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The Class-Based Approach to Roman Criminal Law

Wokół problematyki klasowości w rzymskim prawie karnym

ABSTRACT

The theory of class struggle lay at the root of Marxist methodology. According to historical materialism, the slave formation existed in the ancient Roman state, and Marxist historians further developed the concept of class divisions in Roman society. Their views on this subject permeated also the research on Roman law, which was to be studied in terms of the influence that class divisions and class struggles had on the evolution of the state and legal norms in ancient Rome. This approach mainly concerned Roman private law, which was of the primary interest to scholars. The author attempts to determine whether the issue of class also constituted a reference point for studying the criminal law of ancient Rome, which had the character of public norms. The article examines the most representative views of Roman law scholars who applied the Marxist method in their research. Despite their attempts, they found it hard to uphold the concept that ancient Roman society had been divided into antagonistic and structurally homogeneous classes, and what is more, that these classes had been united by class consciousness. Differences between social strata in their legal position, including different criminal law norms, did not result from class divisions and class struggle, but rather reflected the specific character of ancient Roman society.

Keywords: Roman criminal law; concept of class; ancient Rome; Marxist methodology; research on Roman law

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Roman public law, long neglected in favour of private law, has been attracting growing interest among Polish scholars in recent years.[1] For some time now, considerable attention has been paid to ancient criminal law,[2] which was part of public law.[3]

In the history of Roman law studies, the research approach has evolved over time depending on various factors, e.g. available sources, changing political and economic situation of a given state, its needs connected with educating lawyers, and finally the role of science in a given period. The Marxist approach in Roman law studies, focused primarily on private law; however, Marxist methodology influenced also the perception of criminal law.[4] The article aims to give an overview of Roman

[1] There are increasingly more publications available, especially those intended for teaching purposes. See *Rzymskie prawo publiczne*, eds. B. Sitek, P. Krajewski, Olsztyn 2006; A. Jurewicz, R. Sajkowski, B. Sitek, J. Szczerbowski, A. Świętoń, *Rzymskie prawo publiczne. Wybrane zagadnienia*, Olsztyn 2011; J. Zabłocki, A. Tarwacka, *Publiczne prawo rzymskie. Skrypt z wyborem źródeł*, Warszawa 2005; iidem, *Publiczne prawo rzymskie*, Warszawa 2011; T. Palmirski, *Publiczne prawo rzymskie. Zarys wykładu. Skrypt dla studentów prawa i administracji*, Kraków 2006; K. Wyrwińska, *Civis romanus sum. Rzymskie prawo publiczne. Wybrane zagadnienia*, Kraków 2015. The research into different areas of Roman law has recently been compiled by M. Zabłocka in *Romanistyka polska w pierwszym dziesięcioleciu XXI wieku* (Warszawa 2013). See also a review of this publication: M. Kuryłowicz, *M. Zabłocka, Romanistyka polska w pierwszym dziesięcioleciu XXI wieku. Warszawa 2013, ss. 209*, „Czasopismo Prawno-Historyczne" 2015, vol. 67(1), p. 404.

[2] For example, see K. Amielańczyk, *Crimina legitima w rzymskim prawie publicznym*, Lublin 2013; M. Kuryłowicz, *Ustawodawstwo rzymskie w sprawach karnych*, „Annales UMCS sectio G (Ius)" 1988, vol. 35, pp. 29–38 (recently in: idem, *Scripta minora selecta. Ausgewählte Schriften zum römischen Recht*, Lublin 2014, no. 8); idem, *Libri terribiles. Z historii rzymskiego prawa karnego*, [in:] *W kręgu teorii i praktyki prawa karnego. Księga poświęcona pamięci Profesora Andrzeja Wąska*, eds. L. Leszczyński, E. Skrętowicz, Z. Hołda, Lublin 2005, pp. 745–755 (recently in: idem, *Scripta minora selecta…*, no. 9); idem, *De publicis iudiciis. Instytucje justyniańskie o postępowaniach sądowych publicznych*, [in:] *Problemy stosowania prawa sądowego. Księga ofiarowana Profesorowi Edwardowi Skrętowiczowi*, ed. I. Nowikowski, Lublin 2007, pp. 561–572 (recently in: idem, *Scripta minora selecta…*, no. 9); idem, *Rzymskie ustawodawstwo karne w kodyfikacji justyniańskiej*, [in:] *Ius Romanum Schola Sapientiae. Pocta Petrovi Blahovi k. 70. narodeninám*, eds. P. Mach, M. Nemec, M. Pekarik, Trnava 2009, pp. 251–263; W. Bojarski, *Prawo rzymskie*, Toruń 1983.

[3] For an overview of research on Roman criminal law in Polish Roman law studies, see e.g. M. Kuryłowicz, *Rzymskie prawo karne w polskich badaniach romanistycznych*, „Zeszyty Naukowe Uniwersytetu Rzeszowskiego. Prawo" 2003, vol. 1(7), pp. 167–175; A. Chmiel, *Studia profesora Adama Wilińskiego nad rzymskim prawem karnym*, „Studia Iuridica Lublinensia" 2010, vol. 13, pp. 128–137. See also M. Zabłocka, *Badania romanistów w latach 2011–2013*, „Zeszyty Prawnicze" 2015, vol. 15(2), pp. 212–217. Recently, K. Amielańczyk (*Crimina legitima…*) wrote about the types of crimes committed by Roman public law, while presenting the criminal law of the ancient Romans, the most extensive in Polish Romanist literature.

[4] This has been noted recently by M. Kuryłowicz in his article *Szkic do dziejów tzw. romanistyki marksistowskiej* („Z Dziejów Prawa" 2019, vol. 12(20), pp. 933–950). In turn, the author of this article was interested in the subject from a methodological perspective. See B. Czech-Jezierska, *Ius publicum i ius privatum w świetle poglądów tzw. romanistyki marksistowskiej (przykład Czechosłowacji)*, „Studia Prawno-Ekonomiczne" 2018, vol. 108, pp. 41–64; eadem, *Milan Bartošek i problem „właściwej*

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law studies in the period when science was greatly influenced by Marxist ideology that emphasised the importance of class system, as well as to determine whether the issue of class was a reference point for studying the criminal law of ancient Rome.

The doctrine that developed in science and was based on K. Marx's thought, affected all scientific disciplines, although it began as a comprehensive analysis of economic phenomena and originally referred to philosophy and sociology as those disciplines dealing with human activity. The idea of introducing the Communist system and criticism of capitalism permeated also the research methodology. Marxist philosophy, justified by Marx's scientific socialism, served to give the proper direction to the development of science, putting the rightly understood interest of humanity at the centre.[5] This was to be achieved by the right method based on Marxism and thus, those theories that formed the basis of Marxism became of great importance. These were especially the theses on the proper understanding of history, which were rooted in dialectical materialism and in historical materialism developed on its basis. While dialectical materialism examined the general principles of nature and society development, transformations they undergo and ways of studying them, historical materialism focused on the study of society's development, shaping social consciousness and historical processes that formed political and legal systems of the states and societies. One of the fundamental theses of Marxist materialism was that man's economic conditions formed the foundation of and gave rise to ideas, thoughts, and economic or political views. This thesis was based on the later vulgarised Marx's idea that "social existence of men determines their consciousness".[6]

According to historical materialism, one of the basic types of socio-economic formation was the slave system, which was based on antagonism and which could be found also in ancient Rome.[7] This system was characterised by the existence

metody" w badaniach nad prawem rzymskim, [in:] *In varietate concordia. Księga jubileuszowa z okazji XXX-lecia pracy naukowej Prof. Bronisława Sitka*, eds. K. Ciućkowska, J. Szczerbowski, Warszawa 2019, pp. 199–225.

[5] T.I. Ojzerman, *Powstanie filozofii marksistowskiej*, Warszawa 1966, p. 307, 615; *Słownik filozofii marksistowskiej*, eds. T.M. Jaroszewski, B. Janiec, M. Michalik, S. Opara, Warszawa 1982, p. 6.

