-chiave

Trajanic period; *testamentum* “Dasumii”; senatorial testator, not a *libertus*; *Domitius Tullus*; CIL VI 10229.

Epoca traianea; *testamentum* “Dasumii”; testatore senatorio, non *libertus*; *Domitius Tullus*; CIL VI 10229.

Maria Federica Merotto, *Il mancato diritto al pagamento della prostituta: echi romanistici nella giurisprudenza italiana*

This article addresses the denial of a prostitute's right to remuneration as a form of ‘discrimination within discrimination’, by comparing contemporary Italian law with Roman law. After outlining the

abolitionist framework introduced by Law no. 75 of 1958 and the traditional view that considers agreements between prostitutes and clients void for reasons of public morality, the analysis highlights the discriminatory effects resulting from the refusal to recognise any enforceable claim to payment. Particular attention is paid to a 7 May 2014 decision of the Rome District Court, which prompted a reassessment of Ulp. 26 *ad ed.* D. 12.5.4.3. Read in the light of interpolational criticism and of the Basilica, this source suggests that in Roman law the *infamis status* of the *meretrix* did not preclude her entitlement to remuneration. On this basis, the article argues for a reconsideration of the prevailing interpretation of positive law, with a view to strengthening the protection afforded to the weaker party to the relationship.

Der Beitrag behandelt die Versagung des Rechts der Prostituierten auf Vergütung als eine Form der „Diskriminierung innerhalb der Diskriminierung“ im Wege eines Vergleichs zwischen der zeitgenössischen italienischen Rechtsordnung und dem römischen Recht. Nach der Darstellung des durch das Gesetz Nr. 75 von 1958 eingeführten abolitionistischen Ansatzes sowie der traditionellen Auffassung, wonach Vereinbarungen zwischen Prostituiierter und Kunde wegen Verstoßes gegen die guten Sitten nichtig sind, hebt die Analyse die diskriminierenden Auswirkungen hervor, die sich aus der Verweigerung der Anerkennung eines einklagbaren Anspruchs auf Zahlung ergeben. Besonderes Augenmerk gilt der Entscheidung des Tribunale di Roma vom 7. Mai 2014, die Anlass zu einer Neubewertung von Ulp. 26 *ad ed.* D. 12.5.4.3 gegeben hat. Im Lichte der interpolationskritischen Forschung und der Basiliken gelesen, legt diese Quelle nahe, dass im römischen Recht der *infamis Status* der *meretrix* ihren Anspruch auf Vergütung nicht ausschloss. Auf dieser Grundlage plädiert der Beitrag für ein Überdenken der vorherrschenden Auslegung des positiven Rechts zugunsten eines stärkeren Schutzes der schwächeren Partei des Rechtsverhältnisses.

Parole-chiave

Contract invalidity, Entitlement to payment, Ulp. 26 *ad ed.* D. 12.5.4.3, *Condictio ob turpem causam*, *Soluti retention*, *boni mores*

Vertragsungültigkeit, Vergütungsanspruch, Ulp. 26 *ad ed.* D. 12.5.4.3, *Condictio ob turpem causam*, *Soluti retention*, *boni mores*

Mario Lentano, *Alberi e no. Controversie tassonomiche a Roma fra giurisprudenza e immaginario vegetale*

Through an examination of title 47.7 of the Digest, the article reconstructs the reflections of Roman jurists on the meaning of the term *arbor* and the plant species that fell within the definition of tree (in particular the vine, but also the ivy, the willow and the reeds) and benefited from the resulting legal protections.

À travers une analyse du titre 47.7 du Digeste, cet article retrace la réflexion des juristes romains sur la signification du terme *arbor* et sur les espèces végétales qui entraient dans la définition de l'arbre (en particulier la vigne, mais aussi le lierre, le saule et les roseaux) et bénéficiaient des protections juridiques qui en découlaient.

Parole-chiave

Roman law, trees, vine, *actio arborum furtim caesarum*, environment protection.

Droit romain, arbres, vigne, *actio arborum furtim caesarum*, protection de l'environnement

Nicolò Spadavecchia, *Testimonianze di interventi sillani nel Liber coloniarum primus*

The so-called *Liber coloniarum primus* is an important source of information about Lucius Cornelius Sulla's egemony (82-79 BCE): the *Liber* records agrarian and military activities implemented by Sulla after the civil war in ten ancient towns placed in *Latium* and *Campania* (*Aricia*, *Bovillae*, *Calatia*, *Capitulum*, *Capua*, *Castrimoenium*, *Gabii*, *Nola*, *Suessula*, *Tusculum*). This paper discusses this information and tries to single out the towns that were involved in Sullan agrarian reforms (*leges Corneliae*) and the ones whose territory was simply exploited by Sullan soldiers through *occupatio*.

