

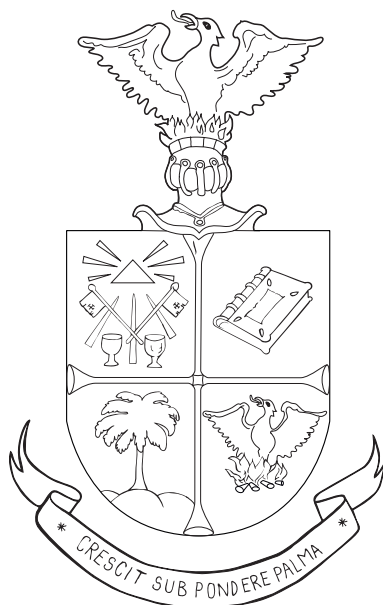
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IUS FETIALE – THE BEGINNING OF THE PROCESS OF THE CREATION AND RATIFICATION OF TREATIES AND THE DECLARATION OF WAR¹

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Abstract

In the present scientific study, the author focuses on the analysis of two excerpts from the work of Titus Livius – *Ab urbe condita* (I. 24 and I. 32), which, as a non-legal source of Roman law, offers an insight into the competencies and ritual duties of the *fetiales* – Roman priests who played a significant role in the shaping of international relations of the Romans with other nations. The analysed competencies of *fetiales*, comprehensively referred to as *ius fetiale*, included the right to conclude treaties, the right to demand compensation for acts of aggression and the ritual declaration of war. From the point of view of international and Roman law, we can comprehensively document the process of drafting, ratifying and the binding nature of treaties and declarations of war through the competences of *fetiales* in the early stages of the development of international law.

Keywords

fetials, ius fetiale, rerum repetitio, indictio belli, international law, Roman law

1. Introduction

Roman law as the legal system of the ancient Roman state is perceived by the legal scientific community mainly through the prism of civil law – personal (status and family), material and contractual (contractual) legal relations of private law, while modern branches of law as their pendants still draw on detailed case studies of Roman private law. Only marginal importance is

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attached to the influence of Roman law on international law. The main theoretical and conceptual question posed by legal science when examining the issue of the influence of Roman law on international law is the question of continuity, as well as the question of the influence of private Roman law (as the most developed system under Roman law) on international law. The question of continuity is, at first, a controversial one, as it struggles with the existence of international law as a whole in the time of Ancient Rome and the general narrative of the beginnings of international law only in the time of the emergence of modern sovereign states. Although there is no direct evidence to support the argument that Roman and modern international law form one continuous whole, it is necessary to accept the premise that Roman law (in each period of its development) was involved in the creation of international law. Roman law influenced international law through customs, concepts, doctrines, complex legal institutes, or other partial influences can be referred to. The present study will focus on the oldest selected attributes of Roman archaic law affecting (modern) international contract law referred to as *ius fetiale*. At the same time, however, the author does not claim that this work is exhaustive, as the issue under investigation is broad in content and the available scope does not allow for the detailed examination of each of the indicated attributes.

2. *Ius fetiale*

Among the oldest indications of Roman international law as a standard (standards) regulating the relations between the Roman state and extraterritorial elements (ethnicity, nation) is the so-called *ius fetiale*. According to Berger, these standards were intended primarily for the “*fetiales*” – a Roman college of twenty priests, who, in the archaic times of Roman law development, had not only religious functions (competences) but also performed public service, specifically in international relations with other states. Their duty was to examine the fulfilment of, or the failure to meet the conditions for concluding international agreements (*foedus*). The *fetiales* were involved in approving and monitoring compliance with treaties, in matters of extradition, and they acted as the representatives of Rome in the official declaration of war. During foreign missions, they were led by one of the *fetiales* of the college, who, as the spokesperson of the delegation, would bear the official title of *pater*