[6] This expression referred to one of the basic philosophical questions concerning the primacy of being, consciousness, spirit or matter, and was a polemic with Young Hegelians on the concept of society evolution. See e.g. K. Marks, F. Engels, *Ideologia niemiecka*, [in:] iidem, *Dzieła*, vol. 3, Warszawa 1975, p. 2. This concept is related to the theory of the base understood as production forces, and the ideological superstructure, which comprises political, social and legal institutions and views, etc. These two interact, but as it was emphasised, the base has a predominant influence. This theory was developed and refined by Stalin, whose interpretation became a reference point for interpretations and analyses on the history of the evolution of societies. See F. Engels, *Pochodzenie rodziny, własności prywatnej i państwa*, Kraków 1912, p. 199; J. Stalin, *W sprawie marksizmu w językoznawstwie*, „Pamiętnik Literacki" 1950, vol. 41(2), pp. 282–301; A.G. Spirkin, *Zarys filozofii marksistowskiej*, Warszawa 1968, pp. 413–416.

[7] The ancient mode of production that followed the primitive community, according to Marx, can be divided into the "Asiatic mode of production" (typical for the ancient East), the slavery or

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of two classes: the exploiters and the exploited, with the state serving as an apparatus of oppression and violence and as an instrument of economic, political and ideological dominance of the exploiters over the exploited. Slave owners were believed to represent the typical class of exploiters. Another characteristic feature of the slave system was the function of the hegemon. This function was exercised by the exploiters, who subordinated other social classes imposing on them their own ideas, values and needs.[8] Class interests in the slave formation were obviously contradictory – the aim of the owning class was to maintain its economic, political and ideological dominance, whereas the exploited non-owning class wanted to deprive the hegemon of its supremacy. This aggravating antagonistic conflict of interests led to a clash in all possible areas, known as the class struggle.[9] Marx's theory of class struggle that emphasised the historical nature of this struggle, lay at the root of Marxist's methodology. The intensification of the class struggle could lead to a revolution and to seizing of political and then economic and ideological power by the exploited class. The class struggle took different forms on each of the three levels indicated by Lenin – economic, political, and ideological. Depending on the conditions, goals and interests of particular classes, the class struggle could be manifested by strikes, demonstrations, revolutions, assassinations, electoral battles, diplomacy, or dictatorships.

To what extent did this theory apply to the ancient Roman state? This question was asked by historians in countries that were influenced by Marxist science af-

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ancient mode, and the feudal mode, with most researchers emphasising the difference between the ancient mode of production based on slavery, and the economic and social structure typical of the ancient East states, where slavery also existed. An overview of different views on this topic can be found, i.a., in the article of I. Bieżuńska-Małowist entitled *Główne kierunki badań nad niewolnictwem starożytnym we współczesnej historiografii* („Przegląd Historyczny" 1968, vol. 59(3), pp. 351–366). It was elaborated on in more detail in the monograph published later. See I. Bieżuńska-Małowist, M. Małowist, *Niewolnictwo*, Warszawa 1987 (especially in the part devoted to ancient times).

[8] According to Lenin, the basic criterion distinguishing classes is their place in social production, and thus their attitude to the means of production (see W.I. Lenin, *Dzieła*, vol. 6, Warszawa 1952, pp. 266–267). Lenin defined classes as "large groups of people differing from each other by the place they occupy in a historically determined system of social production, by their relation (in most cases fixed and formulated in law) to the means of production, by their role in the social organization of labour, and consequently by the dimensions of the share of social wealth of which they dispose and the mode of acquiring it. Classes are groups of people one of which can appropriate the labour of another owing to the different places they occupy in a definite system of social economy" (idem, *Dzieła*, vol. 29, Warszawa 1956, p. 415). Cf. A.G. Spirkin, *op. cit.*, p. 439.

[9] Marx and Engels described the class struggle in the following way: "Freeman and slave, patrician and plebeian, lord and serf, guild-master and journeyman, in a word, oppressor and oppressed, stood in constant opposition to one another, carried on an uninterrupted, now hidden, now open fight, a fight that each time ended, either in a revolutionary reconstitution of society at large, or in the common ruin of the contending classes" (K. Marks, F. Engels, *Manifest komunistyczny*, Warszawa 1949, p. 28).

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ter World War II. In the opening sentence of the first chapter of their *Communist Manifesto*, Marx and Engels wrote that "the history of all hitherto existing human society is the history of class struggles".[10] This statement was the starting point for interpretations and analyses carried out by researchers studying the evolution of societies.[11] It is particularly in the Stalinist era that the "only right" way of viewing history was not to be questioned. Stalin advanced the theory that Rome exemplified "the society and state ruling over the slaves" that fell as a result of the "slave revolt". His concept was accepted in the Soviet Union as not requiring any proof, and was boldly developed by historians. The slave system, which Antiquity was believed to represent, was bound to lead to the fall of Rome. This simplified thesis was upheld from the 1930s to the 1950s.[12]

The discussions between Marxist researchers and their critics were livened up by the publication of so far unknown Marx's work, *Pre-Capitalist Economic Formations* (*Formen, die der kapitalistischen Produktion vorhergen*),[13] which was translated into Russian in 1940 and which presented his views on different forms of

[10] *Ibidem*. It is worth emphasising that Marx's works lack a theoretical and universal approach to the problems of class divisions. The last, 52nd chapter of the third volume of *Capital*, which bears the title *Die Klassen*, has remained unfinished and Engels published only its beginning. This undoubtedly explains later difficulties in delineating the concept of class and formulating the definitions that could be applied to different societies. Two different ways of viewing "class" can be distinguished in the literature analysing Marx's approach to this conceptm: class as a historical concept and class as a sociological and economic concept. The class struggle falls within the latter aspect.

[11] Engels developed his theory on the disintegration of primitive communal society into classes in his 1884 treatise entitled *On the Origin of the Family, Private Property and the State*.

[12] Historiographic research in this area, with a particular emphasis given to the history of ancient slavery, was described by I. Bieżuńska-Małowist and M. Małowist in their work *Niewolnictwo* (*op. cit.*, pp. 18–26). For example, N.A. Maszkin in his *History of Ancient Rome* (*Historia starożytnego Rzymu*, Moskwa 1948) emphasised the fundamental antagonism (in Roman society) between slaves and slave owners, and he considered slave rebellions and the revolt of Spartacus as forms of class struggle. See N.N., *Stalin i nowa koncepcja Rzymu*, [in:] *W poszukiwaniu innej historii*, eds. R. Stobiecki, S.M. Nowinowski, Łódź–Paryż 2015, p. 100 (95–106). It was not only Soviet scholars that emphasised the class nature of ancient Roman society. French historian of Antiquity – J. Carcopino, when describing daily life in Rome in his very popular publication, confirmed the existence and consolidation of classes, "solidified at the top of the hierarchy" in the heyday of the Roman Empire. See Polish edition: J. Carcopino, *Życie codzienne w Rzymie w okresie rozkwitu cesarstwa*, Warszawa 1960, p. 82.

[13] The work was published under this title published in Berlin after World War II. I. Bieżuńska-Małowist and M. Małowist (*op. cit.*, p. 20) point out that the work was published in Moscow in 1939, while in Berlin in 1953. T. Kachlak *K. Marks i F. Engels o starożytności klasycznej*, Wrocław–Warszawa–Kraków 1967, p. 72) gives slightly different dates: Moscow 1940, Berlin 1952. This publication put an end to debates among some historians who suggested that Marx distinguished the Asiatic mode as a separate socio-economic system, while he was only referring to Asian or Eastern form of ownership. In this work, he also examined the development of Roman slave society in more depth.

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communal landed property.[14] Translated into Western languages in the 1950s, the work spurred many debates, including those on class divisions in ancient states.[15] In particular, it was pointed out that there was no clear criterion for determining the status of particular social groups and classes, and also that they were not homogeneous.[16] Researchers questioned the Marxist model of two opposing classes (slaves and slave owners), antagonized by conflict and class struggle, which was to bring about the reconstitution of society and result in the development of new relations and emergence of a new society created by the victorious class.[17]

Also, Polish historians wrote about class struggles in Antiquity. In 1967, T. Kachlak in his analysis of Marx's and Engels' views on classical Antiquity, showed contradictions that were developing between classes in the ancient Roman society and struggles of economic classes, which were described by Marx and Engels as the struggle between the patricians and the plebeians, and between the free and slaves. T. Kachlak believed that historians of Antiquity should thoroughly study Marxist guidelines and apply them.[18] His postulates were accepted in the years that followed, though implementing them turned out to be quite difficult. Even Soviet scholars questioned the legitimacy of using the terms: "class", "class structure" and "class struggle" in describing ancient societies, as these could only be used in reference to "sufficiently developed societies".[19]

In the 1980s, historical works that included analyses carried out from a Marxist perspective were published, thus spurring debates on class struggle in ancient societies.[20] Polish scholars that studied this period also joined in these debates. W. Lengauer,[21] for example, supported the view that slaves (both in ancient Greece and Rome) did not constitute a force that could lead to the reconstitution of society. In his opinion, applying traditional Marxist categories in this regard was

[14] *Ibidem*, pp. 87–98. In this work Marx's work and its importance for historians, in particular for Marxist historians, is discussed.

