

Abstract

Werner Eck, *Eine dritte Kopie der Tafel von Brigetio aus dem Jahr 311 n. Chr.*

The regulations for veterans, issued by Constantine and Licinius in 311 and first known through the so-called Tablet of Brigetio, were attested by another document in 2009. A new fragment can now be added. This makes it increasingly likely that these bronze documents do not come from the headquarter of a high-ranking representative of the administration, as was once supposed, but rather from places where military camps existed, so that the veterans could inform themselves there directly about their privileges.

Le norme per i veterani, emanate da Costantino e Licinio nel 311 e conosciute per la prima volta attraverso la cosiddetta 'Tavola di Brigetio', sono state attestate da un documento nel 2009. Ora è possibile aggiungere un nuovo frammento. Ciò rende sempre più probabile che questi documenti in bronzo non provengano dalla sede di un alto rappresentante dell'amministrazione, come si supponeva una volta, ma piuttosto da luoghi in cui esistevano campi militari, in modo tale che i veterani potessero informarsi direttamente su tali privilegi.

Parole chiave

Tablet of *Brigetio*, fragmentary third copy, Constantine, Licinius, veteran privileges.

Tavola di *Brigetio*, frammento, Costantino, *Licinius*, privilegi veterani.

Mario Fiorentini, *L'impatto delle attività umane sull'ambiente. Una riflessione storico-giuridica*

Through the analysis of some historical, archaeological and legal sources, this paper aims to verify if the economic activities undertaken in the Roman world (mining, agriculture, intensive fishing and coastal housebuilding) had a meaningful impact on the environments and, above all, if the negative externalities of such works had some form of control from the public authorities (jurists or imperial legislators). The answer to this investigation will be negative.

Durch die Analyse von einigen historischen, archäologischen und juristischen Quellen, wird der Artikel das Ziel gesetzt nachzuprüfen, wenn die ökonomischen Tätigkeiten im Römischen Welt übernommen (Bergwerksbearbeitung, intensive Fischerei und Küstenwohnungsbau) einen bedeutungsvollen Einfluß auf die Umwelt gehabt haben, und vor allem wenn die negativen externen Effekte solcher Arbeiten einige Kontrollform von den öffentlichen Behörden (Juristen oder kaiserliche Gesetzgeber) gehabt haben. Die Antwort auf diese Untersuchung wird negativ sein.

Parole chiave

Environment, Roman mining, intensive fishing, seashore, heuristic of fear.

Umwelt, römische Bergbautätigkeit, Überfischung, Küsten, Angstheuristik.

Simone Sisani, *Censimenti romani e demografia: ritorno alle fonti*

In this essay I submit to a renewed analysis the main literary and epigraphic testimonies helpful to illuminate some central aspects in the modern debate on the demography of Roman Italy, such as the position of *cives sine suffragio* in the count of *civium capita*, the demographic conditions of the peninsula during the Gracchan age, the decentralization of the *census* procedures. The conclusions reached allow to frame the figures of the censuses carried out between the fourth and first century BC within a line of demographic development consistent with that postulated by the 'low count'.

En este artículo presento un nuevo análisis de los principales testimonios literarios y epigráficos que ayudan a iluminar algunos aspectos centrales del moderno debate sobre la demografía de la Italia romana, como la posición de los *cives sine suffragio* en el recuento de *civium capita*, las condiciones

demográficas de la península durante la época gracana, la descentralización del procedimiento del censo. Las conclusiones alcanzadas permiten encuadrar las cifras de los censos llevados a cabo entre los siglos IV y I a.C. dentro de una línea de desarrollo demográfico coherente con lo postulado por el ‘*low count*’.

Parole chiave

Census figures, Cisalpine Gaul, *cives sine suffragio*, demography, emigration, Gracchan reform, high count, levy of 225 BC, low count, Social War, *tabula Heracleensis*.

Cifras del censo, Galia Cisalpina, *cives sine suffragio*, demografía, emigración, guerra social, *high count*, leva del 225 a.C., *low count*, reforma gracana, *tabula Heracleensis*.