patratus.² In addition to the powers mentioned by Berger, in the context of archaic international law, the *fetiales* had the authority to demand compensation (*rerum repetitio*) and, as already mentioned, the right to declare a just war by order of the Roman Senate (in cooperation with the People's Assembly). Catalano defines *ius fetiale* as a complex of typically Roman (Italic) legal and religious standard applicable in relation to foreign powers³. According to tradition (legend), the credit for the introduction of *ius fetiale* is given to the Roman king Ancus, who adopted these legal standards from the Aequi tribe, to whom they were introduced by their king Ferter (or Fertor) Resius. However, this tradition (legend) is preserved not only in literary non-legal sources, but is also found in the inscription CIL 06, 01302: "*Fert[o]r Resius/rex Aequicolus/is preimus/ius fetiale paravit/inde p(opulus) R(omanus)/disciplineam except* – Fertor Resius, king of the Aequi, the first to create the law of *fetiales* and one from whom the people of Rome have acquired this knowledge."⁴ At the same time, it is necessary to note that the tradition of *ius fetiale* being derived from the Aequi tribe does not have to be based on the truth, especially with regard to (only) the etymological suitability of the name of the tribe, which denotes a so-called ideal of equity. However, the fetial, as a bearer of authority in international relations, is not not exclusively a Roman institution. Other nations and communities in the geographical area of Rome likewise knew and actively used their priests – *fetiales* – for similar international law purposes.

3. *Ius fetiale* in non-legal sources

Among the basic non-legal sources of knowledge of Roman law which specify the role of the *fetiales*, we can include the work *De legibus* by Cicero, which states the following about the *fetiales*: „*Foederum pacis, belli, indotiarum oratores fetiales sunt, uindices non sunt, bella disceptant*.”⁵ – In the matters of peace and war, ratified treaties, ceasefire and messages, let *fetiales* be the judges and let them decided on the matters of war. The most

2 BERGER, Adolf: *Encyclopedic Dictionary of Roman Law*. Philadelphia, The American Philosophical Society, 1991, 470.

3 CATALANO, Pierangelo: *Linee del sistema sovranazionale Romano*. Turin, Giappichelli, 1965, 5-6.

4 Available at Epigraphik-Datenbank Clauss / Slaby: [https://db.edcs.eu/epigr/bilder.php?s_language=en&bild=\\$Inscrit_13_03_00066.jpg](https://db.edcs.eu/epigr/bilder.php?s_language=en&bild=$Inscrit_13_03_00066.jpg) (26.08.2021).

5 Cic. Leg. 2.21.

prominent work dealing with *fetiales*, at least in some sections, is *History* by Titus Livius (Liv. I. 24, Liv. I. 32),⁶ which will be analysed as follows based on excerpts.

3.1. *Horatio and Curiatio (Liv. I. 24)*

Based on an excerpt from Liv. I. 24 and the legendary historical events of the dispute between Rome and Alba Longa, Livy's *History* offers an insight into the competences of *fetiales* and the process of concluding archaic treaties. During the reign of King Tullus Hostilius, a dispute broke out between Rome and neighbouring Alba Longa over domination of the nations. According to the legend described by Titus Livius and Dionysius of Halicarnassus, there were three brothers (triplets) in both rival armies – the Horatians and the Curiatians. It is mostly believed that Livius was of the opinion that the Horatians were Romans and the Curiatians came from Alba Longa. Dionysius states that a certain Sicinius from Alba Longa married off his daughters (at the same time), the first to a Roman – Horatio, and the second to a Curiatio from Alba Longa. According to legend, they both became pregnant on the same day and on the same day they both gave birth to triplets – the already mentioned Horatians and Curiatians. The triplets – cousins from the opposition camps met on the battlefield, and the connection between the families was all the more pronounced because the sister⁷ of the Horatians was engaged to one of the Curiatian brothers. In the legends of archaic Rome and law, number three is a common sign of the will of the gods, so instead of risking the lives of their soldiers belonging to neighbouring and related nations (the legendary founders of Rome, Romulus and Remus, also came from Alba Longa), they chose a pragmatic fight between the Horatians and Curiatians as the representatives of their peoples. The kings agreed with the Horatians and Curiatians on a battle by sword that would determine the domination of both city-states (according to the outcome of the battle), but, in order for this to become valid, it was necessary to conclude a solemn treaty. Titus Livius maps the activities of the *fetiales* in the process of

6 Citations of Titus Livius – *Ab Urbe Condita* used for this study: FOSTER, Benjamin Oliver: *Livy. Books I and II With An English Translation*. Cambridge, Harvard University Press – London, William Heinemann, Ltd. 1919. Available at: <http://www.perseus.tufts.edu/hopper/text?doc=Perseus:text:1999.02.0151> (26.8.2021).

7 Titus Livius writes about her infamous death while mourning her dead fiancé in I. 26. 3-7.

concluding the solemn agreement between Rome and Alba Longa, which was to decide on the fate of the two nations, and writes about this process as commonplace, despite the fact that no other older treaty or process is known to go down to posterity.