[15] I. Bieżuńska-Małowist, M. Małowist, *op. cit.*, pp. 20–25.

[16] Both Soviet and Western scholars voiced their opinions on this issue and tried to adopt various criteria for determining social class membership in Antiquity. See *ibidem*.

[17] R. Dahrendorf, *Class and Class Conflict in Industrial Society*, Stanford 1959, pp. 4–35.

[18] T. Kachlak, *op. cit.*, pp. 56–57 (on the class struggle in ancient Rome), 64–65 and 98 (on guidelines for historians of Antiquity).

[19] S.L. Utchenko, I.M. Diakonoff, *Social Stratification of Ancient Society*, 13th International Congress of Historians, Moscow, August 16–23, 1970, p. 3.

[20] G.E.M. de Ste. Croix, *The Class Struggle in the Ancient Greek World from the Archaic Age to the Arab Conquests*, Oxford 1981. This work, influenced by Marxist science and its methodology, deals primarily with ancient Greece, although the author makes frequent references to the society of ancient Rome (e.g. p. 53).

[21] W. Lengauer, *"Index". Quaderni camerati di studi romanistici, Napoli 1982*, „Przegląd Historyczny" 1983, vol. 74(3), pp. 527–531; idem, *O trudnościach marksistowskiej analizy społeczeństw starożytnych (w związku z książką G.E.M. de Ste. Croix, The Class Struggle in the Ancient Greek World, London 1981)*, „Przegląd Historyczny" 1984, vol. 75(5), pp. 105–118.

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questionable[22] and "this is not just about using the concept of class struggle itself, but about using the concept of class as such in reference to slaves and other social groups".[23] His opinion that it is disputable to treat slaves as a homogeneous class, is hard not to agree with, considering the diversity of this group, different functions that slaves performed, their different social and economic positions and ways they were treated.[24] Similarly, the "class of owners" was very heterogeneous in its structure; they differed in terms of their education, social position, political views, or economic status.[25]

Roman law as a legal history discipline has been influenced by a discipline closely related to it, i.e. by history. Thus, the views on class divisions in Roman society also permeated the research into Roman law. The methodological approach based on Marxist doctrine was influential here, as well. The class nature of Roman society and the influence of class struggles on the development of the state and

[22] The struggle of antagonistic classes was to end with the victory of one class over the other, with the winning class (the carrier of a new social structure) creating new relations and defining the nature of a new society that had come into being as a result of the struggle. See idem, *O trudnościach marksistowskiej analizy…*, p. 106.

[23] "It is therefore a matter of the usefulness of Marxism as a scientific tool in describing and analysing ancient societies" (*ibidem*, p. 107).

[24] *Ibidem*, p. 111, 113. On the diversity within the class of slaves, see e.g. R. Kamienik, *Z zagadnień życia rodzinnego niewolników w Rzymie za cesarstwa*, „Acta Universitatis Wratislaviensis. Antiquitas V" 1975, vol. 256, pp. 49–77.

[25] Undoubtedly, the class of owners consisted of various social strata in ancient Rome – both higher (senators, equites) and lower (city proletariat, small artisans, and merchants). For more information on how classes were categorised and various approaches in this regard, including literature, see W. Lengauer, *O trudnościach marksistowskiej analizy…*, pp. 116–118. The Roman society was classified according to various criteria; one of these was wealth, though social position at that time did not depend only on wealth. Basic information on this subject can be found in: T. Mommsen, *Römisches Staatsrecht*, vol. 3, part 1, Leipzig 1887 (reprint Cambridge 2009). Historians' growing interest in the subject of social stratification in ancient Rome and generally in Roman social history can be observed in the time when science was influenced by the Socialist doctrine. Extensive Polish literature on this issue includes, for example, the following publications: I. Bieżuńska-Małowist, *Poglądy nobilitas okresu Nerona i ich podłoże społeczno-gospodarcze*, Warszawa 1956; M. Jaczynowska, *Historia starożytnego Rzymu*, Warszawa 1986; eadem, *Własność ziemska nobilów w okresie schyłku republiki rzymskiej*, „Roczniki Dziejów Społecznych i Gospodarczych" 1959, vol. 21, pp. 9–49; eadem, *Dochody arystokracji senatorskiej z prowincji rzymskich a jej zróżnicowanie społeczno-ekonomiczne na schyłku republiki*, „Kwartalnik Historyczny" 1960, vol. 67(2), pp. 297–324; A. Krawczuk, *Sytuacja majątkowa nobilitas rzymskiej u schyłku republiki*, „Rocznik Naukowo-Dydaktyczny" 1962, no. 14, pp. 3–12; S. Łoś, *Możnowładztwo rzymskie od IV-go do I-go wieku przed Chrystusem*, „Meander" 1946, no. 1, pp. 3–44; T. Łoposzko, *Historia społeczna republikańskiego Rzymu*, Warszawa 1987; idem, *Ruchy plebejskie w Rzymie. Od Grakchów do Cezara*, Lublin 1982; idem, *Średniozamożne warstwy społeczeństwa rzymskiego w dobie upadku republiki*, „Annales UMCS. Sectio F" 1959, vol. 14(3), pp. 53–99; idem, *Zarys dziejów społecznych cesarstwa rzymskiego*, Lublin 1989.

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norms in ancient Rome should therefore provide a new perspective for studying Roman law.[26] This change of perspective would give new research results.

The criminal law of ancient Rome was not of close interest to Polish Roman law scholars at that time. Criminal law dealt with *crimina publica*, which violated the interest and security of the Roman state, and as such they were prosecuted by the state in a public criminal trial.[27] Crimes could not be left unpunished.[28] As early as in the Law of the Twelve Tables, sanctions were provided for committing a crime, thus constituting the first norms of criminal liability. Since then, the involvement of state authorities in prosecuting unlawful acts had been statutory and Roman criminal law had been developing mainly through the *leges*.[29] These were largely procedural, hence Roman criminal law and the Roman criminal procedure were closely interrelated, and they evolved in line with each other.[30] However, criminal law was not fully codified, even in Justinian's legislation. The final parts of Justinian's Code were devoted to criminal law and criminal proceedings: in the Institutes of Justinian, this is Title 4.18 (*De publicis iudiciis*), while in the Digest, two books 47 and 48 – the so-called *Duo terribiles libri* were devoted to unlawful acts in private law (*delicta*) and in public law (*crimina*).[31] Looking at the evolution of Roman criminal law over time, it is possible to indicate different periods of its development, as compared with private law.[32]

Apart from its public character, the procedural approach and the specific way it developed – mainly through the statutes, the criminal law in ancient Rome was

[26] More information on the scientific method used by Roman law scholars who aspired to be called "Marxist", can be found in B. Czech-Jezierska, *Ius publicum i ius privatum…*, pp. 52–55; eadem, *Milan Bartošek…*; M. Kuryłowicz, *Szkic do dziejów…*, p. 933, 945.

[27] *Delicta* as civil wrongs, resulted in *obligatio* and constituted part of the law of obligations. See e.g. K. Amielańczyk, *Crimina legitima…*, p. 17; A. Dębiński, J. Misztal-Konecka, M. Wójcik, *Prawo rzymskie publiczne*, Warszawa 2017, p. 186; M. Kuryłowicz, M. Żołnierczuk, J. Kosiorkiewicz, *Historia prawa państw antycznych* (*ze szczególnym uwzględnieniem prawa rzymskiego)*, Lublin 1980, p. 191; W. Litewski, *Rzymski proces karny*, Kraków 2003, p. 15.

