

Abstracts

Francesca Lamberti, *Gli "studi romanistici" presso l'Università del Salento. Il passato, il presente, le prospettive* (pp. 11-30)

The A. presents the history of 15 years of studies of Roman Law at the University of Salento, describing the scholars, the traditions, the results.

Parole chiave

Diritto romano, Università del Salento, Studi romanistici

Roman Law, University of Salento, Romanistic studies

Chiara d'Aloja, *Il lessico della riforma nella tradizione su Tiberio Gracco* (pp. 31-61)

The paper examines the reformation draft of Tiberius Gracchus through the study of lexical and conceptual categories documented in the sources, especially Appian and Plutarch. Particular attention is paid to the influence of Stoicism on the argumentations attributed to Tiberius Gracchus.

Parole chiave

Tiberio Gracco, riforma agraria, *consanguinitas*, Stoicismo

Tiberius Gracchus, agrarian reformation, *consanguinitas*, Stoicism

Alessandro Capone, *Edictum proponere: nota a margine dell'editto di Galerio (30 aprile 311)* (pp. 63-70)

The paper explains the meaning of the expressions used by the sources in reference to the publication of the Edict of Galerius and casts light on the concrete ways of the publication of the same edict. The research, which embraces also the first antichristian Diocletian's edict, demonstrates that the two documents were probably published on a light and perishable support and posted up in public places.

Parole chiave

Editto di Galerio, Editto di Diocleziano, *proponere edictum*, Eusebio, Lattanzio

Edict of Galerius, Edict of Diocletian, *proponere edictum*, Eusebius, Lactantius

Vincenzo Giuffrè, «*Dominium*» e «*libertas*». *Corsi e ricorsi storici* (pp. 71-77)

The relationship between 'ownership' and 'freedom' has been heavily modified over time. While in the past they were considered two inseparably linked values, after the enactment of the Civil Code of 1942 and of the Constitution, that link was considered no longer existing. With EC law, however, there has been a return to the traditional view, as the 'ownership' is considered as a fundamental human right, intimately connected with 'freedom'.

Parole chiave

Ferdinando Piccinelli, proprietà, libertà

Ferdinando Piccinelli, ownership, freedom

Armando Torrent, «*Servitus altius non tollendi*» con edificio intermedio libre de cargas. *Ulp. 17 ad ed., D. 8.5.6 pr.* (pp. 79-90)

Nelle fonti troviamo esaminata la particolare fattispecie in cui, in presenza di una *servitus altius non*

tollendi, viene costruito un edificio sul fondo intermedio. In tale saggio, partendo dall'analisi del passo senz'altro più significativo, D. 8.5.6 pr. (Ulp. 17 *ad ed.*), e prendendo in considerazione le altre testimonianze, vengono affrontate le varie problematiche scaturite dalle decisioni relative a tale fattispecie, che investono la stessa configurazione delle servitù e la loro usucapibilità.

Parole chiave

Servitus altius non tollendi, usucapio libertatis, edificio intermedio

Servitus altius non tollendi, usucapio libertatis, edificio intermedio

Lucio Parenti, *Sull'inerenza dell'exercitio navis del servus al peculium* (pp. 91-124)

The sources testify that the *exercitio navis* could be carried out not only by a *sui iuris*, but also from an *alieno iuri subiectus*, typically a slave. It's debated, however, whether this maritime activity of the *servus* (especially in the presence of *voluntas* of the *dominus* – that would lead to his responsibility in *solidum* –) realized itself within the *peculium* or within the part of the assets of the *dominus*. From the very definition of *exercitor* provided by Gaius and Ulpian, as well as through the analysis of certain passages which deal specifically with the *exercitio navis* – in particular, D. 14.1.1.20 (28 to Ulp. *ad ed.*) and D. 14.1.6 pr. (6 Paul. *brevis*) – descends that the *exercitor* made such activities, even in the presence of *voluntas* the *dominus*, in his own interest. It was also unnecessary that the ship was part of the *peculium*, but the *servus* needed to have it in his full availability.