3.2. *Horatians and Curiatians – The process of concluding the international treaty between Rome and Alba Longa*

The solemn act of concluding an international treaty between Rome and Alba Longa began with a question and a request from a *fetial* addressed directly to King Tullus: “*lubesne me, rex, cum patre patrato populi Albani foedus ferire?*” – “Do you order me to conclude a treaty with the father of the Alban people?”⁸ Upon the confirmation by king Tullus, the *fetial* asked for the sacred herbs of *sagmina* or *verbenae*, picked at the Capitol, which were to ensure the inviolability of the *fetiales* as envoys. The symbolism of the solemn site of sacred herbs at the Capitol – the religious and administrative centre of Rome – is obvious and added religious and political weight to the solemn act. The *fetial* then asked for the commission as a royal messenger of the Roman nation, along with escorts and equipment, to which the king answered in agreement and entrusted the *fetial* with the task of negotiating a treaty between Rome and Alba Longa. According to Titus Livius, the *fetial* was Marcus Valerius, who, with the assistance of an instrument – sacred herbs – commissioned the father Spurius Furius (*pater patratus*) as the spokesman for the whole procession. The role of the *pater patratus* was to conclude an oath and to sanctify the covenant, which occurred by uttering a lengthy formula – “*Pater patratus ad ius iurandum patrandum; id est, sanciendum fit foedus; multisque id verbis, quae longo effata carmine non operae est referre, peragit.*”⁹ After pronouncing the conditions, the *pater patratus* continued by pronouncing the oath: “*audi inquit, Iuppiter, audi, pater patratus populi Albani, audi tu, populus Albanus: ut illa palam prima postrema ex illis tabulis cerave recitata sunt sine dolo malo utique ea hic hodie rectissime, intellecta sunt, illis legibus populus Romanus prior non deficiet si prior defexit publico consilio dolo malo, tum illo die, Diespiter, populum Romanum sic ferito, ut ego hunc porcum hic hodie feriam; tantoque magis*

8 Liv. I. 24.

9 Liv. I. 24.

ferito, quanto magis potes pollesque.”¹⁰; which entails a curse (*exsecratio*) not only of the *fetial* himself, but also of the whole city-state if Rome were to violate the treaty first. The *pater patratus* directed the oath to the entrusted father of the Alban people, the very people of Alba Longa, and also to the god Jupiter, the guardian of oaths and covenants. To seal the validity and effectiveness of the expression of the will of Rome, the *pater patratus* killed a sacred pig with a stone from the temple of Jupiter Feretrius. This final act was intended to symbolize the exsecration oath and what would occur in the event of a breach of the Treaty – the destruction of the entire Roman city state. After the expression of will by Rome, a similar process was performed by Alba Longa – the utterance of the formula, the oath of the king (dictator) and the conclusion of the treaty by the priestly college of Alba Longa. In the actions of the person of the chief *fetial* (*pater patratus*) as the authorized diplomatic representative of the king authorized to conclude an international treaty, we can see one of the first documented cases of sacred legal proceedings (acts), the result of which was the conclusion of a sacred treaty between two neighbouring archaic city states (nations). The enforceability of the treaty is based on two pillars. Sacral, consisting of a personal or collective curse (responsibility) and legal, consisting of a highly probable declaration of a just war, which, if the non-violating party succeeded, would have the same effects as the wrath of the gods.

3.3. Ancus Marcius and the Latins (Liv. I. 32)

The second important insight into the formation of archaic international (Roman) law is provided by an excerpt from *History* by Titus Livius (specifically Liv. I. 32.), which describes the events after the death of the Roman king Tullus Hostilius and the ascendance of the originally Sabine king Ancus Marcius, the grandson of the famous Numa Pompilius. Ancus Marcius sought the return to the observance of his grandfather’s religious ceremonies and to expand these religious and, in part, international law ceremonies. In the analysed passage, Titus Livius describes the so-called interregnum¹¹ and the appointment of a temporary king whose task was to organize the election

10 Liv. I. 32. 7-8.

11 Liv. I. 32. 1: “*Mortuo Tullo res, ut institutum iam inde ab initio erat, ad patres redierat, hique interregem nominaverant.*” – After the death of Tullus, the reign, as had been established from the beginning, returned to the fathers, who appointed a temporary king.