[28] *Interest rei publicae, ne maleficia remaneant impunita*. Cf. Ulpianus D. 5.1.18; K. Burczak, A. Dębiński, M. Jońca, *Łacińskie sentencje i powiedzenia prawnicze*, Warszawa 2018, p. 122 (no. 148); M. Kuryłowicz, *Prawo i obyczaje w starożytnym Rzymie*, Lublin 2020, pp. 189–199.

[29] M. Kuryłowicz, *De publicis iudiciis…*, p. 561; K. Amielańczyk, *Crimina legitima…*, pp. 9, 16–17, 19. On the evolution of Roman criminal law from the Law of the Twelve Tables to Sulla's dictatorship, see P. Kołodko, *Ustawodawstwo rzymskie w sprawach karnych*, Białystok 2012.

[30] W. Litewski, *Rzymski proces…*, p. 16.

[31] For more information on these regulations, see K. Amielańczyk, *Crimina legitima…*, p. 12, 17 (with references to Justinian's laws in the whole publication); M. Kuryłowicz, *Libri terribiles…*; idem, *Rzymskie ustawodawstwo karne…*

[32] K. Amielańczyk, *Crimina legitima…*, p. 18; M. Kuryłowicz, *Rzymskie ustawodawstwo karne…*, p. 252.

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undoubtedly influenced by politics.[33] The policy of the Roman legislator concerning criminal law aimed not only at protecting the state interests, but also at protecting the society against crimes by means of an appropriate system of penalties. Political aspects were clearly visible in Roman criminal legislation, though their intensity varied over the millennia.[34]

Were Marxist Roman law scholars successful in adding the class approach as another feature of the criminal law in ancient Rome?

Roman law scholars who tried to apply the Marxist method in their research saw class divisions primarily in Roman private law, which was based on private property in the socio-economic formation of exploiting owners. Private law was considered to be a product of social, economic and political development in ancient Rome while being rooted in the Roman state system.[35] Public law was not studied that extensively. However, the most recognizable representative of the Marxist approach in the study of Roman law – M. Bartošek from Czechoslovakia – emphasised that the most negative consequences of using a wrong interpretation were often revealed in public law, which in his opinion had been permanently neglected.[36] "Erroneous conclusions" could result, for example, from ignoring the issue of class in the history of Roman law. The state, which – in his opinion – was the organization of the "ruling class", represented the interest of that class as opposed to the exploited masses, and protected that interest by means of legal norms. M. Bartošek thus believed that the class nature of Roman law was visible in public law. A similar approach was adopted by other Roman law scholars who used the Marxist method. One of them that deserves a mention here was F. de Martino. In his four-volume work *Storia della costituzione Romana*,[37] he presented class struggles primarily in the context of political struggles between the plebeians and the patricians, and the

[33] K. Amielańczyk, *Prawo karne i polityka. Czy rzymscy prawodawcy prowadzili ukierunkowaną politykę karną*, [in:] *Prawo karne i polityka w państwie rzymskim*, eds. K. Amielańczyk, A. Dębiński, D. Słapek, Lublin 2015, pp. 19–21.

[34] The penal policies of Cornelius Sulla, Emperor Hadrian and Justinian are dealt with extensively by K. Amielańczyk (*ibidem*).

[35] Cf. A. Wiliński, *Początki i wczesne dzieje ustroju rzymskiego (na marginesie książki Francesco De Martino, Storia della costituzione romana, Vol. I Napoli, E. Jovene, 1972, 2nd edition)*, „Czasopismo Prawno-Historyczne" 1975, vol. 27(1), pp. 295–306. Therefore, it was necessary to study specific institutions of Roman private law, and show how they were influenced by the existence of classes in ancient Rome; for example, the position of slaves, coloni, freedmen was to be analysed taking into consideration the fact that they belonged to the "oppressed class". Professor A. Wiliński joined in this approach, when examining the position of slaves in Roman law and combining private and criminal law in his research. See A. Chmiel, *Studia profesora Adama Wilińskiego…*, pp. 123–132; M. Kuryłowicz, *Adam Wiliński (1909–1977)*, „Annales UMCS sectio G (Ius)" 1988, vol. 35(1), pp. 123–132.

[36] B. Czech-Jezierska, *Ius publicum i ius privatum…*, p. 54.

[37] Napoli, 1951–1967.

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plebeians' assertion of their rights by means of revolution. F. de Martino, however, did not focus too much on Roman criminal law and the class character of this law.

This issue was discussed most extensively by M. Bartošek. He maintained that the class concept of the state and law constituted the main criterion and area of confrontation between the Marxist and bourgeois Roman law studies. The latter one emphasised equality before the law and universal justice, while Marxist science saw the law as an expression of social inequality and class oppression, which excluded universal justice. Hence, the law in a class society should be considered taking into account social, economic and other non-legal factors.[38] The class nature of law is most visible, as M. Bartošek claims, in criminal law; it is in criminal law that all social inequalities can be observed.[39]

According to M. Bartošek, the state is not only a geographical and political formation, but above all a political organization of the ruling class, which is established to realise the interests of that class. Likewise, dictatorship, i.e. one form of class struggle, is realised by means of the state.[40] Thus, the state cannot make laws that would be in contradiction with the interests of the ruling class; on the contrary, it will always protect those interests. Moreover, as M. Bartošek claims, those laws that seemingly stand in contradiction with such interests, were in fact passed to circumvent other norms or to avoid greater evil.[41] Thus, the law was a sharp weapon used by the ruling class against the remaining classes. In times of peace and quiet, when the power of the ruling class was well-established and not challenged in any way, this class could afford to make "humane" law, which enabled the working masses to live bearable lives. In revolutionary times, on the other hand, the law quickly ceased to be "humane", extraordinary laws and a state of emergency were introduced, and judicial murders took place. Thus, as M. Bartošek emphasises, it was always the ruling class that decided whether the law was "humane" or "inhumane".[42] It was in public law that the greater role of the state in protecting the interests of the ruling class can be seen.[43] Roman criminal law was part of the state activity, and as such it belonged to public law. It was neglected in traditional Roman law literature, this neglect being explained by the fact that Ro-

[38] M. Bartošek, *Třidni základy řimského procesního práva*, „Právněhistorické Studie" 1969, vol. 14, p. 119.

[39] *Ibidem*, p. 123. He also postulates here that the main task of Marxist Roman law scholars should be to show that the class was at the core of the entire Roman legal order.

[40] Idem, *Si, diritto romano e marxismo*, "KLIO. Beiträge zur Alten Geschichte" 1974, vol. 56, p. 264.

[41] The *favor libertatis*, or the grounds for setting a person free, can serve as an example here. These should not be seen as an expression of humanitarianism, but rather as following from the economic necessity. See *ibidem*, pp. 266, 273–278; B. Czech-Jezierska, *Milan Bartošek…*, pp. 216–219.

[42] M. Bartošek, *Si, diritto romano…*, p. 278.

[43] *Ibidem*, p. 289.

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man jurists themselves focused more on private law.[44] On the other hand, Marxist Roman law scholars were more interested in criminal law, believing that the ruling class protected its important interests also with the "iron fist of criminal law" in order to keep slaves, liberators and all other exploited in check.[45] *SC Silanianum* (10 C.E.)[46] was a flagship example of protecting the interests of masters, according to M. Bartošek. His conclusion was simple: Roman society was a class society controlled by a handful of the rich at the expense of millions of the poor, and the criminal law in ancient Rome served to perpetuate this state of things.[47]

In Poland, similar opinions were expressed by B. Łapicki. In his book on legal views of Roman slaves, he put forward the thesis that the slave class had existed in ancient Rome, and then went even further by stating that there had been a class that combined the interests of slaves and the proletariat.[48] He considered all manifestations of the struggle against masters and tyrannicide, to be forms of the class struggle. Likewise, he claimed that suppressing slave uprisings by the ruling class who considered them to be treason, was also an example of the class struggle. In his opinion, the class nature of criminal law intensified in the period of the Principate, and this was manifested in punishing the proletarians with degrading penalties (corporal, *in metallum*, *ad bestias*) and depriving them of the right to public prosecution.[49] Criminal law, therefore, started to treat the proletarians in the same way as slaves, extending the scope of penalties that had not been used to punish citizens in the times of the Roman Republic. This was one reason why, in his opinion, the proletarians started to identify with the slaves and share their views, with the hatred that unified these two groups becoming so widespread that the state authorities were forced to protect *humiliores*.[50]

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[44] This is also confirmed in contemporary Roman law literature. See W. Litewski, *Jurysprudencja rzymska*, Kraków 2000, p. 63, 100. More on this issue can be found in A. Chmiel, *Dzieła naukowe jurystów rzymskich w zakresie prawa karnego*, „Studia Iuridica Lublinensia" 2016, vol. 25(3), pp. 151–164 (with further literature).

