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CITIZENSHIP IN ROMAN LAW

1. *Introduction*

Europe, and Italy in particular, have been the recipients - in recent years - of intense migratory flows, which have required the attention of the legislator to address the problems arising from the phenomenon in question. An in-depth reflection is therefore required, aimed at reviewing the whole issue of immigration and proposing to verify the applicability of the principle of equality in perspective with its reconciliation with the principle of popular sovereignty. A new concept of citizenship is taking shape. How does the concept of citizenship change? How does the acquisition of citizen status interact with the legal system that regulates it? To answer these questions it is necessary to "historicize" the concept of citizenship, studying it in its historical evolution. The deepening of the state of "civis" in ancient Rome and its various functions and attributions constitutes an indispensable prius in consideration of the strong influence that the Roman legal culture has had in the formation of Italian and European legal science. This work takes a brief historical excursus of the institution of citizenship from the origins of the Urbs to the Constitutio Antoniniana, better known as the Edict of Caracalla, with which the Emperor granted the status of cives to all the inhabitants of the empire (212 AD). Then, a paragraph is dedicated to the actual legislation on the subject of citizenship in Italy, founded on Law 91/1992 and following modifications. The final conclusions suggest looking at the experience of the Roman legal system as a model for a new concept of citizenship.

A contribution to the current political and legal debate, consequent to the phenomenon of mass migration, regarding the enjoyment of civil and political rights by foreigners within the territory of the European Union, can be made through historical-legal research, with reference to the Roman legal system, outlining what was the condition of the *cives* and the means to obtain citizenship in the ancient Roman world.

Turning our gaze to the past becomes an obligatory step considering the fact that the modern concept of citizenship is the result of the doctrinal scientific elaboration of generations of jurists and philosophers (Machiavelli, Bodin, Montesquieu, Rousseau and Kant) who in the past centuries studied the relationship between individual and power, based on the Roman philosophical and juridical tradition[1].

The roots of the current citizenship can be traced back to the "classical Greco-Roman thought"[2].

We must first underline that the argument requires the modern observer to overcome the sharp contrast between inclusion / exclusion, changing the perspective; the Roman juridical experience, in fact, has unfolded over the centuries, enhancing the intermediate *status* that is declined in a range of nuances in the various occasions of acceptance.

Roman citizenship has a peculiarity that should be highlighted: it is not limited by the radical opposition between citizens (totally capable) and non-citizens (totally unrelated to capacity) but also a foreigner can benefit from favorable treatment while remaining without citizenship.

A non-dualist perspective - the one outlined above - which allows us to overcome the contrasts between antithetical doctrinal models that have long guided Romanist studies on the subject: on the one hand, Mommsenn's authority that moved from a natural state of war "naturaliche Feindshaft", according to which the original conception of relations between peoples would have been that of perennial enmity, with the consequent equation of the foreigner with the enemy (*hostis*) if the latter did not enjoy specific protection; the other orientation based on a reconstruction antithetical to the previous with which the dogma of "natural friendship" was postulated[3].

2. *Cives, Latini and Peregrini*

With regard to the *status civitatis* the Roman legal order distinguished *cives*, *latini* and *peregrini*. As already known, the enjoyment of Roman citizenship constituted the *optimus status*, recognizing the fullness of the capacity of both public and private law to the citizen. The *ius suffragi* and *ius honorum* were part

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[1] See COSTA, *"Civitas": storia della cittadinanza in Europa*, I –IV Roma-Bari 1999-2001

[2] ORESTANO, IL "problema delle persone giuridiche" in diritto romano, , I TORINO 1968 p.186

[3] MAFFI s.v. Straniero (diritto Romano) in ED 43 1990 1139-1141

of the capacity of public law: the citizen could vote in the comitial assemblies thus exercising the three fundamental powers that were attributed to the assembly: legislative, elective and judicial; and he could also be elected to magistrate offices. From the point of view of private law, the *civis* was recognized the *ius commercii* (the right to perform legal acts which the legal system recognized as valid) *ius connubii* (the right to contract legitimate marriage) *testamenti factio* (the right to disposal and receive by will) and the *patria potestas* (the absolute personal and patrimonial juridical power granted to the *pater familias* over children and descendants).

