

INTERNATIONAL RELATIONSHIPS IN THE ANCIENT WORLD

Maria Floriana Cursi*

1. Introduction

Modern scholars, when addressing the topic of relationships between Rome and other communities, have emphasised the Roman perspective. Rome has always been considered the leading figure in economic, diplomatic and cultural exchanges in the Mediterranean area; and every kind of relationship that arose in this context has been seen as an expression of the Roman hegemonic plan.

The aim of this paper is twofold: first to question the emphasis that has until now been placed on the Roman point of view in the study of international relations in antiquity. Secondly, to consider the Romans as only one of the many groups responsible for Mediterranean cultural models. This stance reverses the traditional one and highlights new perspectives on the relevant history.

2. From the Italic *socii* to the *socii et amici populi Romani*

If we wish to analyse the alliances and friendship between Rome and other communities we have to examine evidence on treaties entered into between the Romans and other communities concerning military cooperation and good relations.

In the earliest period Rome was a hegemonic power at the helm of the federation of the Italic peoples – Latins (Latinum *nomen*) and Italic *socii*¹ – united in permanent military alliances concerning the supply of troops and ships to allies. This uniformity of alliance relations changed when Rome entered the Mediterranean area. As from the third century BC, in the treaties concluded between Rome and non-Italic peoples, terms like

1 Cf. Th. Mommsen, *Römisches Staatsrecht*, III.1, Leipzig, 1887, 661; M. Wegner, *Untersuchungen zu den lateinischen Begriffen socius und societas*, Göttingen, 1969, 95 ss.; W. Dahlheim, *Struktur und Entwicklung des römischen Völkerrechts im dritten und zweiten Jahrhundert v. Chr.*, München, 1968, 117 ss.

* Professor of Roman Law, University of Teramo.

amicitia and *societas* frequently appear. Sometimes the term *amicus*, sometimes *socius*, and sometimes even *socius et amicus* were used to describe the same situation. In the latter case (*socius et amicus*), the meaning of the hendiadys must be examined.

3. *Amicitia et societas* in scholarly interpretation

The phenomenon has not gone unnoticed: from an initial simplification of *amicitia et societas* to mere *amicitia* in the monumental structure of Mommsen, the more recent scholarly interpretation has come to evaluate the specific meaning of the hendiadys in connection with the political development of Rome.

Mommsen², on the basis of a formal similarity, examined the two categories of people *amici* and *socii et amici*³. Although he introduced a tripartite scheme of international relationships – *amici*, *socii* and *socii et amici* – Mommsen did not explain the nature of this intermediate category between *amici* and *socii*. However, when he draws attention to the affinity between *socii et amici* and *amici* it permits us to view *societas et amicitia* as a form of collaboration, not a form of subjection⁴.

At the beginning of the last century, interest in the topic emerged in two almost contemporary contributions, those of Matthaei⁵ and Sands⁶. Matthaei, relying on Mommsen, considers the term *socius et amicus* to be nothing more than an official title bestowed by the Romans on their friends⁷, assuming that when a treaty of friendship was revised the term *amicus* obliged the Romans to provide their friends with military aid, adding *societas* to *amicitia*⁸. The treaty of *amicitia* and *societas* would be devised as a compromise between the Roman need to establish perpetual relationships (*amicitia*) and the need for foreign peoples, especially the Greeks, to conclude temporary alliances (*societas*)⁹.

2 Mommsen, *Römisches Staatsrecht*, III.1, cit., 593 n. 2, speaks of a “formale Gleichbehandlung der beiden Kategorien der blossen *amici* und der *socii et amici*”. The French translation of Girard erroneously states “la similitude théorique des règles qui concernent les simples *socii* et les *socii et amici*”.

