

DYING IN THE LINE OF DUTY – ASPECTS CONCERNING THE LEGAL FRAMEWORK REGARDING THE TRANSPORT OF DECEASED MILITARY PERSONNEL STATIONED ON THE DANUBIAN LIMES

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Among the most notable concerns of antiquity was what happened to a Roman citizen who died in the service of Rome, far away from home, be it either in times of peace or war. While the majority resorted to being locally interred, we have to take into consideration the high esteem the ancient Romans had for the cult of the dead and the importance to be buried alongside their ancestors, and thusly resorting to the idea of transporting the deceased's remains back home to their family with the intent of performing the proper funerary rites by its members. Our paper is focused on answering a series of questions concerning this aspect with the aid of ancient sources such as epigraphy, literary and legal works of the time, questions such as: how the deceased were actually transported and what was the legal background of moving remains from one place to another; who were the persons who resorted to this practice; and are officers of high social status more likely to be transported back home than regular foot soldiers. The purpose of our analysis is to take a glimpse and partially reconstruct the life and death of military personnel stationed on the Danubian limes.

Key words: *translatio cadaveris, soldiers, Roman law, commemoration, Danubian provinces*

Death, even though it comes as quite a frequent occurrence, it's never an easy process to deal with, regardless of culture, time or space, the humanity's attitude towards death and its aftermath has always been an abundant field of study and analysis for scholars of varied academic backgrounds. The ancient Romans' attitude towards the disappearance of family members or friends has proven to spark an interest for scholars for almost two centuries now, the funerary monuments and the happenstance remains unearthed seeming to defy time. Funerary commemoration as a phenomenon indicates the varied expressions of assumed identity, providing

vital information about the place of birth, ethnic origin, social status and sometimes the final location before death occurred, thusly contributing to a general mapping of the active mobility of the Roman world at a certain time.

Even the repatriation of human remains can be described as a specific kind of mobility within the known world for the ancient Romans. The return of dead men or women to their native land is a peculiar yet well attested practice, observed for rulers, great men, heroes and the like, a phenomenon still in occurrence today, even for regular people, even if there is less pomp (Tybout 2016: 390).

Recent studies on the subject of *translatio cadaveris* (De Visscher 1963; Kaser 1978; Cracco Ruggini 1995; Estiez 1995; Laubry 2007; Paturet 2007; Carroll 2009; Tybout 2016) have proven that the repatriation of corpses is more widely spread, both geographically and socially, than it has generally been known until today. There is a relatively small number of epigraphic records of *translatio cadaveris* attested in the Graeco-Roman world, counting only several dozen epitaphs in both Greek and Latin, spanning from early Hellenistic period until late antiquity (see catalogues for both Greek and Latin inscriptions concerning this subject in Laubry 2007: 181–188 and Tybout 2016: 422–437). Despite these small numbers of recorded cases, literary sources provide abundant information regarding the transportation of the remains of kings, emperors or their relatives and other members of the elite. In fact, the discrepancy between the scarcity of epigraphic evidence, on the one hand, and literary and legal sources, on the other, is so evident, that taken separately, they paint quite a different picture. The relative small number of epitaphs related to the discussed subject might also be caused by the difficulty in gathering the actual inscriptions, as there is no known standard epigraphic formula for the practice of transporting human remains from one place to another, in both Greek and Latin (Tybout 2016: 402), while literary sources are quite plentiful.