[45] M. Bartošek, *Si, diritto romano…*, p. 291.

[46] Recently, about the meaning of this *senatus consultum* see A. Chmiel, *Przykład zastosowania s.c. Silanianum, czyli o tym, dlaczego rzymska 'iustitia' stawała się niekiedy okrutna*, [in:] *Przemoc w świecie starożytnym. Źródła, struktura, interpretacje*, eds. D. Słapek, I. Łuć, Lublin 2017, pp. 299–310.

[47] M. Bartošek, *Si, diritto romano…*, p. 162.

[48] B. Łapicki, *Poglądy prawne niewolników i proletariuszy rzymskich. Studium historyczne na tle bazy gospodarczej i antagonizmów klasowych*, Łódź 1955. In his textbook *Roman Law* (*Prawo rzymskie*, Warszawa 1948), in the chapter entitled *A social problem in ancient Rome* (*Problem społeczny w Rzymie starożytnym*), he pointed out three "disadvantaged classes": the proletarians, slaves and freedmen. His approach here was different, and his theses about class struggles were not as bold as the ones that he would put forward a few years later. See B. Łapicki, *Prawo rzymskie*, Warszawa 1948, pp. 88–95.

[49] Idem, *Etyczna kultura starożytnego Rzymu a wczesne chrześcijaństwo*, Łódź 1958, p. 145, cf. p. 167.

[50] Idem, *Poglądy prawne…*, pp. 196–197.

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B. Łapicki's book on legal views of slaves was criticized for his flawed presentation of the class issue, and in general for an inappropriate application of the Marxist method in the study of the Antiquity, or even "for the Marxist screen"[51] that he used. One of the critical reviewers was T. Łoposzko, who himself claimed that it was necessary to take into account the class struggle in the study of ancient Rome, drawing the dividing line between slaves and the poorest freemen, and the owning class – slave owners. He also favoured the view that the division into *honestiores* and *humiliores* in Roman society was based on class. He pointed out to various forms of the class struggle, e.g., flights of slaves, rebellions and uprisings, joining the *latrones*, assassinations of slave masters, social riots, tough internal policy of the Roman state and subjecting the lower classes to strict control of the authorities and the rich.[52] Nevertheless, in his opinion, B. Łapicki's presentation of the legal views of slaves and proletarians and the fact that he based the class struggle solely on ideology, could not be justified. Moreover, in view of the fact that the position of all slaves was not the same, one could not talk about their class consciousness.[53] Later, in the 1980s, the concept of slave revolt destroying Rome was irrevocably rejected, both in the Western and Soviet historiography.[54] It was pointed out at that time and confirmed later that the society in ancient Rome did not meet the criteria of a class society, and consequently the thesis that it was divided into social classes could not be defended. A convincing and extensive argument supporting this view can be found in G. Alföldy's work *Social History of Ancient Rome* published in 1975.[55] He emphasises that Roman society did not reflect the class model; it was a society divided into different layers and strata, in which people, especially

[51] Critics highlighted Łapicki's erroneous conclusions that slaves and proletarians shared legal views and class consciousness, as well as his simplified treatment of this group as the uniform one. See H. Geremkowa, T. Łoposzko, *Poglądy prawne niewolników i proletariuszy rzymskich: studium historyczne na tle bazy gospodarczej i antagonizmów klasowych*, *Borys Łapicki, Łódź 1955*, „Przegląd Historyczny" 1956, vol. 47(2), pp. 393–400. See also M. Staszków, *W sprawie poglądów prawnych niewolników i proletariuszy rzymskich*, „Czasopismo Prawno-Historyczne" 1956, vol. 8(2), pp. 321–335. Recently, Łapicki's work has been discussed by M. Bromboszcz (*Romanista w czasach stalinizmu – Borys Łapicki o powstaniach oraz walce niewolników z panami*, [in:] *Wojna i pokój. Wybrane zagadnienia historyczno-prawne*, eds. E. Kozerska, P. Sadowski, A. Szymański, Opole 2013, pp. 67–75).

[52] T. Łoposzko, *Zarys dziejów…*, pp. 77, 187–191.

[53] However, more than thirty years later, he claimed that the basic form of the struggle fought by slaves or coloni during the Empire was fleeing, or joining the barbarians or *Latrones*; this claim contradicts his earlier view that class consciousness constituted the essence of class struggle. He also emphasised the lack of clearly defined class consciousness among Roman *Latrones* and those who took part in social revolts, which did not prevent him from considering the bagaudae's and agonist's movements as forms of class struggle. This class struggle, in his opinion, continued throughout the entire Empire. See *ibidem*, pp. 205, 225–228.

[54] See e.g. *ibidem*, pp. 229–230.

[55] Polish translation: G. Alföldy, *Historia społeczna starożytnego Rzymu*, Poznań 1998.

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those belonging to lower strata were more bound to their masters than to other members of their strata. He argues that there was no uniform revolutionary class and that the interests of individual groups depended on their position and degree of dependency.[56] It should be added, however, that the concept of class and class division was frequently simplified or even trivialised in the literature on Marxism. Yet, if we assume that not all models of social classes meet the condition of "class consciousness" and "political struggle", it can be accepted that the concept of class can be used in describing the society of ancient Rome, although it is far from the etymology of the Latin term *classis*.[57]

It is worth noting that the very term "class" is used in relation to the society of ancient Rome in today's literature, including Roman law literature.[58] It seems, however, that it has acquired a completely different meaning than the ideological term used in the 20th century. It is used interchangeably with the terms "stratum" or "social group".[59] Thus, the belief in the class character of Roman law, including criminal law, did not prevail long; neither did the entire trend of Marxist Roman studies. As M. Kuryłowicz aptly put it, "Marxist postulates and programs, including Marxist Roman law studies, did not stand the test of time".[60]

Obviously, it cannot be ignored that contemporary scholars point out the fact that the criminal law in ancient Rome differentiated the position of individuals, e.g. by dividing them into *honestiores and humiliores*.[61] As early as in the Twelve

[56] T. Łoposzko, *Zarys dziejów…*, pp. 188–199, 274–275. This approach was favoured by I. Bieżuńska-Małowist and M. Małowist (*op. cit.*). It is worth noting that Marxist science made a distinction between the concept of class and that of social stratum. The social stratum was similar to the class in that it referred to a group of people, but this group did not share common interests, so the term "social stratum" referred to a group of people of a similar social position. They could constitute part of a social class, so there were also strata of classes. See *Słownik filozofii…*, p. 372.

[57] For more information, see T. Napolitano, s.v. *Classi*, [in:] *Novissimo Digesto Italiano*, cura di A. Azara, E. Eula, vol. 3, Torino 1974, pp. 345–349; s.v. *Class*, [in:] *The Cambridge Dictionary of Classical Civilization*, eds. G. Shipley, J. Vanderspoel, D. Mattingly, L. Foxhall, Cambridge 2006, pp. 207–208.

[58] The term "class" is used, e.g., by A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, e.g. p. 22, 195, 207, 212, 219, 232; F. Serrao, *Diritto privato economia e societa nella storia di Roma*, Napoli 2006, e.g. pp. 72–73, 79–82, 253–258.

[59] As in M. Jaczynowska, D. Musiał, M. Stępień, *Historia starożytnego Rzymu*, Warszawa 1999, though the term "class" is also used here (cf. e.g. p. 412).

[60] M. Kuryłowicz, *Szkic do dziejów…*, p. 945.