3 M. Holleaux, *Rome, la Grèce et les monarchies hellénistiques au III^e siècle avant J.-C.* (273-205), Paris, 1921, 47 n. 1, 50 n. 1; A. Heuss, *Die völkerrechtlichen Grundsätze der römischen Außenpolitik in republikanischer Zeit*, Leipzig, 1933, 26 n. 1.; Chr. Baldus, *Regelhafte Vertragsauslegung nach Parteirollen im klassischen römischen Recht und in modernen Völkerrechtswissenschaft*, I, Frankfurt-am-Main, 1998, 219, highlights the proximity of the relations: “Die *amicitia* wird seit der hohen Republik gern in Zusammenhang mit der *societas* genannt; häufig erscheinen beide Institute als synonym”. H. Horn, *Foederati. Untersuchungen zur Geschichte ihrer Rechtsstellung im Zeitalter der römischen Republik und des frühen Principats*, Frankfurt-am-Main, 1930, 12 s., on the other hand, holds that the hendiadys is the short expression of *socius* or *societas*.

4 Cf. Mommsen, *Römisches Staatsrecht*, III.1, cit., 649 s., 663 s.

5 L.E. Matthaei, *On the Classification of Roman Allies*, in *Classical Quarterly*, I, 1907, 185.

6 P.C. Sands, *The Client Princes of the Roman Empire under the Republic*, Cambridge, 1908, 10 ss.

7 Matthaei, *On the Classification of Roman Allies*, cit., 185.

8 Matthaei, *On the Classification of Roman Allies*, cit., 184 ss.

9 Matthaei, *On the Classification of Roman allies*, cit., 200 ss.

Sands, albeit by different means, reaches the same conclusion as Mattheai by identifying *amici et socii* with *amici* who had no obligation to provide military cooperation to Rome¹⁰. The hendiadys would be used with increasing frequency from the second century BC onwards, in connection with the growth of political and military power of Rome, to highlight the status of inferiority of their friends, until their final transformation to *socii*¹¹.

This last consideration, based on the power relations in the Mediterranean area, has been accepted by later authors – in particular by Dahlheim¹², De Martino¹³ and Cimma¹⁴ – who, unlike Mattheai and Sands, highlight the more technical nature of the relationship of friendship and alliance¹⁵. They point to the transformation of the original relation of friendship to one more onerous for foreign people, because it included the duty to cooperate in the military campaigns of the hegemonic power. This last duty, while it did not compromise the sovereignty of the community friend and ally of the Romans, politically placed the people under Roman influence¹⁶.

To sum up, some scholars have denied the specificity of the relation of alliance and friendship, referring to its coincidence with friendship. Others have emphasised the technical character of the hendiadys developed when Rome came to the Mediterranean area and its relationship to its political weight.

It is certain, however, that the perspective from which the phenomenon has been studied is Roman: Rome expanded into the Mediterranean area and built relationships with foreigners according to its own patterns that sometimes suited the needs of the people with whom it came into contact¹⁷.

4. Diplomacy in the Mediterranean area before Rome's arrival there

This last point, I think, requires an investigation into the relationship between the peoples in the Mediterranean area before Rome arrived there. In fact, an analysis of international relations in the Mediterranean area provides many examples of treaties of friendship and alliance entered into long before Rome entered this area.

As evidenced by the archives of Mari, the Amarna letters and later the Hittite documents, as early as the second millennium BC the peoples of the Near East engaged in intense diplomatic exchanges that required a formalised system of international relations, modelled on interpersonal relationships in which metaphors of brotherhood

10 Sands, *The Client Princes*, cit., vi.

11 Sands, *The Client Princes*, cit., 42 ss., esp., 46.

12 Dahlheim, *Struktur*, cit., 260 ss.

13 F. De Martino, *Storia della costituzione romana*, II², Napoli, 1973, 33.

14 M.R. Cimma, *Reges socii et amici populi Romani*, Milano, 1976, 177 ss.

15 The hendiadys *socii et amici* is not expressly used by De Martino.

16 Cf. Cimma, *Reges socii et amici populi Romani*, cit., 180 ss.

17 Cf. R. Bernhardt, *Rom und die Städte des hellenistischen Ostens (3.-1. Jahrhundert v. Chr.)*. Literaturbericht 1965-1995, in L. Gall (ed.), *Historische Zeitschrift. SH*, XVIII, München, 1998, 11 ss.

and parent/child relationships were used to describe the relationship between the kings of different communities¹⁸.