Valerio Massimo Minale, *Il Kanun di Skanderbeg e lo Zakonik di Dušan: per qualche considerazione sull’impatto dell’eredità giuridica romano-bizantina in area balcanica*

Starting point of the reflection will be an important book recently published in Italy, which represents probably the best edition of the Albanian legal collection of customary law. Goal of the article is to find an interpretative key in order to analyse the problem of the penetration and diffusion on the Byzantine law in the Balcan region during the Medieval time, by trying a sort of comparison between Skanderbeg’s *Kanun* and Dušan’s *Zakonik*, both characterised by a strong ideological factor, but with different origins: starting point of the reflection will be an important book recently published in Italy, which represents probably the best edition of the Albanian legal collection of customary law.

El objetivo del ensayo es encontrar una clave interpretativa para analizar el problema de la difusión de la derecho bizantino en la región Balcanica durante el periodo medieval. Formulando una especie de comparación entre Skanderbeg’s *Kanun* y Dušan’s *Zakonik*, ambos caracterizados por un fuerte factor ideológico, pero con diferentes orígenes: el punto de partida de la reflexión será un libro importante recientemente publicado en Italia, que probablemente representa la mejor edición de la colección legal Albana de derecho consuetudinario.

Parole chiave

Kanun, Skanderberg, *Zakonik*, *Dušan*.

Kanun, Skanderberg, *Zakonik*, *Dušan*.

Lucio Parenti, «Urseius ait ...». *Riflessioni su una decisione di Urseio Feroce*

The essay analyses a text by Ulpian – D. 10.3.6.12 (Ulp 19 *ad ed.*) –, which refers to a decision of Urseius Ferox, with a note by Julian. More specifically, attention is focused on the *ratio* of avowal to the partner, who had made the *opus novum* despite the *operis novi nuntiatio*, of the possibility of acting against the other partner for the reimbursement of the *poena* which had been paid. Furthermore, Julian’s note, which places a limit on the possibility of regression by the partner, is examined, in an effort to identify the exact meaning of the statement «*si interfuit aedium hoc fieri*».

Der Aufsatz untersucht eine Ulpianstelle – D. 10.3.6.12 (Ulp. 19 *ad ed.*) –, die eine Entscheidung des Urseius Ferox mit einer Anmerkung Julians wiedergibt. Besondere Aufmerksamkeit geschenkt wird der *ratio* für die Bewilligung der Klage auf die anteilige Wiedererlangung der bezahlten Strafe gegen den anderen Miteigentümer, der trotz der *operis novi nuntiatio* bauliche Veränderungen vorgenommen hatte. Darüber hinaus wird die Anmerkung Julians untersucht, der eine Grenze zu der Regressmöglichkeit des Miteigentümers setzt, und dabei versucht, die genaue Bedeutung des Einschubs «*si interfuit aedium hoc fieri*» zu bestimmen.

Parole chiave

Urseius Ferox, *operis novi nuntiatio*, *poena*.

Urseius Ferox, *operis novi nuntiatio*, *poena*.

Johannes Platschek, *SI – AUT – NON: Die Ambiguität in D. 34.5.13(14).2-3 (Iul. sing. amb.)*.

D. 34.5.13(14).2-3 (Iul. sing. amb.) deals with a special case of *stipulatio poenae*. If one is promising a penalty, in case he would not (*si non*) deliver the slave X or (*aut*) the estate Y - what does he have to deliver to avoid the penalty: either slave or estate? Or both of them? The first interpretation would read «*si non ... aut ...*» as a negative disjunction: «if neither ... nor ...». The second one would read it as a disjunction of negated elements: «if either ... not ... or ... not ...». The way Julian treats the question, spreading out the ambiguity of the wording, has fascinated scholars of Roman law for generations. However, modern literature is not exactly correct in relying on the textual transmission. Giuliano does not decide the question on the grounds of his logical demonstration, but by his own authority. If there is 'logical mastership' in Julian, it is about impressing the reader and sharpening the problem, but not about resolving it.

D. 34.5.13(14).2-3 (Iul. sing. amb.) tratta un caso particolare di *stipulatio poenae*: se si promette una penale nel caso in cui non si consegna (*si non*) lo schiavo X o (*aut*) o un fondo Y, che cosa si deve dare per evitare la pena: lo schiavo o il bene? O entrambi? La prima interpretazione interpreterebbe «*si non ... aut ...*» come una disgiunzione negativa: «se né ... né ...». Il secondo vi coglierebbe, invece, una disgiunzione tra gli elementi negati: «se né...né...né...né...». Il modo in cui Giuliano tratta la questione, amplificando l'ambiguità del testo, ha affascinato i romanisti per generazioni; ciò nondimeno la letteratura moderna non è nel giusto nel ripercorrere la trasmissione testuale. Giuliano non decide la questione sulla base della sua dimostrazione logica, ma in base alla propria autorità. Se in Giuliano c'è 'destrezza logica', ciò accade per impressionare il lettore e affinare il problema, non per risolverlo.