From its origins the Roman *civitas* was open to neighboring peoples and a series of agreements were stipulated which can be considered as a sort of international pact law in an embryonic form: the most ancient pacts gave foreigners the status of *Latini prisci* or *veteres*, and recognized in all the neighbors the important rights of the *cives*. These were above all the members of the ancient communities that were part of the Latin League, who at the time of its dissolution saw the rights they previously enjoyed recognized and confirmed.

The Roman legal system also provides for the figure of the *Latini coloniarii* who became such by settling in the colonies founded by Rome in the conquered territories; while the category of *Latini iuniani* was mainly made up of slaves freed by forms other than those provided for by civil law. The *peregrini* were free citizens of a sovereign state allied with Rome and protected by a *foedus*. In the imperial age the term generally indicated the free inhabitants of the empire who were neither Romans nor Latins. The juridical condition was generally regulated by a specific *lex provinciae* for which there could be differences in the condition of the *peregrini*. In the field of public law the *peregrini* did not participate in any of the political rights; in the field of private law they had neither *conubium* nor *commercium* and were excluded from the possibility of acting per *legis actiones*. In 242 BC the role of *praetor peregrinus* was created, who had the task of settling disputes between citizens and *peregrini*, and among *peregrini* themselves.

Excluded from the enjoyment of the *ius civile*, the *peregrin*i were granted the possibility of having juridical relations with the *cives* protected by the *ius gentium*.

Roman citizenship was acquired by right of descent (*iure sanguinis*): due to the value attributed to the concept of family, the son of citizen parents is born a citizen and is subjected to the authority of his *pater familias*.

If one of the parents was not a citizen (he belonged to the category of *Latini veteres* or *coloniarii*) but equally the marriage rose to the dignity of *iustae nup-*

tiae, the son followed the condition of the father; if the parents were not united in *iustae nuptiae* the son followed the condition of the mother[4].

Slaves liberated by the forms provided for by the *ius civile* (*manumissio testamento*, *vindicta*, *censu*) acquired Roman citizenship together with freedom.

According to the ancient *ius civile*, it was possible to obtain citizenship even by settling in Rome within the boundaries of the sacred territory of the Urbs.

According to the *ius migrationis*, the foreigner who bought his residence in Rome obtained citizenship[5]. Sources testified that after the victory over Hannibal there was a massive migration, which forced the authorities to enact mass expulsion measures. These expulsion measures should not be read as measures tailored to the advantage of some peoples and to the detriment of others, but should be framed as measures to contain the migratory phenomenon linked to social issues[6].

It was also possible to obtain citizenship thanks to a senatorial or magistrate provision on the basis of particular merits, for example for having served in the military for a certain number of years, so that at the time of the *honesta missio* the military obtained Roman citizenship as a reward.

Citizenship could still be acquired by "naturalization", i.e. by concession to entire ethnic communities by means of targeted measures, first of the Senate or of the magistrates - of the Emperor later in time[7]. These measures show that inclusion in the enjoyment of the *status civitatis* responded to the need to

[4] *Lex Minicia* was voted with the specific reason of prohibiting the acquisition of citizenship by birth imposing a derogation to the principles of *ius gentium*.

In the absence of *conubium* between parents the child born to a foreign mother or citizen Roman mother would not become a Roman citizen.

[5] Even if the sources in our possession are not sufficient we can believe that the privileged holders of this *ius* were those who came from the Latin federated cities or those who already Roman citizens had settled in the newly founded colonies.