The sources provide evidence of some terms used to denote this system: *salīmum* (peace, reconciliation, friendship) and *athūtum* or *ahhūtum* (brotherhood). The first expression could indicate both the equal relationship between kings who called each other “brothers”, and the relationship between sovereign people and subordinate people, respectively “fathers” and “sons”. *Ahhūtum* expressed the nature of *salīmum*, and referred to both the cordial relations that preceded the alliance and to the new link that came into being¹⁹.

A recurring feature of these types of covenant is the use of the hendiads to describe their content. A particularly widespread expression that recalls the concepts of peace and friendship is *ahhūtu u ra’amūtu* (brotherhood and love). This expression, according to the doctrine²⁰, crystallised in the hurrian-hittite sphere in the middle of the second millennium and then passed to the Achaeans, until it was standardised by the Greeks in the formula φιλία καὶ συμμαχία denoted by the Romans as *amicitia et societas*.

This last statement, which demonstrates continuity between the eastern and western parts of the ancient world, testifies to the intense relations between the people in the Mediterranean area and opens a new perspective on western diplomatic models that would simply be inherited by the east, not invented.

Diplomatic relations in the Greek world offer an exceptional model with which we may reconstruct the manner in which international treaties came into being. In the earliest period, especially in epic contexts, the term φιλότης is used²¹ to indicate the relationship of hospitality and protection that binds a stranger to a member of the community and that constitutes φιλοί²².

18 Cf. M. Liverani, *Prestige and Interest. International Relations in the Near East ca. 1600-1100 B.C.*, Padova, 1990, 197 ss.; P. Karavites – Th. Wren, *Promise-giving and Treaty-making. Homer and the Near East*, Leiden/New York/Köln, 1992, 49 s.; M. Liverani, *The Great Powers’ Club*, in R. Cohen – R. Westbrook (eds.), *Amarna Diplomacy. The Beginnings of International Relations*, Baltimore, 2000, 15 ss.; F. Gazzano, *La diplomazia nelle Storie’ di Erodoto. Figure, temi, problemi*, in L. Piccirilli (ed.), *La retorica della diplomazia nella Grecia antica e a Bisanzio*, Roma, 2002, 14; B.R. Foster, *Water under the Straw Peace in Mesopotamia*, in K.A. Raaflaub (ed.), *War and Peace in the Ancient World*, Oxford, 2007, 68 ss.; R. H. Beal, *Making, Preserving, and Breaking the Peace with the Hittite State*, in Raaflaub (ed.), *War and Peace*, cit., 83, about the relation of brotherhood in the treaty between Ramses II and Hattushili III, king of the Hittites, in 1280 BC.

19 H. Tadmor, *Alleanza e dipendenza nell’antica Mesopotamia e in Israele terminologia e prassi*, in L. Canfora – M. Liverani – C. Zaccagnini (eds.), *I trattati nel mondo antico. Forma, ideologia, funzione*, Roma, 1990, 19.

20 M. Weinfeld, *The Common Heritage of Covenantal Traditions in the Ancient World*, in Canfora – Liverani – Zaccagnini (eds.), *I trattati nel mondo antico*, cit., 176 ss. Similarly Karavites – Wren, *Promise-giving*, cit., 48 ss.; Gazzano, *La diplomazia nelle Storie’ di Erodoto*, cit., 14 s.

21 Cf. M. Giangulio, *La φιλότης tra Sibariti e Serdaioi (Meiggs-Lewis, 10)*, in *ZPE*, XCIII, 1992, 38; M. Scott, ‘*Philo, Philotes*’ and *Xenia*’, in *Acta classica*, XXV, 1982, 15 ss.; Karavites – Wren, *Promise-giving*, cit., 48 s.; V. Alonso, *War, Peace, and International Law in Ancient Greece*, in Raaflaub (ed.), *War and Peace*, cit., 209 ss.