It suffices to mention famous cases of repatriation of human remains recorded in ancient literary works to prove that we are dealing with a frequent if not common occurrence at the time, cases such as the repatriation of rulers and emperors, among which is worth mentioning Sulla, brought from Cumae to Rome to be cremated (Plut., *Vit. Sull.*, 38.1–3 = Perrin 1916: 443–445), the consuls Aulus Histius and Gaius Vibius Pansa, killed at Mutina in 43 BC and buried by the state in Campus Martius (App., *B Civ.*, 3.76 = White 1913: 97), and also the fact that Caesar ordered the repatriation of the ashes of Pompey (Plut., *Vit. Pomp.*, 80 = Perrin 1917: 325) and Mark Antony, those of Brutus (Plut., *Vit. Brut.*, 53.3 = Perrin 1918: 247) after their defeat (Tybout 2016: 406). Drusus' body was transported from the Rhine to Rome, accompanied all the way by foot by future emperor Tiberius (Suet., *Tib.*, 7.3 = Rolfe 1913: 303), while Germanicus was cremated in order to be transported from Antioch-on-the-Orontes to Rome (Tac., *Ann.*, 2.69–75, 77, 83, 3.1–5 = Moore & Jackson 1931: 493–503, 505, 513, 523–529). Emperors found their way back to the Eternal City after their demise, with Augustus (from Nola – Suet., *Aug.*, 100.2 = Rolfe 1913: 283), Trajan (from Cilicia – Cass. Dio, 69.1.3 = Cary 1925: 425), and

Septimius Severus (from Eboracum – SHA, *Sev.*, 19.1–4, 24.1–2 = Magie 1921: 415–417, 429; Cass. Dio, 77.15.2–4 = Cary 1927: 271–273), just to name a few instances.

But what of the regular soldiers and military personnel who perished far from home? The mobility of the Roman army is a well-known fact (Carroll 2006: 211–232), requiring the soldiers to travel and be stationed far away from their birthplace or residence in order to ensure *Pax Romana*. Physical mobility was present even after death for this specific category of inhabitants of the Empire (Carroll 2009: 823). The actions that are to be taken after a soldier's demise depend on the circumstances in which death occurred, either in times of peace or times of war. If during peace time, the soldiers were usually buried outside their military camps, what happened with their remains after a battle was finished? Literary sources stand proof that a military burial involved the gathering of the dead soldiers from the battlefield and their collective cremation or burial (Livy 23.46.5, 27.2.9 = Moore 1940: 158, 209; Dion. Hal., 5.47.1 = Cary 1940: 137). Nevertheless, the time this action took place depended on the outcome of the battle. Victorious armies had the moral duty and the possibility of burying their dead unhindered. But what happened when losing a battle? Again, literary sources prove that, even though it happened at a later time, efforts were made to retrieve the bones of the deceased and give them a proper burial, just as Germanicus accomplished, who led his troops on the site of the Varian disaster with the intent to gather the remains of the Roman dead and raise a mound over them (Tac., *Ann.*, 1.60–63 = Moore & Jackson 1931: 345–353).

Nevertheless, a passage from the works of Appian, recounting a tragic episode during the Social War, reveals a decree of the Senate dating from 90 BC that forbade the transfer of dead soldiers from the battle field towards the city, so that the large number of victims would not cause distress and morale problems (App. *B Civ.*, 1.43 = White 1913: 83–85). The episode also indicates that the transportation of the dead was a cultural reality, at least until that very moment, often encountered within the Roman society. This fact indicates the need to be buried in domestic soil, in family tombs where the cult of the dead can easily be kept by the surviving members, where one could hope that his memory will survive the passing of time. Cicero speaks of the need of men to return to their place of birth, to the place of their ancestral sacred rites and the memorials of one's forefathers (Cic. *Leg.*, 2.3 = Keyes 1928: 373).

However, what would be the fate of those whose demise came in foreign lands? And how it affected

the members of the surviving family? Towards what lengths will they go in order to bring back the remains of their loved ones? And more importantly for our present discussion, within what legal framework were they allowed to operate? It is quite evident that the transportation of a body from foreign lands implied time and money consuming efforts, the grief experienced by the bereft notwithstanding. Even so, in the well regulated legal everyday life of ancient Romans there were specific rules concerning this kind of funerary practice. The abovementioned orator also indicates in the same work that bones shall not be gathered with the intent to hold the funeral at a later time, with the exception of death occurred in times of war or on foreign soil, as stated in the Laws of the XII Tables (Cic. *Leg.*, 2.60 = Keyes 1928: 447). In other words, nothing should prevent the proper interment of human remains after death and the process should not be prolonged unnecessarily. Nevertheless, for people who died away from home an exception could be made to allow the family to take possession of the remains and bring them home if that was their wish.

