Aspects of Infamia

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Tristan Taylor

9 July 2006

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Abstract

This thesis examines the development of the legal concept of *infamia* in Roman law. The first chapter examines the legal sources for studying Roman law, in particular the *Corpus Iuris Civilis* in order to establish the degree to which they may be relied upon in establishing the law of earlier periods, in particular the period from the late Republic until the reign of Diocletian. A cautiously optimistic conclusion is drawn about the degree to which these sources may be used to establish classical law. A synchronic study is then undertaken of *infamia* as it appears in the *Corpus Iuris Civilis*, focusing on the terms used to describe persons who are *infames* and the consequences of *infamia*. The understanding of *infamia* gained from this examination is then compared with the concept of *infamia* that appears in the *Codex Theodosianus* and in the Roman law-based barbarian codes to provide some guide as to the degree to which Justinian’s compilers may have altered the law. It is argued that, in fact, there is little evidence for doctrinal change under the law of Justinian. The final Chapter adopts a more diachronic approach and attempts to trace back the cases and consequences of *infamia* established through the synchronic examination of the Justinianic *Corpus*. It is argued that a ‘core’ of people can be identified for the classical period who were continuously subjected to the same legal disabilities that under Justian were embraced by the term *infamia*. However, it is also argued that *infamia* as a positive legal concept was a later development. Instead of using an umbrella concept like *infamia*, late Republican and early Imperial legal documents tended to list exhaustively persons subject to legal disabilities and what those disabilities were. The earliest appearance of *infamia* or a cognate in the legal sources is as a descriptive term of art for people who undergo certain legal disabilities under the edict, though the term itself was not in the edict. It is tentatively suggested that the existence of a recurring ‘core’ of persons undergoing similar legal disabilities encouraged the expansion of the use of this term, which eventually enabled its use as a positive legal concept in later legal sources.
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