Parole chiave

Salvius Iulianus, *stipulatio poenae*, ambiguity, logic, textual criticism.

Salvio Giuliano, *stipulatio poenae*, ambiguità, logica, critica testuale.

Giovanna Coppola Bisazza, *La famiglia di fatto tra corsi e ricorsi storici*

The author starts from the analysis of the new figure of 'de facto cohabitation', governed by the law of 2016, n. 76, emphasizing how it evokes the Roman conception of marriage unaccompanied by the '*conventio in manum*' which, practiced with increasing frequency in Rome, gradually supplanted the '*cum manu*' marriage; and this, even in that reality, following the change, between the end of the Republic and the Principality, of social needs. She then goes on to illustrate the evolution of marriage from the late Empire to the Justinian age. She then dwells on the birth, spread and evolution of the phenomenon of concubinage which, condemned by the Church and considered a crime even in our legal system until the 1960s, had already been seen in the late empire and in the Justinian law as a union relevant in option to marriage which, at that time, was characterized by the publicity and intervention of Catholic ministers in its celebrations. In similar terms, the union between two adults permanently united by emotional ties of couple and mutual moral and material assistance, not bound by a marriage, was regulated by our legislator, who wants to make the union concubine between people not linked by precedents ties an alternative institution to marriage, civil and of concordat.

L'auteur commence à discuter de la nouvelle institution de la 'cohabitation de fait', réglé par la loi de 2016, n. 76, soulignant comment elle évoque la conception romaniste du mariage non accompagné de '*conventio in manum*' qui, de plus en plus fréquemment pratiqué à Rome, a progressivement supplanté le mariage '*cum manu*'; et ce, même dans cette réalité, à la suite des nouveaux besoins sociaux nés entre l'ancienne République et l'ascension de la Principauté. Elle illustre ensuite l'évolution du mariage de la fin de l'empire à l'âge justinien. Elle insiste donc sur la naissance, la diffusion et l'évolution du phénomène du concubinage qui, condamné par l'Église et considéré comme un crime jusqu'en 1960 par notre système juridique, avait déjà été prévu à la fin de l'Empire et dans la compilation Justinienne comme une union juridiquement pertinente alternative au mariage, qui à cette époque était caractérisée par la publicité et l'intervention des ministres catholiques lors de sa célébration. De même, l'union de deux adultes unis en permanence par des liens affectifs de couple et

une assistance matérielle et morale mutuelle, non liée par ... un mariage, a été réglementée par notre législateur, qui considère cette union comme une alternative au mariage, soit civil soit concordataire.

Parole chiave

Marriage, *Conventio in manum*, Concubinage, Cohabitation.

Marriage, *Conventio in manum*, Concubinage, Cohabitation.

Luca Ingallina, *Riflessioni in tema di iniuria alla sponsa*

The fragment contained in D. 47.10.15.24 (Ulp. 77 *ad ed.*) poses numerous problems, mainly with reference to the central theme, namely that of the active procedural legitimacy of the *sponsus* in the event of an *iniuria* to the *sponsa*. Other issues need to be addressed: the probable error in the *inscriptio* that would attribute it to the LXXVII book of Ulpian's commentary to the edict, when, given the subject matter, it seems more appropriate to refer it to the LVII, where, in effect, the jurist is concerned with *iniuria*; the evolution of Ulpian's thought with reference to the legitimacy to act in the case of *iniuria* and in the particular *species* of the *ademptata pudicitia*; the type of conduct that falls within the special edict and the role of the *boni mores* in the evaluation of behavior; the subjects protected by the special edict; the existence of a previous jurisprudential debate on the subject of procedural legitimization of the *sponsus*; the relationship between *iniuria* and *contumelia* in the weighting of protected interests. The aim is also to understand the relevance of the engagement relationship in the context of protection against *iniuria*.