This does not mean that everybody could afford the repatriation costs, which, depending on the distance, could be quite big. This is the reason why the practice of *translatio cadaveris* could be afforded only by members of the political or economic elite, soldiers with high pay grades or members of the imperial administration, as observed in the recorded epigraphic evidence so far (Tybout 2016: 391–398, 405–406). Even so, the cost of transporting the body to its destination was considered in the eyes of jurisprudence to be part of the regular funerary expenses (Ulp., *Dig.*, 11.7.14.4 = Watson 1998: vol. I, 351). This fact is also mentioned by Macer (*Dig.*, 11.7.37 = Watson 1998: vol. I, 354) in his detailed list of allowed funeral costs, among which we find the transportation of human remains. Moreover, the local authorities must ensure the safe passage of these remains, so that they are not to be detained or interfered with, as nobody is allowed to prevent their transportation on public roads (Ulp., *Dig.*, 11.7.38 = Watson 1998: vol. I, 355).

The legal sources describe two types of graves in relation to the practice of transporting remains from one destination to another, temporary graves and permanent ones. The idea of *perpetua sepultura* has started to appear in legal sources from the 3rd century AD, as opposed to the concept of temporary graves, the former being considered *locus religiosus*, while the latter is not. One such mention is from the jurist Paulus, who states that the place where a body was carried with the intention of transferring it later rather than not burying him there and thus

giving him an eternal grave, remains profane (*Dig.*, 11.7.40 = Watson 1998: vol. I, 355). Another mention is from an edict given by emperors Diocletian and Maximianus in 290 AD, which states that if the body was not permanently committed to a tomb, nobody could prevent its removal and thus from being transported (*Cod. Iust.*, 3.44.10 = Blume 2005). An earlier edict belonging to Marcus Aurelius and Lucius Verus (*Dig.*, 11.7.39 = Watson 1998: 355) defines what a lawful burial was (*iusta sepultura*), namely a corpse which has been interred (*terra conditum*), this including its placement into a sarcophagus with the intention of not being removed or transported elsewhere. The edict continues, nevertheless, with an exceptional situation that may permit transportation, a situation of utmost necessity (see also the discussion in Paturet 2007: 349–361).

This kind of necessity concerns thusly the concept of permanent tombs and the transfer of human remains from one *locus religiosus* to another. An example of such a situation is mentioned in a rescript of the emperor Caracalla given in 214 AD to a woman, Dorita, who is allowed to transfer the remains of her son, if the tomb is being threatened by floods or similar cases of grave necessity, with the authorization of the provincial governor (*Cod. Iust.*, 3.44.1 = Blume 2005). This rescript has also been the source of inspiration for one of Paulus' Opinions, which indicate that after a body was properly buried, it could be moved to another location by night if there is a danger of floods or other impeding ruin (Paulus, *Sent.*, 1.21.1 = Scott 1932).

These examples show that in order to transport a corpse from one permanent tomb to another, one would require the authorization of the proper authorities who have this right, as stated in an edict of Marcus Aurelius, which states that the transport of a corpse through villages or towns should be permitted by those authorized to do so (Ulp., *Dig.*, 47.12.3.4 = Watson 1998, vol. IV, 300). The ambiguity of this statement only emphasizes the multitude of offices recognized by Roman law as being capable to permit *translatio cadaveris* (Laubry 2007: 154).

This being the legal framework within which the transportation of the dead was allowed in the Roman world, we now turn our attention to our present case study, namely the Danubian *limes*, towards a specific social category that relied on the practice of repatriation, more specifically the military personnel stationed on the borders of the Danubian provinces. Nevertheless, this does not mean that all soldiers deceased in the line of duty, during both times of war and peace, were necessarily repatriated, on the contrary, as stated above, their vast majority

were buried in the necropolises stretching along the main roads leading from their military camps (regarding military burials, see Peretz 2005). Literary sources even state that those killed in battle were burnt and buried on the spot without a commemorative monument (Livy, 23.46.5, 27.2.9 = Moore 1940: 158, 209). Still, the epigraphic evidences, despite their small numbers, tend to reflect that there were cases when officers and soldiers resorted to the practice of repatriation in order to be buried in their place of birth.