[6] Tito Livio reports that the expulsions were decided at the request of the legates who came in the Senate from all over Lazio to express the need not to see their lists of local citizens emptied due to the movement of the latter en masse to Rome and their consequent inclusion in the list of Roman censors. See MERCOGLIANO, *Commercium, conubium, migratio.* Immigrazione e diritti nell'antica Roma, in Cultura giuridica e diritto vivente 2 (2015) p.7

[7] The first law which favored the admission of the *peregrine* to the enjoyment of citizens' rights was the *lex Iulia de civitate latinis et sociis danda* of 90 A.D. that extended citizenship to those allies who had remained faithful to Rome in the fight against the Sanniti. Two years after the *lex Plautia et Papiria* which enlarged the citizenship to those subjects who, already citizens of federal cities, had to register with the praetor.

Julius Cesar's *lex Roscia*i n 49 BC extended citizenship to the inhabitants of Gallia Cisalpina to obtain the alliance of these people.

The same Spanish Emperor Vespasiano allowed the entry of many nobles of Spanish origin into the Senatorial Assembly.

create a generalized consensus to the power of the *Urbs*. As has been correctly pointed out "Rome makes the granting of citizenship a functional political tool for its development and the consolidation of its power, both in Italy and in the provinces"[8].

3. *"Civis Romanus Sum"*

Cicero, in the oration against Verre[9], reports the story that had Gadio as its protagonist, beaten in the middle of the square in Messina, on the orders of Verre himself. Gadio doesn't complain about the pain, but repeats "I'm a Roman citizen!" knowing that it was the duty of the magistrates to guarantee the safety of citizens. This expression served Cicero to enhance the condition of *civis*, free and holder of rights. Roman citizenship was the most important subjective legal situation provided for by Roman law. However, Roman citizenship couldn't be considered as a unitary and static *status*, but as a concept in continuous evolution that changed with the succession of the various eras. In the first phase of Roman history - in which the values of the ancestors (*mores maiorum*) were in force - expression of a community of farmers and shepherds jealous of their prerogatives, citizenship was reserved for a few who used it to perpetrate abuses to the detriment of the less well off. Subsequently, the requests of the plebs began to find acceptance, slowly leading to a levelling between the two orders following the plebeian patrician compromise sanctioned with the *Liciniae Sextiae* laws. When the expansion of commercial traffic led Rome to have contacts with the Lazio communities, the need arose to increase the number of holders of *ius civitatis*. With the advent of the Principality, the democratic content of citizenship was slowly being eroded to give more and more powers to the prince. In this way the citizens from the protagonists of Roman public life, custodians of prerogatives, political powers and negotiating skills, became subjects.

4. *The Constitutio Antoniniana*

From the 2nd century AD the process of extending citizenship developed further. The coming to power of Septimius Severus brought about a new con-

[8] RANDAZZO, Gli equilibri della cittadinanza romana, fra sovranità ed impatto sociale, in TSDP 5 (2012)

[9] Cic. *Actio in Verrem* II V 162-163

cept of Principality in Rome. Augusto and his successors, up to that moment, had become guarantors of the republican balance, apparently respecting the Senate and the still surviving magistrates. Septimius Severus tried to establish a model of absolute monarchy, which provided for absolute submission to the sovereign and extends citizenship to many provinces of North Africa and Asia. In the spring of 212 the Emperor Antoninus Caracalla granted Roman citizenship by edict to all those who were in his empire. The sources in our possession[10] present extensive gaps that the fortuitous discovery of the Giessen Papyrus[11] was unable to fill. It reads quite certainly "I grant all foreigners living in the ecumene the citizenship as Romans" but the question still remains whether the concession excluded the so-called *peregrini dediticii* to those who had resisted with the force of arms. I do not want to go into the difficult topic here about the reasons that prompted the Emperor to issue the *Constitutio Antoniniana* (tax purpose to increase tax revenues, a hypothesis supported by the fact that the inhabitants of the *Foederate* cities enjoyed up to that moment important tax exemptions; a demographic purpose to enlist new legions; but also an ethical purpose: in fact Caracalla was inspired by Alexander the Great who we know wanted the Persians and the Greeks to merge into one people, but his project was cut short by his premature death). Regardless of the reasons that led Caracalla to adopt this edict, it is clear that in Rome the idea of citizenship changed from being an instrument used to maintain a position of pre-eminence of the patriciate over the plebs first and then over the Italic allies, then it became a prize granted to those communities that had allied themselves with Rome in the conduct of war campaigns. Caracalla completed the work of emptying the *ius civitatis*, already undertaken by Augustus, transforming the *civis* from a protagonist of political life into a real subject. "Starting from the Principality, we will no longer have to speak of citizens, but of subjects, who are perhaps guaranteed *libertas*, but who are deprived of the *civitas libertas que ex iure Quiritium*"[12].