22 E. Benveniste, *Le vocabulaire des institutions indo-européennes*, I, Paris, 1969 = *Il vocabolario delle istituzioni indoeuropee*, I, Torino, 1976, 262 ss.

In the lexicon of international treaties φιλότης is attested within the sphere of diplomatic συμμαχία²³, as a synonym for φιλία – a term that later, in the treaties of the classical age, definitively replaced φιλότης, witnessing the strong connection between the two terms (φιλότης and φιλία). The notion of φιλία began to be used to define the relationships between communities especially from the sixth century BC onwards, because of the widespread acceptance of the term in Greek social life. This followed on its popularisation by the Pythagorean school²⁴ as well as the emergence of the colonial phenomenon²⁵ and the regulatory function of the Olympic sanctuary that promoted the conceptual development of the vocabulary of the Greek treaties²⁶. In about the sixth century BC the process of abstraction of φιλία linked to the new political and ideological connotations of the term began²⁷.

The diplomatic meaning of φιλία – initially mainly used to favour business contacts among the people in the Mediterranean area²⁸ – was reinforced by combination with the συμμαχία: the alliance provided in a defensive or offensive treaty²⁹, generally equal³⁰ and temporary that, over time, became the main instrument of Greek hegemony³¹.

The choice is not random: the hendiadys indicated a willingness not only to conclude a military alliance, but also to create good relations³² potentially open to further developments³³. Apart from the meaning of the two terms, their use as hendiadys is very interesting. As in the Near East, friendship and alliance was now declared by means of a similar expression – φιλία / φιλότης (or ξενία) καὶ συμμαχία³⁴ – which perhaps is its translation and which becomes a stylistic feature unchanged in form, even though with different content according to the different geographical and historical contexts.

23 Cf. Giangilio, *La φιλότης*, cit., 31 ss. Karavites – Wren, *Promise-giving*, cit., 56 s., highlights the existence of the hendiadys φιλία καὶ συμμαχία in the classic period.

24 G. Panessa, *Introduzione*, in Id. (ed.), *Philiai. L'amicizia nelle relazioni interstatali dei Greci. I. Dalle origini alla fine della guerra del Peloponneso*, Pisa, 1999, xv; xxi.

25 Cf. Panessa, *Introduzione*, cit., xxvi.

26 Panessa, *Introduzione*, cit., xviii; xxvi.

27 Giangilio, *La φιλότης*, cit., 40; Karavites – Wren, *Promise-giving*, cit., 56; Panessa, *Introduzione*, cit., xv.

28 Panessa, *Introduzione*, cit., xxvi ss.

29 E. Lévy, *Le vocabulaire de l'alliance chez Polybe*, in Ed. Frézouls – A. Jacquemin (eds.), *Les relations internationales, actes Strasbourg 15-17.6.1993*, Paris, 1995, 397 ss.

30 Cf. E. Bikerman, *Remarques sur le droit des gens dans la Grèce classique*, in *RIDA*, III, 1950, 101 n. 10.

31 E. Baltrusch, *Symmachie und Spondai. Untersuchungen zum griechischen Völkerrecht der archaischen und klassischen Zeit (8.-5. Jahrhundert v. Chr.)*, Berlin/New York, 1994, 15; J.M. Hall, *International Relations*, in Ph. Sabin – H. van Wees – M. Whitby (eds.), *The Cambridge History of Greek and Roman Warfare*; I, Cambridge, 2008, 101 ss.

32 In this sense φιλία does not necessarily presume a formal treaty of friendship (Panessa, *Introduzione*, cit., xxvii). Contra, Lévy, *Le vocabulaire de l'alliance*, cit., 397 ss.

33 Panessa, *Introduzione*, cit., xviii.

34 In this sense D. Konstan, *Friendship in the Classical World*, Cambridge, 1997, 83 ss.

5. *Graecia capta ferum victorem cepit ...*

The framework of the relationships among the people in the Mediterranean area before the coming of Rome seems so uniform that it enables us not only to reconstruct the contents of the Roman treaties of *amicitia et societas*, but also to re-interpret the Roman imperialist approach.