[61] K. Amielańczyk, *Prawo rzymskie w reskryptach cesarza Hadriana*, Lublin 2006, pp. 234–238; idem, *Ustawa Korneliusza Sulli przeciwko nożownikom i trucicielom*, Lublin 2011, p. 165; P. Kołodko, *Prawne ograniczenia chłosty w prawie rzymskim*, „Miscellanea Historico-Iuridica" 2006, vol. 4, pp. 27–28, 35; on punishing slaves with whipping: D. 48.19.10 pr.; p. 30 – on the privileged position of *honestiores* when administering punishment and torture – p. 29. For extensive information on how Roman slaves were punished, see L. Schumacher, *Niewolnictwo antyczne. Dzień powszedni i los niewolnych*, Poznań 2005, pp. 261–274.

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Tables, different penalties were provided for the same offence, e.g. for committing a theft, a free man was punished by whipping, while slaves were whipped and hurled from the Tarpeian Rock.[62] Offences committed by senators were subject to the jurisdiction of the Senate, and not that of the jury or imperial judges, who often came from lower social strata.[63] The death penalty that *lex Cornelia de sicariis et veneficis* provided for, was later replaced with deportation and confiscation of property when a crime was committed by *honestiores*, while *humiliores* were still punished with the death penalty (i.e. crucifixion or throwing to wild animals).[64] The crime of *sacrilegium*, when viewed as a minor offence, was punishable by sending to a mine in the case of *humiliores*, while *honestiores*[65] were punished with exile. In the case of *adulterium*, a husband could lawfully kill his wife's lover caught *in flagrante* only if the paramour was of a low social status, e.g., if he was a slave.[66] Under Justinian's legislation, *lenocinium* was punishable by forced labour in metal mines and deportation when it was committed by *humiliores*, whereas *honestiores* were only deprived of property, and faced the loss of dignity and office.[67] With the harshening of penalties, humbler classes were crucified or sent to the mines for committing *plagium*, while the upper classes had half of their property confiscated.[68] These examples of different penalties depending on whether the offender belonged to a lower or higher social stratum, can be multiplied. Similarly, criminal liability differed depending on who a victim was. For example, causing bodily injury by breaking somebody's bone was punished with heavier fines when the injury was inflicted on a free man. In the case of injuring a slave, fines were lower.[69]

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[62] J. Zabłocki, A. Tarwacka, *Publiczne prawo…*, 2011, p. 116.

[63] See A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, p. 195. The authors assessed such a decision as an expression of "class privilege".

[64] *Ibidem*, p. 198; K. Amielańczyk, *Crimina legitima…*, p. 183; idem, *Ustawa Korneliusza Sulli…*, pp. 164–170 (the author points out that *poena legis Corneliae* was the death penalty that did not depend on what class an offender belonged to, even if an offender of a higher stratum had the right to be exiled).

[65] A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, p. 207. For more information, see A. Dębiński, *Sacrilegium w prawie rzymskim*, Lublin 1995.

[66] K. Amielańczyk, *Crimina legitima…*, p. 286; A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, p. 210.

[67] A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, p. 211. For more information, see A. Sokala, *Lenocinium w prawie rzymskim*, Toruń 1992.

[68] K. Amielańczyk, *Crimina legitima…*, p. 275; A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, p. 212.

[69] Moreover, in cases involving broadly understood outrage, those belonging to a higher stratum had a privileged position, e.g. they could start a claim themselves, or through *procuratores*. For more information, see K. Amielańczyk, *Iniuria. Kilka uwag o przestępstwie naruszenia nietykalności cielesnej w prawie rzymskim*, [in:] *Przestępstwa przeciwko czci i nietykalności cielesnej*, ed. M. Mozgawa, Warszawa 2013, p. 15–31; idem, *Crimina legitima…*, pp. 200–219; A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, p. 213.

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Such discrepancies, however, were not a result of the class struggle, as Marxism wanted to see them, but rather they stemmed from different legal status of particular social strata. Moreover, the social strata were not uniform themselves, and depended on the development of the state system and social changes. The polarization of Roman society in terms of law application – including criminal law, was due to many factors, but it was primarily connected with the social status of an individual.[70] Slaves or disgraced persons were believed to deserve a more severe punishment than free persons or those who enjoyed a good reputation[71]. During a criminal trial, different rules were applied in relation to some categories of persons, e.g. torture was used to force slaves to testify. It is difficult, however, to regard this as a class approach; it is more of a reflection of the social position of different groups and social strata in ancient Rome, as well as the criminal policy of Roman lawmakers. Hence, the Marxist concept of antagonistic classes, as well as the concept of class struggle, which implied that class members were conscious of their common interests and pursued them with their joint effort, cannot be justified in Roman law studies.

Translated by Marta Cechowicz

[70] For example, the status of *personae probrosae* (*famosae*) – this group included those who held shameful occupations (prostitutes, procurers, innkeepers, bankers, actors, executioners, and gravediggers), those who were socially despised (gamblers and money-losers, tramps, beggars, homosexuals, and Christians), and persons of low legal status (slaves, freedmen, and peregryni). See S. Ruciński, *Praefectus urbi. Strażnik porządku publicznego w Rzymie w okresie wczesnego Cesarstwa*, Poznań 2008, p. 105. Cf. E. Loska, *Pozycja prawna aktorów starożytnym Rzymie*, Warszawa 2018, pp. 62–67 – the author believes that this catalogue is too extensive. On *probrum*, see A. Sokala, *Probrum: z badań nad występkami przeciw obyczajności w prawie rzymskim*, „Acta Universitatis Nicolai Copernici. Historia" 1996, vol. 29(309), pp. 37–45. Roman citizens included those who enjoyed full public rights (*cives optimo iure*) and those who were denied such rights. For more on citizens' rights and how they varied, see e.g. K. Wyrwińska, *op. cit*. On actors in ancient Rome, who belonged to a group that did not enjoy full civil rights and who were referred to by the author as *cives pessimo iure*, see E. Loska, *Cives pessimo iure. Aktorzy a uprawnienia rzymskich obywateli w prawie publicznym republiki i wczesnego pryncypatu*, „Zeszyty Prawnicze" 2014, vol. 14(3), pp. 167–191. Interestingly enough, differences in the social and legal status in ancient Rome were not reflected in headstone inscriptions. This has been pointed out recently by M. Kuryłowicz (*Rzymskie prawo oraz zwyczaje grobowe i pogrzebowe. Studia i szkice*, Lublin 2020, pp. 76–77).

[71] D. 48.19.28.16 (Call. 6 *de cogn*.): *Maiores nostri in omni supplicio severius servos quam liberos, famosos quam integrae famae homines punierunt* ("Our ancestors punished slaves more harshly than freemen, and people of bad reputation more severely than those of impeccable opinion"). On the status of slaves in the Roman criminal trial, see E. Loska, *Kilka uwag na temat zeznań niewolników w procesie karnym*, „Zeszyty Naukowe KUL" 2017. vol. 60(3), pp. 449–464; eadem, *Obowiązek niewolników obrony swojego właściciela*, „Zeszyty Prawnicze" 2004, vol. 4(1), p. 45 ff.; K. Amielańczyk, *Głos cesarza Hadriana w sprawie s.c. Silanianum*, „Zeszyty Prawnicze" 2006, vol. 6(1), p. 9 ff.; idem, *Prawo rzymskie w reskryptach…*, pp. 131–175; A. Chmiel, *Ochrona bezpieczeństwa właścicieli niewolników w świetle S.C. Silanianum – zagadnienia dowodowe*, [in:] *Ochrona bezpieczeństwa i porządku publicznego w prawie rzymskim*, eds. K. Amielańczyk, A. Dębiński, D. Słapek, Lublin 2010, p. 54 ff.; idem, *Przykład zastosowania s.c. Silanianum…*, pp. 299–310.