5. *The Legislation in force in Italy*

In our current system, the matter of citizenship is regulated by law no.91 of 5 February 1992. Pursuant to this law, those whose parents (even just the father

[10] Dione Cassio Storia LXXXVII (78) 9.4-5; Ulpiano D.1.5.17.(22 ad ed.) L.657; Papiro Giessen n.40, col. I

[11] Discovered near Heptacomia and pubblished in 1910

[12] CRIFO' s.v. Cittadinanza (dir. Rom.) in ED 7 (1970) 127 -131

or mother) are Italian citizens acquire Italian citizenship[13] by *ius sanguinis*, by right of birth, even if the birth occurred abroad. The Italian legal system also recognizes the alternative criterion of *ius soli*, while providing for it only on a residual basis and for limited cases: a) those who are born in the Italian territory and whose parents are to be considered either unknown (from a legal point of view) or stateless (that is, without any citizenship)[14]; b) those who are born in the Italian territory and who cannot acquire the citizenship of the parents as the law of the state of origin of the parents excludes that the child born abroad can acquire their citizenship[15]; c) the children of unknown persons who are found (as a result of abandonment) in the Italian territory and for whom the possession of another citizenship cannot be proven by any interested party[16]. Italian citizenship is also acquired through recognition of filiation (by the father or mother who are Italian citizens), or following the judicial verification of the existence of the filiation[17]. There are facilitated procedures for acquiring citizenship for foreigners of Italian origin: Italian citizenship can be acquired by foreigners or stateless persons, descendants (up to the second degree) of an Italian citizen by birth, provided that they make an express declaration of will and that they meet at least one of these requirements: 1) have effectively and fully carried out military service in the Italian Armed Forces: in this case the willingness of the interested party to acquire Italian citizenship must be expressed in advance[18]; 2) take up a public employment in the employ of the Italian State[19], even abroad; 3) have been legally residing in Italy for at least two years at the time of reaching the age of majority; the desire to obtain Italian citizenship must be expressed with a declaration within the following year[20]. Special provisions are dictated regarding the acquisition of citizenship *per iuris communicatio* by foreigners or stateless persons who have married Italian citizens (Articles 5 to 8). Foreign spouses of Italian citizens obtain citizenship upon request submit-

[13] Law 91/1992 art.1, paragraph 1 letter a).

[14] Law 91/1992 art.1, paragraph 1 letter b).

[15] Law 91/1992 art.1, paragraph 1 letter b).

[16] Law 91/1992 art.1, paragraph 2.

[17] The acquisition of citizenship in the two cases illustrated is automatic for underage children (Article 2, paragraph 1); adult children instead retain their citizenship, but can elect the citizenship determined by the filiation with a specific declaration to be made within one year of recognition, or from the judicial declaration of filiation, or from the declaration of effectiveness in Italy of the foreign provision in the case in whose filiation has been ascertained abroad (art. 2, par. 2).

[18] Law 91/1992 art.4, paragraph 1 letter a).

[19] Law 91/1992 art.4, paragraph 1 letter b).