of a new king. With the consent of the Senate, the people elected Ancus Marcius already mentioned, who restored the proper performance of religious ceremonies and had the proper procedure for the same carved on a white stone slab, standardizing the manner of their performance. Unlike Tullus Hostilius, who paid less attention to the performance of religious ceremonies and was all the more focused on aggressive policy, the new King Ancus Marcius directed his first royal steps to the regulation of religious ceremonies. The neighbouring tribe of Latins perceived the above-mentioned activities of Ancus Marcius as a weakness and carried out a devastating raid on Roman territory, violating a previous treaty concluded during the reign of Tullus. The Romans demanded compensation for the attack, which the Latins refused to pay. According to Livy, the Latins refused to issue the compensation because they expected Ancus to engage in religious ceremonies and not demand retribution. Ancus Marcius, aware of the situation, realized that without a proper response, the Roman people would never have peace and quiet, as other tribes (following the example of the Latins) would attack Rome and eventually expel their own people from it. The decision of King Ancus Marcius was worthy of his grandfather Numa and affected the powers and activities of the *fetiales*.

3.4. Ancus Marcius and the Latins – The *rerum repetitio* process

Numa Pompilius instituted ceremonies for times of peace, and so, given the situation created by the attack of the Latins, Ancus Marcius decided to establish ceremonies (processes) for the proper declaration and conduct of war. In excerpt I. 32, Titus Livius states that the ceremonies for the proper declaration and conduct of war were taken over by Ancus Marcius from the neighbouring Aequi tribe and let the *fetiales* perform them. The first step towards declaring war was the process of demanding compensation from the enemy, which could prevent the war itself. *Rerum repetitio* (*res repetere*), as an institute of compensation aimed at reconciling opposing and rival parties was performed by an entrusted *fetial* (*pater patratus*) as a messenger of Rome and its people. *Pater patratus* performed the above-mentioned ceremony with his head covered with a wool blanket, his task being to arrive at the border of the state from which compensation was requested (extradition of confiscated loot and perpetrators) and to present the solemn formula, the so-called *clarigatio*: „*Audi, Iuppiter audite, fines, audiat*

fas. Ego sum publicus nuntius populi Romani; iuste pieque legatus venio, verbisque meis fides sit. Si ego iniuste impieque illos homines illasque res dedier mihi exposco, tum patriae compotem me nunquam siris esse."¹² – "Hear me, Jupiter, hear me, borders! Let them hear the divine law. I am the public messenger of the people of Rome; I come righteously and devoutly as a messenger, and let my words receive faith. If I unjustly and ungodly demand the extradition of those people and those things, I ask that I never be allowed to be with others in my homeland." The same words would be spoken by *pater patratus* when crossing the border, when meeting the man of the nation to which the words of *clarigatio* were addressed, as well as for the third time when he would enter the forum. Upon arrival at the forum, a process of negotiations began between the representatives of the foreign nation and the Roman delegation led by the *pater patratus*, during which the *pater patratus* presented the content and scope of the compensation requested. The nature of the remedy (compensation) depended on the nature and type of damage caused to Rome. In the case of unprovoked raids and looting (as in the case of the Latin invasion), the *pater patratus* would demand the return of the looted belongings and of any potential prisoners, and in the event of a breach of a previous treaty, the extradition of the person responsible for the breach of treaty was required as well. *Rerum repetitio* (Titus Livius refers to the right to claim compensation as *res repetere*) represents a significant extension of the powers of the *fetiales* in Rome's foreign policy.

3.5. Deadline for compliance with *rerum repetitio*

Sources differ considerably on the duration of time for complying with the *rerum repetitio*. There is a contradiction in Titus Livius himself, who, in the excerpt Liv. I, 32 states a solemn period of 33 days, but in the section Liv. I, 22 states a period of 30 days. Dionysius of Halicarnassus¹³, in an excerpt describing an event from the reign of Tullus Hostilius, (shortly before the fight between the Horatians and Curiatians – see subchapter 2.1.1) states that the envoys imposed a period of ten days, then returned and extended the period by ten days at the request of that municipality, up to a maxi-

12 Liv. I. 32. 6.

13 Dio. Hal. II, 72 – The Roman Antiquities of Dionysius of Halicarnassus, Vol. I, Loeb Classical Library edition, 1937. https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Dionysius_of_Halicarnassus/2C*.html (22.08.2021).

imum of 30 days. As mentioned above, the right to claim compensation was entrusted to the *fetiales* by law only during the reign of Ancus Marcius, so the shorter period of 30 days mentioned in the excerpt of Livius I, 22 and Dionysius applied during the reign of Tullus Hostilius may not apply to the *fetiales* at all, as they did not have the right to demand compensation yet. Ancus Marcius was the king who wanted to establish religious ceremonies for declaring war, and so by applying the law of the Aequi tribe, the period could have been extended from 30 days to 33 days and this authority entrusted to the *fetiales*. On the issue of the length of the period, John Rich¹⁴ cites the well-known doctrine that the 30-day period is derived from *legis actiones*, which also provided for a period of 30 days between the *in jure* and *apud iudicem* phases, or a debtor's obligation to comply within 30 days from the judgment and its implementation through *manus iniectio*.

