

## LE FONTI E LE EPOCHE DEL DIRITTO ROMANO

La **fonte** è un atto un fatto che la vita è un'arma giuridica sanzionatorio vincolante, con una determinata procedura creato da determinati soggetti.

**Epoca arcaica** (dall'inizio di Roma fino all'istituzione del pretore): le fonti del diritto erano i mores (consuetudini interpretate dal pontifices strettamente legate alle tradizioni e alla magia) e le legis emanate all'inizio del re e poi dal assemblea popolare, il diritto inizia diventare scritto e laico la sua interpretazione dà vita all'ius civile vetus.

**Epoca pre classica** (dal 367 a.C. fino al 27 a.C. con l'istituzione del principato): le fonti del diritto erano la giurisprudenza laica insegnata nelle scuole, le lex pubbliche emanate dall'assemblea e dal magistrato e l'editto del pretore. Il pretore imposta il caso e applica la norma e se non trova la crea e la pubblica nell'editto esposto il foro. I tre ruoli del pretore sono rafforzare il diritto civile (adiuvare), ha una funzione di supplenza (supplere) è una funzione di correzione (corrigere), inoltre IL PRETORE NON ABROGA LE LEGGI MA LE DISAPPLICA. Il pretore dà vita al processo formulare formato da due fasi:

1 fase in iure

2 fase apud iudicem

L'insieme delle decisioni prese dai pretori (Diritto pretorio) e dai pretori Peregrini (Diritto onorario) danno vita al diritto civile. È con la Lex Cornelia che il pretore viene vincolato a ciò che scrive nel suo editto. Sempre in quest'epoca le fonti si basano anche sui valori cardine dell'equitas (soluzione più adatta al caso concreto) e la fides (rispetto della parola data).

**Epoca classica** (27 a.C. fino al 285 con l'avvento del cristianesimo): le leges e i mores sono comunque fonti del diritto ma vanno ad esaurirsi e gli editti cessano di prodursi con l'istituzione dell'editto perpetuo (con Adriano sistemazione di tutti gli editti e stop all'emanazione). La giurisprudenza si limita a commentare gli editti per creare del nuovo diritto e ai giuristi viene riconosciuto l'ius publici rispondendi (riconoscimento dato dall'imperatore ai giuristi migliori) ed entrano così a far parte del consiglio del principe. Una nuova fonte è il Senatus consultis, ovvero provvedimenti presi dei senatori e poi accettati dal principe, e anche le costituzioni imperiali ovvero provvedimenti presi direttamente dall'imperatore. Possono essere di vario tipo: epistole (dal principe funzionario), prescritti (dal principio del privato), editti (norme generali) e decreti (sentenze del principe).

**Epoca post classica** (dal 285 al 565 con la morte di Giustiniano): le fonti di diritto rimangono le costituzioni imperiali (legis) che verranno poi codificate e raccolte dall'imperatore Teodosio, la giurisprudenza decade ma la sua classicità viene usata nei tribunali e con l'imperatore Valentiniano nei tribunali vengono accettati solo cinque giuristi (Gaio, Paolo, Modestino, Ulpiano, Papiniano) per quanto riguarda i mores vengono utilizzati solamente per le lacune e sono sottoposti alla legge.

## I CONCETTI GIURIDICI FONDAMENTALI

# Riassunto Esame Istituzioni Di Diritto Romano Prof

**Vittorio Scialoja**



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**Giurisprudenza italiana**, 1898    Il diritto dei beni pubblici, 1935    *Gazzetta ufficiale del regno d'Italia* Italy, 1875  
*Giurisprudenza italiana*, 1983    *La cultura*, 1896    *Bullettino dell'Istituto di diritto romano* Istituto di diritto romano (Rome, Italy), 1901    **Gazzetta ufficiale della Repubblica italiana. Parte prima**, 1887    **Istituzioni di diritto civile italiano** Andrea Ovio, 1882    La Cultura Ruggiero Bonghi, Ettore de Ruggiero, Dante Vaglieri, Laura Gropallo, Luigi Ceci, C. de Lollis, Nicola Festa, 1896    **La legge monitore giudiziario e amministrativo del Regno d'Italia**, 1888    "*L'eco dei tribunali*", 1858    **Annuario della Università degli studi di Urbino** Università degli studi di Urbino Carlo Bo, 1929  
*Gazzetta Ufficiale* Italy. Direzione generale dell'agricoltura, 1967-06    **A Pierluigi Zannini** Ferdinando Zuccotti, Marco Antonio Fenocchio, 2018 The volume contains sixteen studies of Roman law and in general of a juridical subject dedicated to Pierluigi Zannini on the occasion of his retirement placement by friends and colleagues of the University of Turin as well as by other people particularly linked to this academic group    **Istituzioni di procedura civile: (688 p.)** Giuseppe Saredo, 1876    **Studi giuridici: Diritto romano, 1933-34.-v. 3. Diritto privato, 1. pte., 1932.-v. 4. Diritto privato, 2. pte. e Questioni di procedura civile, 1933.-v. 5. Diritto pubblico, 1936.-v. 6. Politica estera, trattative internazionali, dopoguerra, amministrazione dell'interno, finanze, ferrovie comunicazioni, 1936.-v. 7. Sul bilancio della giustizia, ordinamento giudiziario, istruzione superiore, la scuola e la guerra, 1936.-v. 8. Sull'istruzione media, elementare e popolare, sui bilanci dell'istruzione, ultimi scritti, indice generale analitico alfabetico, 1936** Vittorio Scialoja, 1932    *SCUOLOPOLI* Antonio Giangrande, E comoda definirsi scrittori da parte di chi non ha arte n parte I letterati che non siano poeti cio scrittori stringati si dividono in narratori e saggisti E facile scrivere C era una volta e parlare di cazzate con nomi di fantasia In questo modo il successo assicurato e non hai rompiballe che si sentono diffamati e che ti querelano e che spesso sono gli stessi che ti condannano Meno facile essere saggisti e scrivere C adesso e parlare di cose reali con nomi e cognomi Impossibile poi essere saggisti e scrivere delle malefatte dei magistrati e del Potere in generale che per logica ti perseguitano per farti cessare di scrivere Devastante farlo senza essere di sinistra Quando si parla di veri scrittori ci si ricordi di Dante Alighieri e della fine che fece il primo saggista mondiale Le vittime vere o presunte di soprusi parlano solo di loro inascoltati pretendendo aiuto Io da vittima non racconto di me e delle mie traversie Ascoltato e seguito parlo degli altri vittime o carnefici che l'aiuto cercato non lo concederanno mai Chi non conosce la verit uno sciocco ma chi conoscendola la chiama bugia un delinquente Aforisma di Bertolt Brecht Bene Tante verit soggettive e tante omert son tasselli che la mente corrompono Io le cerco le filtro e nei miei libri compongo il puzzle svelando l'immagine che dimostra la verit oggettiva censurata da interessi economici ed ideologie vetuste e criminali Rappresentare con verit storica anche scomoda ai potenti di turno la realt contemporanea rapportandola al passato e proiettandola al futuro Per non reiterare vecchi errori Perch la massa dimentica o non conosce Denuncio i difetti e caldeggio i pregi italici Perch non abbiamo orgoglio

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