From the Roman perspective, the hendiadys *amicitia et societas* used in the treaties with non-Italic people during the third century BC is certainly unusual, considering that in its early relations with the Italic people Rome built its hegemony on military alliances by treaties of *societas* (Italic *socii*).

But if we shift the perspective from the Romans to the people in the Mediterranean area, we realise that not only was there an intense exchange and sharing of cultural models even before the coming of Rome, but also that such models profoundly influenced the Roman approach in the Mediterranean area, forcing Rome to rethink its scheme of international relations.

When Erich Gruen, a historian of Greece and Rome, in a revisionist study of Roman imperialism considers the use of the Roman model of Italic *societas* to modify the new relationship with the Greeks, he warned that “[w]e enter slippery terrain” considering that the terms used in the *foedera*, and in particular the *clausula maiestatis*, rarely come to light and that their examination will be conditioned by the dichotomy of *foedus aequum/foedus iniquum* improperly used by scholars to interpret the phenomenon of Roman international relationships.

This perplexity about the terms used in the treaties as well as the presence of the *clausula maiestatis* leads Gruen to conclude that Rome could not use the *clausula maiestatis* as a standardised tool of its hegemonic policy, so that Rome did not create politically unequal treaties³⁵. Gruen believes rather that the Romans used the flexible tool of φιλία or *amicitia*³⁶ to create “informal associations”, reinterpreting the Hellenistic patterns for their own purposes³⁷, leaving aside the treaties that according to Gruen would have played a small role in history of relations between Rome and Greece.

In other words, before the third century BC *amicitia* was not a diplomatic tool used by the Romans. It was taken from the Greeks, as was the expression *amicitia et societas*³⁸. For the Greeks, however, friendship described a relationship lacking the element of power: “*amicitia* was a presumption of cordiality, not an imposition of duties”.³⁹ Even after the Peace of Apamea in 188 BC between Rome and Antiochus III, after the Roman victories at Thermopylae in 191 BC and at Magnesia in the following year, Rome would have

35 E.S. Gruen, *The Hellenistic World and the Coming of Rome*, Berkeley/Los Angeles/London, 1984, 25 ss.

36 A. Coşkun, *Freundschaft, persönliche Nahverhältnisse und das Imperium Romanum. Eine Einführung*, in Id. (ed.), *Freundschaft und Gefolgschaft in den auswärtigen Beziehungen der Römer (2. Jahrhundert v. Chr.-1. Jahrhundert n. Chr.)*, Frankfurt-am-Main, 2008, 11, agrees that from the second century BC friendship became a flexible tool of alliance policy.

37 Gruen, *The Hellenistic World*, cit., 54 ss.

38 Gruen, *The Hellenistic World*, cit., 76 ss., 95; R. Billows, *International Relations*, in Sabin – van Wees – Whitby (eds.), *The Cambridge History of Greek and Roman Warfare*, I, cit., 318 ss.

39 Gruen, *The Hellenistic World*, cit., 78.

changed the meaning of the terms *amicitia* and *societas*. Although the heavy defeat of Antiochus had removed any doubt about the superiority of the Roman army, the *amicitia* would still not have involved mutual obligations, while remaining as flexible a tool as ever⁴⁰. During this period, Gruen adds, the authority of Rome in the Mediterranean area started to be undisputed, and many of its friends were actually subservient dependents. Nevertheless, *amicitia* retained its original meaning according to Greek traditional practices⁴¹. The Romans did not rely on friendship, says Gruen, to justify their wars: Roman propaganda took another form, such as the proclamation of Greek freedom⁴².

The hypothesis developed by Gruen is an original one that even if not accepted by all, opens a new perspective on relationships between people in the Mediterranean area, with friendship viewed as a diplomatic tool pre-existing the arrival of Rome in this area⁴³.