[20] Law 91/1992 art.4, paragraph 1 letter c).

ted to the prefect of the person's place of residence, or, if resident abroad, to the competent consular authority, if they can simultaneously meet the following conditions: a) legal residence in the Italian territory for at least two years, following the marriage, or, alternatively, for foreigners residing abroad, the lapse of three years from the date of marriage between the foreigner and the citizen; the afore mentioned terms are reduced by half in the presence of children born of the spouses; b) persistence of the marriage bond; c) non-existence of legal separation; d) absence of criminal convictions for crimes against the international and internal personality of the State and against the political rights of citizens; e) absence of criminal convictions for non-culpable offences for which a legal penalty of not less than three years is envisaged; f) absence of criminal convictions for non-political crimes, with a prison sentence exceeding one year, inflicted by foreign judicial authorities with a sentence recognized in Italy; g) absence, in the specific case, of proven reasons relating to the security of the Republic[21]. Lastly, the acquisition of citizenship can take place by concession[22] (Law 91/1992, art.9): in this case, unlike the procedures illustrated so far, which reserve very limited margins for the authorities, the issue of provision of granting citizenship is subject to a discretionary assessment of opportunities by the public administration, albeit mitigated by the obligation of the prior opinion of the Council of State. A foreign citizen who meets one of the following conditions can apply for the granting of Italian citizenship: 1) resident in Italy for at least ten years, if a citizen not belonging to the European Union, or for at least four years, if a Community citizen (Article 9, paragraph 1, letter f) and d); 2) state-

[21] The requirements for the acquisition of citizenship by marriage are the result of the changes made to the law on citizenship by the so-called "Security package" (law 94/2009: art. 1, paragraph 11). On the basis of these changes, the minimum duration of residence necessary for the acquisition of citizenship by the foreign spouse residing in Italy was doubled in the case of marriage with children (from six months to one year) and quadrupled in the case of marriage without children. (from six months to two years); while the minimum duration of marriage necessary for the acquisition of citizenship by the foreign spouse residing abroad remains unchanged in the case of marriage without children (3 years) and is halved in the event of marriage with children (from 3 years to 18 months). It should also be noted that the directive of the Minister of the Interior of 7 March 2012 attributed to the Prefect's competence the acceptance of the application for acquisition of citizenship *iure matrimonii* presented by the foreign spouse legally resident in Italy and its rejection for impeding reasons referred to in letters a) and b) of art. 6 of the law n. 91/1992. If the foreign spouse is resident abroad, the body competent to confer or deny the citizenship is the head of the Department for Civil Liberties and Immigration. The Ministry of the Interior has the power to deny the acquisition of citizenship if there are reasons inherent to the security of the Republic.

[22] For the regulation of the procedure for acquiring citizenship, see D.P. no. 362 of 18 April 1994.

less person residing in Italy for at least five years (Article 9, paragraph 1, letter e); 3) whose father or whose mother or one of the ascendants in a straight line of the second degree were citizens by birth, or who was born in Italy and, in both cases, has resided there for at least three years (Law 91/1992, art. 9, par. 1, lett. a); 4) adult adopted by an Italian citizen and resident in Italy for at least five years (Article 9, paragraph 1, letter b); 5) has served in the employ of the Italian State, including employment abroad, for at least five years (Law 91/1992, art. 9, par. 1, lett. c). Art. 10 makes the effectiveness of the decree granting citizenship conditional on the performance by the interested party (within six months of notification of the decree) of the oath to be faithful to the Republic and to observe the Constitution and the laws of the State. The provision for the granting of Italian citizenship is adopted on the basis of widely discretionary assessments[23] regarding the existence of a successful integration of the foreigner in Italy, such as to be able to affirm their complete belonging to the national community; therefore, for the purposes of granting the benefit in question, considerations of an economic and patrimonial nature relating to the possession of adequate sources of subsistence may well be relevant (Council of State, section IV, 16 September 1999, no. 1474). Citizenship can be granted, in exceptional cases, by virtue of the foreigner who has rendered significant services to Italy, for high political needs related to the interest of the State[24].

As part of the urgent provisions introduced with the D.L. 113 of 2018, some changes and additions are envisaged regarding the acquisition and revocation of citizenship, as governed by law no. 91 of 1992. First, DL of 2018 has abolished legal provision that precluded the refusal of the citizenship through

[23] The administration called to decide on the application for granting Italian citizenship is required to verify the seriousness of both the intent to obtain Italian citizenship and the reasons that lead to abandoning the community of origin. It is also necessary to ascertain the level of knowledge of the Italian language, professional suitability, compliance with tax and social security obligations. The need for re-composition of family groups, part of which already resident in the Italian territory, cannot be overlooked. The administration must verify any impediments to the acquisition of citizenship, related to reasons of security of the Republic and public order (Council of State, section I, opinion no. 1423 of 26 October 1988).