3.6. *Rerum repetitio* as an institute of conflict prevention

The *rerum repetitio* institution must be seen in particular as a system of prevention of unnecessary wars, in which a large part of the Roman army would be involved. John Rich¹⁵ presents an interesting view, according to which the institution of *rerum repetitio* as a ceremony of the *fetiales* leading to the recovery of compensation (remedy) developed as a preventive necessity. The origins of the conflicts between Rome and its neighbours were usually not community-wide in royal times and rather concerned individual attacks and reprisals. Individual conflicts of certain groups caused whole tribes (nations) to be involved in the war conflict and, as a result, exhausted their militaries. The negatives associated with frequent community-wide conflicts resulting from breaches of agreements by individuals inevitably resulted in the formation of a process that would prevent said negatives. Individual violence could thus be controlled through the institution of *rerum repetitio* carried out by *fetiales*, who demanded the extradition of looted things and the extradition of perpetrators, thus preventing a protracted society-wide conflict. A tribe (nation) that was not willing to accept the obligation of compensation and the so-called noxal responsibility of individual culprits subsequently had to accept collective responsibility

14 RICH, John: *The Fetiales and Roman International Relations*. In: RICHARDSON, H. James – SANTANGELO, Federico (eds.): *Priests and State in the Roman World* (Potsdamer Altertumswissenschaftliche Beiträge, Band 33). Stuttgart, Franz Steiner Verlag, 2011, 214-217.

15 Ibid. 216.

in the form of a declaration of war. The fetial ritual of *rerum repetitio* thus served as a preventative institution to ward off a war and, in the event of its non-acceptance, created space for leading a so-called just war.

3.7. *Declaratory effects of testatio deorum*

In the previous subchapters, we dealt with the authority and activities of *fetiales* through the institution of *rerum repetitio*, which prevented/was supposed to prevent community war conflicts (mostly) in the case of individual breaches of the peaceful status quo. If the preventive potential of *rerum repetitio* remained unused by the petitioned tribe and no things or persons responsible for the violation of the status quo were handed over even after the expiry of the period analysed in subchapter 2.1.4 (30 and 33 days, respectively), the *fetiales* were entrusted with the authority to conduct a *testatio deorum* (*testatio* or also *denuntiatio*). Titus Livius in Liv. I, 32. 9–10 describes the solemn declaration addressed to the responsible tribe (nation) as follows: „*Audi, Iuppiter, et tu, Iane Quirine, dique omnes caelestes, uosque terrestres uosque inferni, audite; ego uos testor populum illum [...] iniustum esse neque ius persolvere; sed de istis rebus in patria maiores natu consulemus, quo pacto ius nostrum adipiscamur.*”¹⁶ – “Hear me, Jupiter, and you, Janus Quirinus, as well as all you gods of heaven, earth and hell, hear me! I call upon you to witness that this nation [...] is unjust and does not respect the law; but that we will consult with the elders of our country in these affairs on order to determine how to assert our right.” This statement of the *fetial* (*pater patratus*) in front of the tribe (nation) violating the law from the point of view of Rome (as arranged by a prior treaty or caused by refusing *rerum repetitio*) was declaratory in nature, as it was subject to verification by elders (senators), the people’s assembly and another ceremonial act.

3.8. *The king’s initiative process and the verification by Senate*

After the solemn declarative *testatio deorum*, the *pater patratus* would return to Rome with his entourage and report to the king and the Senate on the Latins’ refusal to comply with the *rerum repetitio*. Titus Livius describes¹⁷ the process of approving war directly in Rome and the division