However, let us take it step by step. There is no doubt that the dichotomy *foedus aequum/foedus iniquum* cannot be applied to the Roman experience. Indeed, the category of *foedus iniquum* did not originate in Roman experience but is based on the contribution of Hugo Grotius who reconsidered the Roman sources on unequal treaties, introducing the notion of *foedus inaequale*, semantically similar to *foedus iniquum*, and contrasted with situations where *summum imperium* (*foedus aequum*) was fully preserved⁴⁴. This does not mean, however, that the Romans did not conclude treaties based on a range of unequal relationships, tending towards the gradual standardisation to *deditio*. If we want to fix dates, Luraschi noted⁴⁵ that even before Roman expansion after the Second Punic War, special clauses were inserted that made provision for conditions of inferiority. This was done as from the signing of the Treaty with the Aetolians in 189 BC until the insertion of the *clausula maiestatis*, conceived as a general clause that formalised the inferiority of the peoples allied with Rome. But we can go even further and suggest with Ferrary⁴⁶ that there was no specific clause, but that the condition of inequality between

40 Gruen, *The Hellenistic World*, cit., 88 ss.

41 Cf. Gruen, *The Hellenistic World*, cit., 93 s.

42 Gruen, *The Hellenistic World*, cit., 95.

43 Gruen, *The Hellenistic World*, cit., 69 s. Cf. A. Zack, *Studien zum Römischen Völkerrecht'. Kriegserklärung, Kriegsbeschluß, Beeidung und Ratifikation zwischenstaatlicher Verträge, internationale Freundschaft und Feindschaft während der römischen Republik bis zum Beginn des Prinzipats*, Göttingen, 2001, 239 ss. More recently Id., *Forschungen über die rechtlichen Grundlagen der römischen Außenbeziehungen während der Republik bis zum Beginn des Prinzipats. I. Fragen an Sextus Pomponius Quellen- und sachkritische Untersuchungen zu Pomponius 37. lib. ad Muc. D. 49,15,5*, in *Göttinger Forum für Altertumswissenschaft*, XIV, 2011, 47 ss. (<http://gfa.gbv.de/dr:gfa,014,2011,a,06.pdf>), 54.

44 Cf. M.F. Cursi, *Il carattere paradigmatico della classificazione dei 'foedera'* dalla partizione di Livo alla sistematica di Grozio, in L. Labruna (ed.), *Tradizione romanistica e Costituzione*, Napoli, 2006, 1574 ss.

45 G. Luraschi, *Foedus', Ius Latii', Civitas'*. Aspetti costituzionali della romanizzazione in Transpadana, Padova, 1979, 33 ss. Cf. also Cimma, *Reges socii et amici* cit., *passim*, about the reconstruction of the international relations between Rome and the *socii*.

46 J.-L. Ferrary, *Traité et domination romaine dans le monde hellénique*, in Canfora – Liverani – Zaccagnini (eds.), *I trattati nel mondo antico*, cit., 217 ss.

the parties was made evident by the onerous conditions imposed by Rome, for example about military cooperation.

It seems to me that in the light of what has been said above, an analysis of the different types of *foedera* gives evidence of the growing hegemony of Rome when it came to the political and military standardisation of international relations. Although the dichotomy *foedera aequa/foedera iniqua* was not formalised, the Roman jurists distinguished between various foreign peoples; a factor which we must consider in the relations between Rome and the other people in the Mediterranean area.

This type of approach is also reflected in the use of the term *amicitia*. Admittedly Rome used the formulas of the communities of the eastern Mediterranean area, but, unlike Gruen, I think that evidence of the Roman hegemonic policy was to be found not only in propagandistic tools, but also in international treaties – in those in which the *clausula maiestatis* appeared, but also in a reinterpretation of the relations of φιλία καὶ συμμαχία for Roman purposes of expansion.

6. The Roman reinterpretation of Greek international models

Roman sources, both legal and literary, seem to me to demonstrate this hypothesis. In a famous fragment⁴⁷, Pomponius describes the criteria for the application of *postliminium in pace*, highlighting how the absence of good relations does not make enemies of people: “In pace quoque postliminium datum est: nam si cum gente aliqua neque amicitiam neque hospitium, neque foedus amicitiae causa factum habemus: hi hostes quidem non sunt ...”.