The administration, for the purpose of granting Italian citizenship to a foreigner legally residing in Italy for at least ten years, may take into consideration all the situations useful for evaluating the successful integration of the foreigner; therefore, any criminal sentences against the interested parties are relevant, in relation to the facts to which these sentences refer and to their possible repetition (Council of State, section I, opinion no. 9374, of 20 October 2004). As regards the denial of the granting of Italian citizenship, the competent administration, even where it has a broad discretion, must indicate, albeit briefly, the reasons underlying its decisions (Council of State, section IV, sentence no. . 366 of May 24, 1995).

[24] Law 91/1992, art.9, paragraph 2.

marriage to the applicant after more than two years from the date of submission[25]. Furthermore, the term for the conclusion of the procedures for the recognition of citizenship by marriage and for the benefit of the law (so-called naturalization) was extended from twenty-four to forty-eight months. The term starts from the date of presentation of the application. On the end of these proceedings, the decree-law no. 130 of 2020 (art.4, co. 5-7), which established it as a maximum of thirty-six months (instead of the previous forty-eight).

The legal decree of 2018 has also stipulated that the applicant for Italian citizenship through marriage and by legal concession, must also have a good working knowledge of the Italian language, not less than the accepted European B1 standard.

The new legal requirement also introduced the revocation of citizenship in the case of convictions for extreme crimes (terrorism, political conspiracy which threatens democracy, subversive associations culminating in terrorism).

The revocation is established by a Republican Presidential decree, submitted by the Ministry of Domestic Affairs) within three years from the date of the final sentence. In recent legislatures, various proposals for an overall reform of the law on citizenship have been subject to parliamentary examination with the aim of adapting the current legislative framework to the massive increase in migratory flows, without however reaching the approval of a definitive text. In the current legislature, the Chamber's Constitutional Affairs Commission has begun the examination of a bill of parliamentary initiative as part of the investigation of which a cycle of informal hearings is underway. The proposal would have the purpose of facilitating and increasing the possibilities of acquiring citizenship, in particular through the extension of the cases of *ius soli* and the provision of ample opportunities for acquiring citizenship for minors present in the territory. In particular, the proposal provides that the foreigner born in or who entered Italy within the tenth year of age acquires, on request, Italian citizenship if he has legally resided in Italy until he reaches the age of majority. At the same time, a form of acquisition of citizenship by minors, children of foreign parents, is envisaged, which requires the carrying out of education courses at schools of the national education system or vocational training courses to obtain a professional qualification (*ius culturae*). The main innovation of the

[25] The abrogated rule assigned to the public administration a peremptory term of two years to rule on the application for citizenship, with the specification that, once this term had elapsed, the Administration was precluded from issuing the decree rejecting the application, coming to operate a sort of silent assent on the relative application of the foreigner married to an Italian citizen, given that due to the useless expiry of the term the administration lost the power to deny citizenship.

proposal consists in the fact that the acquisition of citizenship would therefore no longer be discretionary but would constitute a necessary act once the requirements prescribed by law have been verified.

As can be seen from the brief enunciation of the discipline currently in force, although it has been influenced by history from the unification to the present day[26], the ways of acquiring citizenship are substantially the same as in Roman law: *ius sanguinis* in the first place, un limited *ius soli* and the concession to entire categories of subjects or to deserving individuals, in particular to those who serve in the military structure of the State.

Roman law did not allow for the acquisition of citizenship following marriage, but this is justified given the Roman conception that sees marriage as a "*res facti*"[27].

6. *Historia Magistra Vitae: Final Conclusions*

The Roman experience teaches that integration is always possible, despite diversity and multiculturalism.

[26] The legislative and administrative unification resulting from the proclamation of the Kingdom of Italy in 1861 also affected the discipline of citizenship. The civil code of 1865 brought provisions in this regard, in its articles 1-15.