16 Liv. I. 32. 9-10.

17 Liv. I. 32. 11-13.

of powers between the king and the Senate (senators). According to an excerpt from Livy, the initiative to open negotiations and the subsequent vote to declare war was at the disposal of the king, who would ask the senators: “*Quarum rerum litium causarum condixit pater patratus populi Romani Quiritium patri patrato Priscorum Latinorum hominibusque Priscis Latinis, quas res nec dederunt nec solverunt nec fecerunt, quas res dari fieri solvi oportuit, dic*” inquit ei quem primum sententiam rogabat, “*quid censes?*”¹⁸ – Let us act (negotiate) with regard to those things, disputes and legal disputes on which the *pater patratus* – the father of the Roman Quirit people – made a statement before the authorized father of the Old Latins and the whole Old Latin people, and which things, disputes, legal disputes they did not give, pay or do what was to be given, done, and paid for: tell me (he tells the person whom he first asked for an opinion) what do you judge?” The first who the king posed the question to, gave the following answer, according to Livy: “*puro pioque duello quaerendas censeo itaque consentio consciscoque.*”¹⁹ – “I judge it necessary to demand a clear and just war, and so I decide and give my consent.” The same question was then addressed to other senators. The approval of the war by the Senate had to be decided by an absolute majority of senators. In excerpt IV. 30. 15. Livy himself raises the question of whether it was possible for the Senate to declare war without the prior consent of the People’s Assembly (circa 427 BCE). However, according to Rich²⁰, in the early archaic period (during the reign of Ancus Marcius), the People’s Assembly did not have the power to vote on the declaration of war, and in Mommsen’s view,²¹ the Senate’s authority was derived from the prior voting of the People’s Assembly – prior to dispatching the *fetiales* to the Latins.

3.9. *Indicto belli – The declaration of war ceremony and its constitutive effects – The spear ritual*

In the previous subchapters, we have stated that King Ancus Marcius, following the example of his grandfather Numa, established war declaration rituals. One of the most famous ones (attributed to Ancus Marcius) is the spear ritual, which Livy describes in Excerpt I. 32. 13–14. The *pater patra-*

18 Liv. I. 32. 11.

19 Liv. I. 32. 12.

20 RICH op. cit. 204.

21 MOMMSEN, Theodor: *Römische forschungen*. Berlin, Weidmann, 1864, 245-247.

tus returned to the border common with the Latins, carrying a spear with an steel or fire-hardened tip, dipped in blood, and in front of at least three Roman adult men witnesses he uttered a formula for declaring war: „*quod populi Priscorum Latinorum hominesque Prisci Latini adversus populum Romanum Quiritium fecerunt, deliquerunt, quod populus Romanus Quiritium bellum cum Priscis Latinis iussit esse senatusque populi Romani Quiritium censuit, consensit, conscivit, ut bellum cum Priscis Latinis fieret, ob eam rem ego populusque Romanus populis Priscorum Latinorum hominibusque Priscis Latinis bellum indico facioque.*”²² “As the Old Latin nation and all people of the Old Latin nation have transgressed against the Roman Quirit people, and since the Roman Quirit people proclaimed a war with the Old Latins and since the Senate of the Roman people decided so, agreed so and acceded to the resolution to go to war with the Old Latins, so do I and the people of Rome proclaim to the nation of the Old Latins and to all the people of the Old Latins that we declare war against them and hereby start it.” The constitutive act of starting a war came when the spear was hurled into hostile territory, which meant the declaration and start of a war, a custom that Livy said had been upheld by future generations as well.

4. Conclusion

Although the present study confirmed the hypothesis that there is no direct evidence to support the argument that Roman and modern international law form one continuous whole, it is necessary to interpret the archaic (ancient Roman) *ius fetiale* in a broader context. The establishment of sophisticated rules of Roman diplomatic techniques (as represented by *fetiales*) in relation to extraterritorial ethnicities is proof of a precisely developed legal art (in the field of international law as well). The *pater patratus* (as a representative of the *fetiales*), sent on behalf of the nation, bound the whole nation by his solemn act, which in the case of concluding treaties can be considered a manifestation of community responsibility carrying the danger of a curse (*exsecratio*) and the future possibility of declaring (already) just war. On the other hand, the use of a threat through *clarigatio* and the requirement of *rerum repetitio* can be considered as the initial use of coercive or compellence diplomacy, where a foreign entity is faced with a choice that is advantageous only to the party making the request. Through

22 Liv. I. 32. 13-14.

the *fetiales*, the Romans put a foreign nation in a situation where it could choose (only) between providing the required compensation (beneficial to the Romans) or a war that the Romans would not have waged if it could not be successful. At the same time, however, the *rerum repetitio* served as a preventive institution for avoiding unnecessary wars started because of wrong individual actions. The *fetiales* and their ceremonies involved in *ius fetiale* played an important role in the international relations of the Romans and contributed to the emergence of the international legal concept of the so-called just war (*bellum iustum piunque*).