Le fragment contenu en D. 47.10.15.24 (Ulp. 77 *ad ed.*) pose de nombreux problèmes, notamment en rapport avec son thème central, c'est-à-dire la légitimation processuelle active du *sponsus* en cas de *iniuria* à l'égard de la *sponsa*. Il faut également examiner d'autres questions : la probable erreur dans l'*inscriptio*, qui attribuerait le fragment au LXXVII livre du commentaire d'Ulpian à l'édit, alors que, compte tenu du sujet traité, il semble plus opportun de l'attribuer au LVII livre (dans lequel en fait le juriste traite de *iniuria*) ; l'évolution de la pensée d'Ulpian à l'égard de la qualité pour agir en cas de *iniuria* et dans la particulière *species* de l'*ademptata pudicitia* ; la typologie des conduites couvertes par l'édit spécial et le rôle des *boni mores* dans l'évaluation du comportement ; les sujets protégés par l'édit spécial ; l'existence d'un précédent débat jurisprudentiel sur la qualité pour agir du *sponsus* ; le rapport entre *iniuria* et *contumelia* dans la mise en balance des intérêts protégés. L'objectif est même de comprendre l'importance des fiançailles en matière de protection contre l'*iniuria*.

Parole chiave

Iniura, sponsa, Ulpiano.

Iniura, sponsa, Ulpiano.

Matthias Armgardt, *Das Sklavenrecht in der spätantiken römischen*

This paper shows how the imperial legislation of the Jewry Law concerning slavery developed under the Christian Roman emperors from Constantine I to Justinian. It focuses on the following questions: Were Jewish masters allowed to have Christian slaves? Were Jewish masters allowed to convert Christian slaves to Judaism? And were Jewish masters allowed to circumcise their Christian slaves? After analyzing the ten *leges* of the *Codex Theodosianus* and the *Codex Justinianus*, this paper examines whether Jewish Law (Torah and Rabbinic Law) allowed Jews to replace Christian slaves by Jewish slaves.

Questo articolo mostra come la legislazione imperiale abbia interferito sul diritto ebraico in tema di schiavitù, sotto gli imperatori cristiani da Costantino I a Giustiniano. Si concentra, in particolare, sulle seguenti domande: i padroni ebrei erano autorizzati ad avere schiavi cristiani? I padroni ebrei erano autorizzati a convertire gli schiavi cristiani all'ebraismo? E i padroni ebrei erano autorizzati a circoncidere i loro schiavi cristiani? Dopo aver analizzato le dieci *leges* del *Codex Theodosianus* e del *Codex Iustinianus*, questo articolo si interroga se il diritto ebraico (Torah e Legge rabbinica) consentisse agli ebrei di sostituire gli schiavi cristiani con quelli ebrei.

Parole chiave

Constantine, Christian Roman emperors, *Codex Theodosianus*.

Costantino, Impero Cristiano romano, *Codex Theodosianus*.

Francesco Lucrezi, *Prigione Sacra. Alle origini della soggezione femminile*

Der Aufsatz versucht die Gründe zu nennen, aus denen bisher alle früheren Gesellschaften die Frau in Abhängigkeit und Unterwerfung vom Mann gehalten haben, eine Bedingung, die auch in der Gegenwart noch weiterbesteht. Die verschiedenen Theorien über die Einrichtung der Ehe, deren legale, soziale und religiöse Bedeutung, werden mit neuen Argumenten betrachtet. Diese unterstreichen, wie bedeutsam die sexuelle Kontrolle der Frau durch den Mann ist, mit dem Ziel zu garantieren, dass die Kinder zu einem bestimmten Vater gehören, als eine Art privatem Eigentum, vergleichbar dem Eigentum an Dingen, Tieren und Sklaven. Unter diesem Gesichtspunkt bekommt die antike Familie, die auch als ‚Heilige Insel‘ bezeichnet wurde, die Eigenschaft eines ‚Heiligen Gefängnisses‘, dessen Dauer noch Tausende von Jahren betragen wird.

The essay analyses the reasons which may explain the inferior position and submission of women in relation to men. The analysis involves an overview of various ancient cultures which are researched and it is noted that the condition of the second sex appears by and large unchanged in contemporary society. The various theories around the creation of the family in their respective legal, social and religious contexts are critically reconsidered. New arguments are proposed, which emphasise the dimension of the sexual dominance of men over women in order to establish not only certainty concerning paternity, but also a form of ownership over the children. Such ownership does not differ from the private ownership over things, animals and slaves. In consequence, the ancient family which has been idealised ‘a sacred island’ was at the same time ‘a sacred prison’ which was destined to last thousands of years.