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REFERENCES

Amielańczyk K., *Crimina legitima w rzymskim prawie publicznym*, Lublin 2013.
Amielańczyk K., *Głos cesarza Hadriana w sprawie s.c. Silanianum*, „Zeszyty Prawnicze" 2006, vol. 6(1), DOI: **https://doi.org/10.21697/zp.2006.6.1.02**.
Amielańczyk K., *Iniuria. Kilka uwag o przestępstwie naruszenia nietykalności cielesnej w prawie rzymskim*, [in:] *Przestępstwa przeciwko czci i nietykalności cielesnej*, ed. M. Mozgawa, Warszawa 2013.
Amielańczyk K., *Prawo karne i polityka. Czy rzymscy prawodawcy prowadzili ukierunkowaną politykę karną*, [in:] *Prawo karne i polityka w państwie rzymskim*, eds. K. Amielańczyk, A. Dębiński, D. Słapek, Lublin 2015.
Amielańczyk K., *Prawo rzymskie w reskryptach cesarza Hadriana*, Lublin 2006.
Amielańczyk K., *Ustawa Korneliusza Sulli przeciwko nożownikom i trucicielom*, Lublin 2011.
Bartošek M., *Si, diritto romano e marxismo*, "KLIO. Beiträge zur Alten Geschichte" 1974, vol. 56, DOI: **https://doi.org/10.1524/klio.1974.56.56.245**.
Bartošek M., *Třidni základy římského procesního práva*, „Právněhistorické Studie" 1969, vol. 14.
Bieżuńska-Małowist I., *Główne kierunki badań nad niewolnictwem starożytnym we współczesnej historiografii*, „Przegląd Historyczny" 1968, vol. 59(3).
Bieżuńska-Małowist I., *Poglądy nobilitas okresu Nerona i ich podłoże społeczno-gospodarcze*, Warszawa 1956.
Bieżuńska-Małowist I., Małowist M., *Niewolnictwo*, Warszawa 1987.
Bojarski W., *Prawo rzymskie*, Toruń 1983.
Bromboszcz M., *Romanista w czasach stalinizmu – Borys Łapicki o powstaniach oraz walce niewolników z panami*, [in:] *Wojna i pokój*. *Wybrane zagadnienia historyczno-prawne*, eds. E. Kozerska, P. Sadowski, A. Szymański, Opole 2013.
Burczak K., Dębiński A., Jońca M., *Łacińskie sentencje i powiedzenia prawnicze*, Warszawa 2018.
Carcopino J., *Życie codzienne w Rzymie w okresie rozkwitu cesarstwa*, Warszawa 1960.
Chmiel A., *Dzieła naukowe jurystów rzymskich w zakresie prawa karnego*, „Studia Iuridica Lublinensia" 2016, vol. 25(3), **DOI: http://dx.doi.org/10.17951/sil.2016.25.3.151**.
Chmiel A., *Ochrona bezpieczeństwa właścicieli niewolników w świetle S.C. Silanianum – zagadnienia dowodowe*, [in:] *Ochrona bezpieczeństwa i porządku publicznego w prawie rzymskim*, eds. K. Amielańczyk, A. Dębiński, D. Słapek, Lublin 2010.
Chmiel A., *Przykład zastosowania s.c. Silanianum, czyli o tym, dlaczego rzymska 'iustitia' stawała się niekiedy okrutna*, [in:] *Przemoc w świecie starożytnym. Źródła, struktura, interpretacje*, eds. D. Słapek, I. Łuć, Lublin 2017.
Chmiel A., *Studia profesora Adama Wilińskiego nad rzymskim prawem karnym*, „Studia Iuridica Lublinensia" 2010, vol. 13.
Czech-Jezierska B., *Ius publicum i ius privatum w świetle poglądów tzw. romanistyki marksistowskiej (przykład Czechosłowacji)*, „Studia Prawno-Ekonomiczne" 2018, vol. 108.
Czech-Jezierska B., *Milan Bartošek i problem „właściwej metody" w badaniach nad prawem rzymskim*, [in:] *In varietate concordia. Księga jubileuszowa z okazji XXX-lecia pracy naukowej Prof. Bronisława Sitka*, eds. K. Ciućkowska, J. Szczerbowski, Warszawa 2019.
Dahrendorf R., *Class and Class Conflict in Industrial Society*, Stanford 1959.
Dębiński A., *Sacrilegium w prawie rzymskim*, Lublin 1995.
Dębiński A., Misztal-Konecka J., Wójcik M., *Prawo rzymskie publiczne*, Warszawa 2017.
Engels F., *Pochodzenie rodziny, własności prywatnej i państwa*, Kraków 1912.
Geremkowa H., Łoposzko T., *Poglądy prawne niewolników i proletariuszy rzymskich: studium historyczne na tle bazy gospodarczej i antagonizmów klasowych*, *Borys Łapicki, Łódź 1955*, „Przegląd Historyczny" 1956, vol. 47(2).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 12:38:09

Jaczynowska M., *Dochody arystokracji senatorskiej z prowincji rzymskich a jej zróżnicowanie społeczno-ekonomiczne na schyłku republiki*, „Kwartalnik Historyczny" 1960, vol. 67(2).
Jaczynowska M., *Historia starożytnego Rzymu*, Warszawa 1986.
Jaczynowska M., *Własność ziemska nobilów w okresie schyłku republiki rzymskiej*, „Roczniki Dziejów Społecznych i Gospodarczych" 1959, vol. 21.
Jaczynowska M., Musiał D., Stępień M., *Historia starożytnego Rzymu*, Warszawa 1999.
Jurewicz A., Sajkowski R., Sitek B., Szczerbowski J., Świętoń A., *Rzymskie prawo publiczne. Wybrane zagadnienia*, Olsztyn 2011.
Kachlak T., *K. Marks i F. Engels o starożytności klasycznej*, Wrocław–Warszawa–Kraków 1967.
Kamienik R., *Z zagadnień życia rodzinnego niewolników w Rzymie za cesarstwa*, „Acta Universitatis Wratislaviensis. Antiquitas V" 1975, vol. 256.
Kołodko P., *Prawne ograniczenia chłosty w prawie rzymskim*, „Miscellanea Historico-Iuridica" 2006, vol. 4.
Kołodko P., *Ustawodawstwo rzymskie w sprawach karnych*, Białystok 2012.
Krawczuk A., *Sytuacja majątkowa nobilitas rzymskiej u schyłku republiki*, „Rocznik Naukowo-Dydaktyczny" 1962, no. 14.
Kuryłowicz M., *Adam Wiliński (1909–1977)*, „Annales UMCS sectio G (Ius)" 1988, vol. 35(1).
Kuryłowicz M., *De publicis iudiciis. Instytucje justyniańskie o postępowaniach sądowych publicznych*, [in:] *Problemy stosowania prawa sądowego. Księga ofiarowana Profesorowi Edwardowi Skrętowiczowi*, ed. I. Nowikowski, Lublin 2007.
Kuryłowicz M., *Libri terribiles*. *Z historii rzymskiego prawa karnego*, [in:] *W kręgu teorii i praktyki prawa karnego. Księga poświęcona pamięci Profesora Andrzeja Wąska*, eds. L. Leszczyński, E. Skrętowicz, Z. Hołda, Lublin 2005.
Kuryłowicz M., *M. Zabłocka, Romanistyka polska w pierwszym dziesięcioleciu XXI wieku*. *Warszawa 2013, ss. 209*, „Czasopismo Prawno-Historyczne" 2015, vol. 67(1), DOI: **https://doi.org/10.14746/cph.2014.46.2.27**.
Kuryłowicz M., *Prawo i obyczaje w starożytnym Rzymie*, Lublin 2020.
Kuryłowicz M., *Rzymskie prawo karne w polskich badaniach romanistycznych*, „Zeszyty Naukowe Uniwersytetu Rzeszowskiego. Prawo" 2003, vol. 1(7).
Kuryłowicz M., *Rzymskie prawo oraz zwyczaje grobowe i pogrzebowe. Studia i szkice*, Lublin 2020.
Kuryłowicz M., *Rzymskie ustawodawstwo karne w kodyfikacji justyniańskiej*, [in:] *Ius Romanum Schola Sapientiae. Pocta Petrovi Blahovi k. 70. narodeninám*, eds. P. Mach, M. Nemec, M. Pekarik, Trnava 2009.
Kuryłowicz M., *Scripta minora selecta. Ausgewählte Schriften zum römischen Recht*, Lublin 2014.
Kuryłowicz M., *Szkic do dziejów tzw. romanistyki marksistowskiej*, „Z Dziejów Prawa" 2019, vol. 12(20), **DOI: https://doi.org/10.31261/ZDP.2019.20.52**.
Kuryłowicz M., *Ustawodawstwo rzymskie w sprawach karnych*, „Annales UMCS sectio G (Ius)" 1988, vol. 35.
Kuryłowicz M., Żołnierczuk M., Kosiorkiewicz J., *Historia prawa państw antycznych* (*ze szczególnym uwzględnieniem prawa rzymskiego)*, Lublin 1980.
Lengauer W., *"Index". Quaderni camerati di studi romanistici, Napoli 1982*, „Przegląd Historyczny" 1983, vol. 74(3).
Lengauer W., *O trudnościach marksistowskiej analizy społeczeństw starożytnych (w związku z książką G.E.M. de Ste. Croix, The Class Struggle in the Ancient Greek World, London 1981)*, „Przegląd Historyczny" 1984, vol. 75(5).
Lenin W.I., *Dzieła*, vol. 6, Warszawa 1952.
Lenin W.I., *Dzieła*, vol. 29, Warszawa 1956.
Litewski W., *Jurysprudencja rzymska*, Kraków 2000.
Litewski W., *Rzymski proces karny*, Kraków 2003.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 12:38:09