That discipline (borrowed from the civil code of the Kingdom of Sardinia) was soon obsolete.

The massive migratory flow of Italians abroad was sometimes followed by the return to their homeland, but with citizenship constraints in the meantime contracted in the country of emigration. Nor was there a lack of arrivals of people with foreign citizenship, requesting Italian citizenship. On the dual side of dual citizenship and naturalization, in particular, that legislation was no longer in keeping with the times.

Some regulatory interventions followed (with the 1901 law on emigration and the 1906 law on naturalizations).

But a complete discipline of the matter came only in the XXIII statutory legislature, with the law n. 555 of 1912 (the right Parliament then approved the Giolitti reform of extension of suffrage).

The 1912 law set a discipline destined to have a solid duration. Despite inevitable changes, it remained in force until 1992.

Law no. 91 of 1992, dictated "New rules on citizenship" constitutes the discipline in force today, albeit reformed from 2018 and 2020.

This law first of all sanctioned the recognition of equality between men and women, adopting the guidelines of constitutional jurisprudence in fact, before that date, the events of citizenship gravitated exclusively to the figure of the *pater familias*.

[27] Although we cannot ignore the provision that if a Roman citizen married a foreign woman by mistakenly believing her to be a citizen, she acquired Roman citizenship. About Gaius *Institutiones* 1.67 see TERRENI, Gaio e l'*erroris causae probatio*, in Labeo, 45.3, 1999 p.333-367

The process of inclusion of "Romanization" took place in an open manner "the Romans did not know racial prejudices in the proper sense, that is, based on ethnic discrimination in terms of biological inferiority as a justification for subjugation and oppression (as in the colonial ideologies of the modern world)"[28].

On the contrary, since its birth, Rome was marked by a unifying thrust.

The traditional tale attributes the fusion with the Sabines to the figure of Romulus[29]. Tradition has it that Tito Tazio and Numa Pompilio are of Sabine origin. The kings Tullo Ostilio[30] and Anco Marzio[31]were sons of Sabine women; King Tarquinio Priscus[32] was son of a Greek father from Corinth and an Etruscan mother from Tarquinia.

We learn[33] that Romulus welcomed foreigners in the city he had just founded, creating an *Asylum*[34] that he wanted to build in the sacred area of the 'Campidoglio' near the Temple of *Jupiter Feretrio* to welcome all those who came from the neighboring "*pagi*" by inserting them as *cives* in the newly formed community and giving them a plot of land.

At every level of society in every age there were foreigners who became Roman citizens and often held leadership posts.

Rome welcomed foreigners and made them Roman, by gradually standardizing the customs and conventions while keeping local customs intact.

Further confirmation of this, is the speech delivered by Emperor Claudius in the Senate, reported by Tacitus *Annales* XI, 24 to convince the Senators to approve a law that granted the right to hold political office - and therefore entry into the Senate - to citizens of the *Gallia Comata*.

Rome created a flexible legal system and an administrative apparatus open to the provincial subordinates in which populations with different cultures and religions gathered within a multi-ethnic community. After the Constitution of Caracalla, the idea of a common empire and an universal and right dominion constituted the main support of a large supra-state organization. Rome was able to propose the innovative ideal of a Nation of which all the peoples of the empire could be part[35].

[28] CRACCO RUGGINI, Gli antichi e il diverso, in L'intolleranza: uguali e diversi nella storia. Ed. P.C. BORI Bologna 1986 p.24

[29] Cic. *Rep.* 2.7.12-13; *Balb.*31; Varr. *De lingua latina* 5.32.159 e 6.7.68

[30] Dionys.3.1.1-3

[31] Dionys.2.36.5; Liv. 1.32.1

[32] Liv. 1.34.6

[33] Liv. 1.8. 5-6; Dionys. 2,15,4; Strabone, Geografia V.3.2

[34] See CALORE, *'Hostis'* e il primato del diritto. In BIDR, CVI, 2012 p.132

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