INTRODUCTION

The study of animals in Roman law is a field of research which, despite its importance, has been largely neglected by contemporary scholars. The renewed urgency of this investigation is particularly pressing in light of multiple converging factors that highlight its scientific and practical importance. Firstly, recent European Union directives and regulations on animal welfare have introduced a legal paradigm that requires the reinterpretation, both historical and comparative, of the categories underpinning the relationship between law and animals. Added to this is the progressive metamorphosis of the legal status of animals in the civil codes based on Roman law. Nevertheless, this phenomenon requires a critical, historically grounded interpretation. The classification of animals as *res* (thing) in classical Roman law is not merely a legacy to be overcome; it is a conceptual acquisition of extraordinary historical and legal significance that deserves to be understood in its true systematic scope. It is important to emphasise that this categorisation has often been misunderstood over the centuries. In Roman legal terminology, *res* does not imply the reduction of animals to inert or insignificant entities; rather, it designates a precise legal position within the classification logic and organisational requirements of Roman society.

Paradoxically, it is precisely this original, clear, systematic and functional categorisation that enables contemporary law to articulate an irrefutable ethical and scientific paradigm shift in the legal regime governing animals, which is also technically sound. The recent reforms to European civil codes, which reclassify animals as 'sentient beings' rather than things (*res*), undoubtedly mark an epistemological break of historical significance. This change is evident in the French reform of 2015 (*Loi n° 2015-177 du 16 février 2015*), as well as in the Spanish reform of 2021 (*Ley 17/2021, de 15 de diciembre*). These reforms were preceded by the German reform as early as 1990 and the Swiss reform of 2003, which both excluded animals from the category of property by defining them as 'non-things'. However, this break is not merely a rejection of Roman categories; it is the expression of a dialectical relationship. The stability of the Roman system provides a solid conceptual foundation on which to build this legal transformation without compromising systemic coherence. Therefore, bringing the animal question back to the centre of Roman law research means not only filling a historiographical gap, but also providing the conceptual tools necessary for critically interpreting the transformations taking place, and for constructing a renewed status for animals in 21st-century law based on solid historical and legal foundations.

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Unlike previous works on this subject, we have chosen to adopt a historical approach, believing that this will enable us to highlight the logic behind the various solutions developed by Roman law as economic, social, and cultural contexts evolved from the Archaic to the Imperial Age. To this end, the first part contains contributions that are useful for reconstructing the contexts within which the study of legislative interventions, discussion of case law, investigation of praetorian remedies and reconstruction of the rationale behind legal classifications relating to animals in the Roman legal system have been placed. These classifications represent an essential element of our contemporary legal culture.

Of particular interest are the relationships between individuals of different species, which highlight the opacity of the generalised definition of 'animal' by providing multiple images of the range of relationships between the human and animal subjects involved. Similarly important are the descriptions of heroic tribal societies found in the literature of the Western and Eastern Indo-European regions. These documents provide interesting insights into the classification of animals and their relationship with farming and breeding societies, which ultimately led to the domestication of animals. This picture is further enriched by the Roman philosophical debate on the status of animals, which is based on lesser-known evidence that has incorporated, modified and sometimes questioned the zoopsychological models of Hellenistic philosophies.

In economic terms, the use of oxen and sheep as a means of paying fines instead of weighed bronze reflects an agricultural context in which livestock and bronze were forms of wealth used simultaneously throughout the Republican era. The creation of a specific legal category for animals intended for agricultural work, with a particular circulation regime reserved for them, highlights the original rural nature of the Roman economy. The transformation of this economy into a commercial one is reflected in the interpretation of this legal category, showing a direct relationship between society and law.

Finally, the last piece of the puzzle is the everyday dimension and social perception of the human–animal relationship, as evidenced by literary and epigraphic sources. There is a wealth of information that is useful for understanding the anthropological and cultural foundations on which the legal regime governing the relationship between humans and animals was built. Three areas of investigation are of strategic importance in shedding light on this relationship in all its complexity: animals in the context of the *familia* as pets; animals in the Roman diet and culinary practices, which offer a privileged perspective on not only economic and nutritional aspects, but also the regulatory implications related to the circulation, slaughter and trade of meat, as well as the hygiene and health protection of food of animal origin; and animals as the focus of complex and legally sophisticated economic activities, such as piscinae or aquaculture facilities (*vivaria, piscinariae*).

The second part is specifically dedicated to the relationship between animals and Roman law. The analysis of institutions relating to animals in the earliest phase highlights the logic of power on which the relationship between humans and animals is based. The animals covered by the law are domesticated and, in line with the economic context of the time, are primarily used for agricultural labour. Several pieces of evidence support this: the classification of domestic animals as *res mancipi*, the most valuable items from an economic perspective; the use of sheep and oxen as currency to pay fines; the introduction of a special *postliminium* for items, paying particular attention to animals used in warfare; and the inclusion in the Twelve Tables of an action for damage caused by a domestic animal (*actio de pauperie*), for which the *dominus* is liable. In this historical period, everything suggests that the law sought to regulate the relationship between domestic animals and their owners. This was achieved by recognising the owners' *dominium* and the advantages that derived from it, while also holding them responsible for any damage caused by these animals. However, the *dominus*' absolute power is limited with regard to killing the ox, which can only take place during a sacrifice or as a result of an offence for which the animal is directly responsible, determining its *sacratio*.

Over time, two parallel phenomena have emerged. Firstly, the logic of potestative power has been confirmed in its application to new situations. For example, consider four-legged animals integrated into human production systems. These animals are referred to in the first chapter of the Aquilian Law as objects of damage suffered by the *dominus*. Another example is the introduction of *animus revertendi* into jurisprudential reflection. This is an extraordinarily flexible tool used to adapt the ownership scheme to the particular nature of domesticated and bred animals that are not stabilised in a specific place. Conversely, the potestative relationship is superseded in situations where animals are simply the instrument of harmful conduct directly attributable to the *dominus*' liability, as in the *actio de pastu pecoris*, or when the owner of the animal is immediately liable for the damage caused by their dog due to their failure to comply with the behavioural obligations imposed by law, in accordance with the *lex Pesolania*. Finally, the law's focus on wild animals, which was probably justified by their growing presence in Rome, introduced a new model compared to the previous one. This was because the bond of affinity between *dominus* and domestic animal had been broken. In the *edictum de feris*, the praetor held the person responsible for the animal's custody liable, meaning liability was no longer linked to ownership, but to the temporary nature of custody.

The complexity of the reconstructed legal framework ultimately calls for careful consideration of how modern doctrine has categorised the subject of animals. It should be noted that Roman jurists were not generally interested in classifications, with Gaius being a rare exception. They adopted an essentially casuistic approach, aiming to provide

practical solutions to specific cases through operational *differentiae* rather than abstract taxonomies. The distinction between *animalia mansueta* and *bestiae ferae*, and between *animalia quae collo dorsum domantur* and other functional categories, was a response to immediate practical needs such as ownership, liability for damages, and hunting regulations. There was no intention to construct a comprehensive classification system. Nineteenth-century pandectist doctrine transformed these operational *differentiae* into rigid, systematic classifications. This resulted in animals being classified as property in civil law systems, obliterating the flexibility and pragmatism of living Roman law.

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