One of the most evident examples is the case of the provincial governor of Dacia, Caius Iulius Quadratus Bassus, who died in the line of duty in 117 AD. His body was brought back to his home in Pergamon with a military escort lead by the *primus pilus* Quintilus Capito, while the emperor Hadrian ordered for a public funeral with a procession through the city and barracks, and a tomb paid from the imperial *fiscus*. The Greek inscription in question was carved on the statue base, with honours given by the people of Seleukeia on the Euphrates and Zeugma for his carrier as governor of Syria (Piso 1993: 23, no. 4).

There are also the cases of four distinct soldiers who died far away from home and brought by family members to the Danube, in Pannonia to be buried in their family tombs. The first is a funerary *stela* raised by the sister of a soldier of *cohors I Praetoria*, who died in Rome and whose bones, his and his mother's, rest in the grave from Carnuntum (CIL III, 4487). The second is a sarcophagus of a soldier born in Mursa, who died in Perinthos and whose bones were brought back to Aquincum, where he probably was stationed and lived with his wife and two daughters (CIL III, 13374). The third is a sarcophagus belonging to a soldier who died at Lauriacum during Caracalla's campaign against the Alamani, whose grandson brought his remains back to Aquincum to his wife and son (AÉ 2004, 1143). The last one is a funerary *stela*, belonging to Titus Plautius Pamphilus, *natione Noricus*, a soldier in *legio II Adiutrix*, who died in Alexandria in the line of duty, the monument being raised at Aquincum by his heir Magnius Atticus (AÉ 1936, 163).

A very interesting instance involves a funerary monument raised by the husband, who completed his equestrian military career, for his wife who died in Dacia and was brought home to Lambaesis, the inscription stating the great distance crossed in or-

der to bring home the remains of his beloved – *per maria et terras retulit reliquias coniugis ex provincia Dacia* (CIL VIII, 2772).

The last example presented here involves a pair of funerary monuments, both commemorating the same person in two different places. The deceased in question, Lucius Annius Octavius Valerianus, even though he is a civilian, his case is worth discussing, as it contributes to better understand the phenomenon of *translatio cadaveris* in the Danubian provinces. Hence, Octavius Valerianus has ordered a sarcophagus to be raised for himself in Rome (CIL VI, 11743) and a tile bearing the same inscription as on the sarcophagus, with very slight differences in writing, the latter being discovered at Romula (AÉ 1980, 767). There is no indication as to what happened to the body, which one of these is the cenotaph and which the real grave. One hypothesis is that the man in question resided in Rome, either himself or his family, having in Dacia a property. Here he met his demise, after which he was probably brought back home to Rome, the tile keeping the memory alive for the community in Romula. An analogy could be made with the case recorded by the jurist Quintus Mucius Scaevola (*Dig.* 34.4.30.2 = Watson 1998: vol. III, 169–170) of a *pater familias* from Campania, who, before leaving somewhere far from home to visit other properties, gives instructions in a will and a codicil that, in case he died during his journey, 60 gold coins should be given to his companion, Lucius Tutius, to bring back his body to be interred along with his sons.

As stated before, despite the low number of epigraphic testimonies of *translatio cadaveris* in the Roman world, the phenomenon was more frequent than it firstly appears to be. In fact, the regulations regarding this practice recorded in different legal sources of the time clearly indicate that we are dealing with a palpable, structural and cultural reality. Even though literary sources tend to record only those cases of elite transportation of the dead, the practice was not at all limited to them, if you had the financial means to do it, the state and Roman law guarantying the process of gaining a final, permanent resting place for the remains of the loved ones departed away from home. Moreover, by stating this effort in the epitaphs of the commemorative monuments, one could determine the need and the ritual function of surviving family members that were left to cope with grief and bereavement.

ABBREVIATIONS

- AÉ *L'Année Épigraphique*, published in *Revue Archéologique* and separately, Paris, 1888 –.
- CIL *Corpus Inscriptionum Latinarum*, Berlin, 1863–.

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