Parole chiave

Servus, exercitor navis, actio exercitoria

Servus, exercitor navis, actio exercitoria

Tessa Leesen, *Topical argumentations in legal texts: the tabula picta* (pp. 125-139)

L'articolo, centrato sull'idea che i giuristi romani ricorressero ai *topica* retorici per argomentare le proprie opinioni, esamina da questa prospettiva i testi inerenti al caso controverso della *tabula picta*, ossia Gai 2.78, D. 41.1.9.2 (Gai 2 *rer. cott.*), D. 6.1.23.3 (Paul. 21 *ad ed.*), *Inst.* 2.1.34. Si sostiene altresì che tale controversia sia emersa da un caso concreto, rispetto al quale sarebbero stati interpellati giuristi di diversa formazione, alcuni dei quali avrebbero adoperato argomenti che possono essere ricondotti ai *Topica* di Cicerone.

Parole chiave

Tabula picta, rhetoric, *topica*, legal practice

Tabula picta, retorica, *topica*, prassi giuridica

Martin Laborenz, *Idee vecchie e nuove sull'antinomia Iul. 13 dig., D. 41.1.36 – Ulp. 7 disp., D. 12.1.18 pr.* (pp. 141-180)

Most of the exegeses conducted on the antinomy Iul. 13 dig., D. 41.1.36 – Ulp. 7 disp., D. 12.1.18 pr. are obviously led by the aim to confirm the respective theory of *iusta causa traditionis* held by the author. For instance, the prevailing opinion imputes to Iulian the justification of the transfer of ownership by a loan agreement, applying the principle *in maiore minus inest*. In different ways, but with the same intention, Cannata, Flume, Schanbacher, and Harke, amongst others, recently attempted to declare Iulian to be an exponent of a causal *traditio*. These theories seem to have in common the negligence of the fragment's wording: Iulian emphasizes the existence of a *dissensus in causa* twice, whilst mentioning exclusively the *consensus in corpore* as reason for the transfer of ownership. Thus, the pattern of a homogeneous opinion in classical Roman law, in terms of the causal principle like it is preferred today, cannot be convincingly founded in the antinomy.

Parole chiave

Iusta causa traditionis, antinomie, *consensus / dissensus, traditio*

Iusta causa traditionis, antinomies, *consensus / dissensus, traditio*

Donato Martucci, *L'albero del latte. La donna nel diritto consuetudinario albanese* (pp. 181-205)

Beginning with the early twentieth century, several scholars have written a variety of customary rules that governed all aspects of life of the inhabitants of the mountains of northern Albania. These customs, known as Kanun, operating in a social context that had as its cornerstone the patrilineage of family groups, exogamy and virilocal residence after marriage. In this context, the article focuses on investigating what was the role of women and what her rights and her duties from birth to death.

Parole chiave

Antropologia giuridica, diritto consuetudinario, *Kanun*, ruolo della donna
Legal anthropology, customary law, *Kanun*, role of women

Ubaldo Villani-Lubelli, *Ius feretri: archeologia e trasformazione di una pratica giuridica* (pp. 207-222)

Across Europe the conviction the corpse began to bleed in the presence of the murderer was known as *ius feretri*. It was, in fact, an ordeal by which the intervention of divine power assured justice and legal certainty. The different forms of ordeals were a means commonly used to establish the guilt or less than one person. The trust in a higher power and external assumed such strength can be a guiding principle and norm of social relations. The *ius feretri* was applied until the 18th Century and during its *longue durée* acquired a new social-legal dimension, so that is fair to consider that this practice is not to be regarded as a classic ordeal, but as an actual social-legal practice for the achievement of legal truth and, in some cases, the formation of the consensus.

Parole chiave

Ius feretri, *effusio sanguinis*, esecuzione della pena
Ius feretri, *effusio sanguinis*, penal execution