Describing these relationships, the jurist distinguishes the ancient *hospitium*, on the one hand, and *amicitia* and *foedus amicitiae causa*, on the other. In the absence of a treaty, *amicitia* could be identified as a state of good relations, probably no different from the Gruen interpretation of the Greek φιλία. Conversely, the *foedus* of friendship might be seen as a Roman adaptation, from the perspective of their ritualization, of the good relations between communities and their effects. Livy informs us about this, in a source that assumes a strongly paradigmatic role:

Liv. 34.57.8: Esse autem tria genera foederum quibus inter se paciscerentur amicitias civitates regesque: unum, cum bello victis dicerentur leges; ubi enim omnia ei qui armis plus posset dedita essent, quae ex iis habere victos, quibus multari eos velit, ipsius ius atque arbitrium esse; alterum, cum pares bello aequo foedere in pacem atque amicitiam venirent; tunc enim repeti reddique per conventionem res et, si quarum turbata bello possessio sit, eas aut ex formula iuris antiqui aut ex partis utriusque commodo componi; tertium esse genus cum qui numquam hostes fuerint ad amicitiam sociali foedere inter se iungendam coeant; eos neque dicere nec accipere leges; id enim victoris et victi esse.

Menippus, the leader of the delegation sent in 193 BC by Antiochus III, king of Syria, to the Romans *amicitiam petendam iungendamque societatem*, explains the three forms

⁴⁷ Pomp. 37 *ad Q. Mucium* D. 49.15.5.2. About this fragment see M.F. Cursi, *La struttura del postliminium nella repubblica e nel principato*, Napoli, 1996, 126 ss.

of *foedera* by means of which foreigners contract a treaty of friendship⁴⁸: either the outbreak of war brings them into contact, as happens in the first two cases, or the parties agree to enter into an alliance or relationship of friendship. The root of the distinction is certainly political and military: the war, or rather the ending of the hostilities or failure to do so, is the crux of the classification.

Here, the first two cases refer to *foedera* into which two warring people may enter at the end of hostilities. In the first case, when it is clear who the winner and the loser are, the winner imposes his own conditions on the loser: Livy, in fact, writes that the winner has the right to determine what is to be restored to the defeated people and what is to be confiscated from them. However, Livy qualifies this statement by adding: “dicere leges”.

There is provision for restitution not only where one community defeats another, but even where people have showed the same valour in war: in this case the people ask for restitution on the basis of an agreement, and, if there is any change of ownership as a result of the war, the original positions are restored according to the ancient law, or according to a formula that is of benefit to both⁴⁹. This is the second *genus foederum*, in which enemies may conclude a pact of friendship with *reciperatio* following the war. The third kind of treaty is entered into, not after a war, but when the community wishes to enter into a treaty of friendship. The *foedus* is defined as *sociale*, distinguished from *leges* because there are neither winning nor losing parties, but the people wish to conclude a pact of friendship.

If we compare the three types of treaties, the first two undoubtedly have a military-political background, unlike the third kind. The main distinction is between *foedera amicitiae causa* concluded after the war and those concluded in the absence of war. The first ones, then, are distinguished by agreements between winners and losers (*leges*) and agreements for the restitution of booty obtained in a war in which there was neither a loser nor a winner. War or its absence therefore affects the form of the treaty, which reflects a precise legal status that is friendship, the objective of the treaty, as evidenced by the Livian source.

Now, if we look at the three types of treaties, the *sociale foedus*, which was concluded in the absence of war, recalls the *societas* required for the establishment of *amicitia*. Is this a reference to the treaties of *societas et amicitia*⁵⁰? It is not impossible. Livy certainly emphasises the technical-structural aspect of international relationships that supports the function of the archetype of the source.

In the passage by Livy, there is no evidence to suggest a classification in the development of international relations, unbalanced in favour of Rome. On the contrary, Livy offers a syntax of international relations to better explain the fluidity of the real balances.