Le texte appelé *Liber coloniarum primus* est une importante source d'informations sur l'hégémonie de Lucius Cornelius Sulla (82-79 av. J.-C.): le *Liber* en effet mentionne activités agraires et militaires mises en œuvre par Sulla après la guerre civile dans dix cités antiques situées en *Latium* et *Campania* (*Aricia*, *Bovillae*, *Calatia*, *Capitulum*, *Capua*, *Castrimoenum*, *Gabii*, *Nola*, *Suessula*, *Tusculum*). Cet article examine ces données et essaye d'identifier les lieux concernés par les réformes agraires de Sulla (*leges Corneliae*) et les territoires simplement exploités par les soldats de Sulla sous forme de *occupatio*.

Parole-chiave

Lucius Cornelius Sulla; Liber coloniarum primus; leges Corneliae agrariae; Capua; Capitulum Hernicum

Lucius Cornelius Sulla; Liber coloniarum primus; leges Corneliae agrariae; Capua; Capitulum Hernicum

Marina Frunzio, *I libri XXXII-XXXIV ad edictum di Giulio Paolo: note interpretative preliminari*

This contribution presents the initial outcomes of a broader investigation into Books XXXII-XXXIV *ad edictum* by the jurist *Iulius Paulus*. The textual structure of these books reveals a compositional logic that markedly departs from that adopted by Ulpian in the corresponding books, privileging instead a range of sources primarily rooted in the tradition of the *ius civile*. Such divergence suggests a deliberate methodological stance, underscoring Paulus' distinct engagement with civil law materials.

Cette contribution présente les premiers résultats d'une enquête plus large sur les Livres XXXII-XXXIV *ad edictum* par le juriste *Iulius Paulus*. La structure textuelle de ces livres révèle une logique compositionnelle qui s'écarte nettement de celle adoptée par Ulpian dans les livres correspondants, privilégiant au contraire un éventail de sources principalement enracinées dans la tradition du *ius civile*. Une telle divergence suggère une position méthodologique délibérée, soulignant l'engagement distinct de Paulus avec les matériaux de droit civil.

Parole-chiave

Iulius Paulus, commentarii ad edictum, edictum, praetor, Roman jurists

Iulius Paulus, commentarii ad edictum, edictum, praetor, juristes romains

Michele A. Fino, *Halbwachs, Betti e Superga*

This paper aims to analyze the first instance judgment of the Superga case (1950) and the related commentary of Emilio Betti, employing as hermeneutic paradigm the theory of collective memory developed by Maurice Halbwachs. Through an analogical transposition operation, it is postulated that the legal tradition operates according to methods structurally similar to the dominant historiography, maintaining a substantial primacy with respect to normative innovations. The investigation highlights how, despite the provisions of Art. 2043 of the Italian Civil Code introducing a broad concept of unjust damages, both the Court of Turin and Emilio Betti perpetuated a restrictive interpretation of *lex Aquilia's* liability, anchored in the protection of absolute rights only. Particularly significant is the hermeneutic removal of the second caput of the *lex Aquilia* – which emerged from Gaius Veronese and attests to the original protection of credit rights – from contemporary legal reflection. The research demonstrates how the legal tradition is configured as an autonomous and prevalent formant, capable of neutralizing both the *voluntas legislatoris* and the outcomes of scientific Roman research, confirming the crisis of the dialogue between Roman law and the positive order in modern Italy.

La presente contribución se propone analizar la sentencia de primera instancia del caso Superga (1950) y el correspondiente comentario de Emilio Betti, utilizando como paradigma hermenéutico la teoría de la memoria colectiva elaborada por Maurice Halbwachs. Mediante una operación de transposición analógica, se postula que la tradición jurídica opere según modalidades estructuralmente afines a la historiografía dominante, conservando una primacía sustancial respecto a las innovaciones

normativas. La encuesta muestra que, a pesar de lo dictado por el art. 2043 c.c. ital. introdujera una noción amplia de daño injusto, tanto el Tribunal de Turín como Emilio Betti han perpetuado una interpretación restrictiva de la responsabilidad aquiliana, anclada en la protección de los derechos absolutos. Particularmente significativo es el retiro hermenéutico del II caput de la *lex Aquilia* - surgido del Gaio Veronese y que atestigua la original protección de los derechos de crédito - de la reflexión jurídica contemporánea. La investigación demuestra cómo la tradición jurídica se configura como formata autónoma y predominante, capaz de neutralizar tanto las *voluntas legislatoris* como los resultados de la investigación románica científica, confirmando la crisis del diálogo entre derecho romano y ordenamiento positivo en la Italia moderna.

Parole-chiave

Collective memory, Aquilian liability, legal tradition, unjust damage, *lex Aquilia*

Memoria colectiva, responsabilidad aquiliana, tradición jurídica, daño injusto, *lex Aquilia*