Loska E., *Cives pessimo iure. Aktorzy a uprawnienia rzymskich obywateli w prawie publicznym republiki i wczesnego pryncypatu*, „Zeszyty Prawnicze" 2014, vol. 14(3), DOI: **https://doi.org/10.21697/zp.2014.14.3.08**.

Loska E., *Kilka uwag na temat zeznań niewolników w procesie karnym*, „Zeszyty Naukowe KUL" 2017. vol. 60(3).

Loska E., *Obowiązek niewolników obrony swojego właściciela*, „Zeszyty Prawnicze" 2004, vol. 4(1), DOI: **https://doi.org/10.21697/zp.2004.4.1.03**.

Loska E., *Pozycja prawna aktorów starożytnym Rzymie*, Warszawa 2018.

Łapicki B., *Etyczna kultura starożytnego Rzymu a wczesne chrześcijaństwo*, Łódź 1958.

Łapicki B., *Poglądy prawne niewolników i proletariuszy rzymskich. Studium historyczne na tle bazy gospodarczej i antagonizmów klasowych*, Łódź 1955.

Łapicki B., *Prawo rzymskie*, Warszawa 1948.

Łoposzko T., *Historia społeczna republikańskiego Rzymu*, Warszawa 1987.

Łoposzko T., *Ruchy plebejskie w Rzymie. Od Grakchów do Cezara*, Lublin 1982.

Łoposzko T., *Średniozamożne warstwy społeczeństwa rzymskiego w dobie upadku republiki*, „Annales UMCS. Sectio F" 1959, vol. 14(3).

Łoposzko T., *Zarys dziejów społecznych cesarstwa rzymskiego*, Lublin 1989.

Łoś S., *Możnowładztwo rzymskie od IV-go do I-go wieku przed Chrystusem*, „Meander" 1946, no. 1.

Marks K., Engels F., *Ideologia niemiecka*, [in:] K. Marks, F. Engels, *Dzieła*, vol. 3, Warszawa 1975.

Marks K., Engels F., *Manifest komunistyczny*, Warszawa 1949.

Maszkin N.A., *Historia starożytnego Rzymu*, Moskwa 1948.

Mommsen T., *Römisches Staatsrecht*, vol. 3, part 1, Leipzig 1887 (reprint Cambridge 2009).

NapolitanoT. , s.v. *Classi*, [in:] *Novissimo Digesto Italiano*, cura di A. Azara, E. Eula, vol. 3, Torino 1974.

N.N., *Stalin i nowa koncepcja Rzymu*, [in:] *W poszukiwaniu innej historii*, eds. R. Stobiecki, S.M. Nowinowski, Łódź–Paryż 2015.

Ojzerman T.I., *Powstanie filozofii marksistowskiej*, Warszawa 1966.

Palmirski T., *Publiczne prawo rzymskie. Zarys wykładu. Skrypt dla studentów prawa i administracji*, Kraków 2006.

Ruciński S., *Praefectus urbi. Strażnik porządku publicznego w Rzymie w okresie wczesnego Cesarstwa*, Poznań 2008.

Rzymskie prawo publiczne, eds. B. Sitek, P. Krajewski, Olsztyn 2006.

Schumacher L., *Niewolnictwo antyczne. Dzień powszedni i los niewolnych*, Poznań 2005.

Serrao F., *Diritto privato economia e societa nella storia di Roma*, Napoli 2006.

Słownik filozofii marksistowskiej, eds. T.M. Jaroszewski, B. Janiec, M. Michalik, S. Opara, Warszawa 1982.

Sokala A., *Lenocinium w prawie rzymskim*, Toruń 1992.

Sokala A., *Probrum: z badań nad występkami przeciw obyczajności w prawie rzymskim*, „Acta Universitatis Nicolai Copernici. Historia" 1996, vol. 29(309).

Spirkin A.G., *Zarys filozofii marksistowskiej*, Warszawa 1968.

Stalin J., *W sprawie marksizmu w językoznawstwie*, „Pamiętnik Literacki" 1950, vol. 41(2).

Staszków M., *W sprawie poglądów prawnych niewolników i proletariuszy rzymskich*, „Czasopismo Prawno-Historyczne" 1956, vol. 8(2).

Ste. Croix G.E.M. de, *The Class Struggle in the Ancient Greek World from the Archaic Age to the Arab Conquests*, Oxford 1981.

The Cambridge Dictionary of Classical Civilization, eds. G. Shipley, J. Vanderspoel, D. Mattingly, L. Foxhall, Cambridge 2006.

Utchenko S.L., Diakonoff I.M., *Social Stratification of Ancient Society*, 13th International Congress of Historians, Moscow, August 16–23, 1970.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 12:38:09

Wiliński A., *Początki i wczesne dzieje ustroju rzymskiego (na marginesie książki Francesco De Martino, Storia della costituzione romana, Vol. I Napoli, E. Jovene, 1972, 2nd edition)*, „Czasopismo Prawno-Historyczne" 1975, vol. 27(1).
Wyrwińska K., *Civis romanus sum. Rzymskie prawo publiczne. Wybrane zagadnienia*, Kraków 2015.
Zabłocka M., *Badania romanistów w latach 2011–2013*, „Zeszyty Prawnicze" 2015, vol. 15(2), DOI: **https://doi.org/10.21697/zp.2015.15.2.10**.
Zabłocka M., *Romanistyka polska w pierwszym dziesięcioleciu XXI wieku*, Warszawa 2013.
Zabłocki J., Tarwacka A., *Publiczne prawo rzymskie*, Warszawa 2011.
Zabłocki J., Tarwacka A., *Publiczne prawo rzymskie. Skrypt z wyborem źródeł*, Warszawa 2005.

ABSTRAKT

Teoria oparta o walkę klas leżała u podstaw metodologii nauki marksistowskiej. Materializm historyczny w odniesieniu do antycznego państwa rzymskiego zakładał istnienie formacji niewolniczej, a dalsze interpretacje historyków marksistowskich prowadziły do rozwijania koncepcji klasowości społeczeństwa rzymskiego. Poglądy na ten temat przenikały również do romanistycznych badań naukowych. Prawo rzymskie należało badać pod kątem wpływu, jaki miała klasowość na rozwój państwa i norm funkcjonujących w antycznym Rzymie. Dotyczyło to przede wszystkim rzymskiego prawa prywatnego i nim przede wszystkim się zajmowano. Zamierzeniem autorki jest próba ustalenia, czy klasowość była wówczas również punktem odniesienia do badań nad rzymskim prawem karnym, mającym charakter norm publicznych. W artykule przeanalizowano w tym celu najbardziej reprezentatywne poglądy romanistów stosujących metodologię marksistowską. Mimo ich naukowych starań ostatecznie trudno jednak było im utrzymać nawet koncepcję zakładającą istnienie w starożytnym Rzymie jednolitych w swej strukturze antagonistycznych klas, nie wspominając już o domniemaniu ich świadomości w tym zakresie. Zróżnicowanie prawne poszczególnych warstw społecznych, także przez normy rzymskiego prawa karnego, nie było zatem wynikiem klasowości, lecz specyfiki antycznego społeczeństwa rzymskiego.

Słowa kluczowe: rzymskie prawo karne; klasowość; antyczny Rzym; metodologia marksistowska; romanistyczne badania naukowe