48 Cf. Cimma, *Reges socii et amici populi Romani*, cit., 80 ss.; B. Paradisi, *L' amicitia' internazionale nella storia antica*, in 'Civitas maxima'. *Studi di storia del diritto internazionale* I Firenze, 1974, 296 ss.; K.H. Ziegler, *Das Völkerrecht der römischen Republik*, in *ANRW*, I.2, Berlin/New York, 1972, 88 ss.; Luraschi, *Foedus*', cit., 30 ss.; L. Labruna, *Romanizzazione, foedera', egemonia*, in *Adminicula*, Napoli, 1988, 70 ss.

49 Cf. G.I. Luzzatto, *Procedura civile romana*, II, Bologna, 1948, 231 ss.; G. Broggini, *Iudex Arbiterve*, Köln/Graz, 1957, 48.

50 Cf. A. Coşkun, *Rückkehr zum Vertragscharakter der amicitia? Zu einer alt-neuen Forshungskontroverse*, in Id. (ed.), *Freundschaft und Gefolgschaft*, cit., 222.

Unlike Livy, Proculus places Roman hegemony in international relations at the centre of the juridical debate:

Proc. 8 *epist.* D. 49.15.7.1: liber autem populus est is, qui nullius alterius populi potestatis est subiectus, sive is foederatus est: item sive aequo foedere in amicitiam venit, sive foedere comprehensum est, ut is populus alterius populi maiestatem comiter conservaret. hoc enim adicitur, ut intellegatur alterum populum superiorem esse, non ut intellegatur alterum non esse liberum: et quemadmodum clientes nostros intellegimus liberos esse, etiamsi neque auctoritate neque dignitate neque viri boni nobis praesunt, sic eos, qui maiestatem nostram comiter conservare debent, liberos esse intellegendum est.

Proculus provides a concept of freedom of the *populus* that is expressed in two ways: either as the absence of another people's power or as the relationship established by a *foedus*. He distinguishes the *foederati* who have concluded a *foedus aequum* from the *foederati* who must respect the *maiestas* of other people, as clients must their patrons. The jurist pays more attention to this last kind of treaty in order to emphasise that the people who had accepted the *clausula maiestatis* did not appear to be free. And Proculus adds, taking as an example the relationship between patron and client in which the client, while honouring the patron, retains his freedom⁵¹, that the clause embodied only the obligation to respect the superiority of Rome, which Cicero had already affirmed was the meaning of the *clausula maiestatis* in the treaty between Rome and Cadiz.

It seems to me that Proculus has explained the political criterion of equity or iniquity in international relations, in the perspective of the Roman expansionism. *Amicitia* is the content of the treaty, but its value depends on the political weight of the people with whom Rome established the relationship⁵². I think this is the best proof of the change in political terms of the Greek concept of friendship – always assuming that Roman *amicitia* is born of the cast of Greek φιλία.

Abstract

As long as the Romans had contact with the people of Italy only, their treaties embodied the concept of *societas*. The new formula “*amicitia* and *societas*” and the expression *amicitia* seem to have arisen only when Rome came into contact with other peoples in the Mediterranean area. The article aims to demonstrate that the roots of these new relationships are in international relations in the ancient Near East, and that the Romans adopted them from the Greeks. Later, they adapted the formula to their policy of expansion by using it to impose the *maiestas populi Romani*.

51 Rereading the hypothesis of E. Badian, *Foreign Clientelae* (264-70 B.C.), Oxford, 1958, *passim*, against the backdrop of opening remarks by Gruen, *The Hellenistic World*, cit., *passim*, P.J. Burton, *Clientela or Amicitia? Modeling Roman International Behavior in the Middle Republic* (264-146 B.C.), in *Klio*, LXXXV, 2003, 333 ss., puts the *amicitia* at the centre of relations in the Mediterranean area from the third to the second century BC.

52 Cf. J-L. Ferrary, *Philhellénisme et impérialisme. Aspects idéologiques de la conquête romaine du monde hellénistique, de la seconde guerre de Macédoine à la guerre contre Mithridate*, Rome, 1988, 42 s.