Parole chiave

Women, family, father, sexuality.

Frauen, Familie, Vater, Sexualität.

Ubaldo Villani Lubelli, *«La libertà è indivisibile!» – l'introduzione del diritto di voto alle donne in Germania e la costruzione di una società democratica*

The article traces the way of the introduction of right to vote and stand for election in Germany outlining the main historical events from 1848 until the elections to the National Assembly in Weimar on 19th January 1919. In particular, it highlights (a) the role played by the German Social Democratic Party in the process affirming the right to vote; and (b) the divisions emerged between the different German women's movements in the historical phases. Article's goal is to link the introduction of woman right to vote in 1919 with to the history of democracy in Germany.

Der Beitrag beschreibt die historische Phasen der Einführung des aktiven und passiven Frauenwahlrechts in Deutschland (1848-1919). Darüber hinaus berücksichtigt der Artikel drei Themen: (a) die Rolle der Sozialdemokratischen Partei Deutschlands bei der Einführung des Frauenwahlrechts und (b) die Spaltung zwischen den deutschen Frauenbewegungen in den verschiedenen historischen Phasen. Ziel des Autors besteht darin, die Einführung des aktiven und passiven Frauenwahlrechts in 1919 mit der Geschichte der Demokratie in Deutschland zu verbinden.

Parole chiave

1848, 1919, women's right to vote, Weimarer Reichsverfassung.

1848, 1919, Frauenwahlrecht, Weimarer Reichsverfassung.

Zsófia Birò, *The legal institution of praefectio until 1526, with special attention to the home policy of the Angevines in Hungary*

With the extinction of the Arpad-Dynasty, began the power-struggle within the Kingdom of Hungary, which were finally won by Charles I. After his coronation he strove to consolidate his ascendancy – mostly because of the re-flamed civil wars –, and as a result of them, an extraordinary and exceptional legal institution, the *praefectio* was brought into life to strengthen his own and his follower's power. In essence *praefectio* means, when a noble family comes to *defectus seminis*, the father has the right to designate his daughter as successor, moreover, successor like mankind. To legitimate this momentum, the permission of the sovereign was needed, otherwise if *defectus seminis* happens, the *bona hereditaria* must fall upon the Holy Crown. We can set forth, that the *praefectio* has a kind of dual nature: real royal donation (*donatio regis*), and also an inheritance institution. Charles I has used this option only once, even so it mediated a strong political message to his nobles: only he, the king possesses legitimacy and effective ascendancy in the country. His offspring, Lewis I has recognized the *praefectio*'s inherent opportunities, and used it regularly. The Angevines clearly favoured their most loyal nobles with the institution, and through this, their own position. According to this fact, we can draw the inference, that the *praefectio* was an outstanding advance to enforce the royal home policy.

Con l'estinzione della Dinastia Arpad, iniziò la lotta per il potere all'interno del Regno d'Ungheria, vinta da Carlo I. Dopo l'incoronazione, egli si sforzò di consolidare il suo potere anche grazie ad un'istituzione giuridica straordinaria ed eccezionale: la *praefectio*. In base ad essa, quando una famiglia nobile si trovasse di fronte a un *defectus seminis*, il padre avrebbe avuto il diritto di designare sua figlia come successore. Per legittimare tale disposizione era necessario il permesso del sovrano; altrimenti, se si fosse verificato il *defectus seminis*, i *bona hereditaria* sarebbero andati alla Corona. Si può affermare che la *praefectio* avrebbe avuto una sorta di duplice natura: una donazione reale e regale (*donatio regis*) e anche un'istituzione ereditaria. Carlo I vi ha fatto ricorso una volta sola; ciò nondimeno egli ha veicolato un forte messaggio politico ai suoi nobili: solo lui, il Re, avrebbe avuto il potere e la supremazia sul Paese. Luigi I ha riconosciuto le opportunità della *praefectio* e vi ha dato regolare applicazione. Con tale istituto gli Angioini hanno chiaramente favorito i loro nobili più leali: in base a ciò, possiamo dedurre che la *praefectio* era uno strumento straordinario per far rispettare la politica della casa reale.

Parole chiave

Praefectio, defectus seminis, legitimacy.

Praefectio, defectus seminis, legittimazione.

