

Dérer Beatrice¹: The Roman law and the construction

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The Law of the Twelve Tables (*Lex Duodecim Tabularum*)

Starting as being a monarchy, at the time Rome assured its name in history, so to speak, around the 7th century BC the kings were expelled and it became a republic. At that time, Rome has only been a town on the left bank of the Tiberius river, with inhabitants considering themselves as being the descendants of the Trojans. Then, the law they obeyed has been the unwritten one – the custom law.² At times, when the application of customary law in a particular case has been in doubt, the interpretation was given to be decided by the college of the *Pontifex*. This body was teamed up with members of the nobility and was responsible for the religious cult at the level of the state. The population was divided into two social strata: the *Patricians* and *Plebeians*. The *Pontifex* have been elected only from the first layer of the ranks. According to the wishes of the plebeians, that requested the written form of the custom law, in the year 451 BC it has been established a new committee – the *Council of decemviri*, composed of ten men. Their job was to prepare the written version of the custom law. The result of the work of the Commission's written law has been known as being The Law of the Twelve Tables (*Lex Duodecim Tabularum*). The written norms have become the notorious LEX, with its two main characters: the public and the binding one.³

The Roman law, seen in its material sense (*norma agendi*) is part of the system, that regulated the conduct of the population of Rome, as well as of the populations of the conquered surroundings. Its main commands have been the following: To live honestly, to injure no one, to render to each his own (*honesto vivere, alterum non laedere, suum cuique tribuere*), while its main parts have been: the public and the private law (*jus publicum and jus privatum*).⁴ The Public Roman Law's leader: *Salus reipublicae suprema lex esto*. Rome has left, this patriotic idea, as well as the patterns of the state institutions, as a legacy for the posterity.

One of the outstanding merit of the Romans has been the creation of the complex civil law, a more complex law than it has ever been known at that time. It has a worldwide - historical importance, becoming the fundament and basis of today's continental law's set of rights. The Roman law's subjective rights: the outwardly apparent freedom of action, the power (*potestas agenda facultas*). Individual right to life is offset due to the individual parts. The subjective law could have been obtained, exercised, transferred, protected, disposed of or lost. According to the subjective law, one could not trespass the other's right. In case of violations of rights, one has been entitled to demand protection (*vi vim repellere, action, exception*). The secular law (*jus profanum*) has been slowly emerging, remaining for a long time in the same form as in its early era.

The creation of The Law of the Twelve Tables (*Lex Duodecim Tabularum*) represents the first milestone in the history of the Roman law. Starting by including increased legal certainty to the legal system, it has been allowed the possibility to get knowledge of legal issues to any interested person, information known and held before only by the Pontifex. Thus, it has been restricted the

governor's power of enforcement (*manus iniectio*), the Praetor (*Special Magistrates*) has been taken under control, the family system has changed, by taking into consideration only a person – the owner (*princeps Familiae, pater familias*), who could freely exercise its civil rights (*in comitiis calatis and in procinctu*).

The Law of the Twelve Tables (*Lex Duodecim Tabularum*), has established the legal basis of the lent of money (*fenus unciarium 8 1 / 3%*), held in guardianship, introduced the issuance of money (*pecunia numerata*), at the beginning the pecus, and then, the raw copper (*pecunia ponderata*) has been the way to exchange. Several law institutions, that have been firstly or patrician or plebeian institutions, now started to be a national common law institution. The law has not been remaining the same in extensor, but subsequently increased in prestige, such as the Hungarian law – the ‘Aranybulla’ or England’s ‘Magna Carta Libertatis’ so that the jurists’ activity and writings of the legal text can be traced. Analyzing The Law of the Twelve Tables (*Lex Duodecim Tabularum*), the most extensive law is the one of the lex Julia and Dad Poppaea – about the increase of family life, from the time of Augustus. According to Montesquieu's point of view, this is the most beautiful piece of the Roman legislation.

Rome, seen as a conqueror, has come into contact with many populations. After comparing the legal system of more nations, it has come to attention that the early Roman civil law (*jus civile*) has not been conducive to such use of universal application rights, because it is very strong and formal, and the formal conditions of validity of the desired effects lasts.

Thus, the Roman jurists created a legal system, based on custom law and jurisprudence. This new legal system has been providing legislative power to the jurist (*conditores iuris*). Their work has been appreciated and acknowledged not only by the emperor, but also by the public: they have been called scientists (*prudentes*). The Council, in the time of the Principality, has embodied the legal system with some interesting decisions that contributed to the development of the private law (*Senate consultum*), particularly the law of inheritance (*jure succession ex novo*). Augustus and the other emperors, as well as other high ranked officials had the right to edict the plan of running the country (*jus edicendi*). They had addressed demands (*rescripta*) to the officials, parties and decided between the appellants. The imperial decree has been applicable throughout the whole empire, with the approval of the Council; it has survived even the death of the emperor. The decree has been promoting the main character of the new legal system: the uniformity of the law. After, the Constantine era, the imperial decrees have known a decline in form and content.⁵ It has been reported even a period when the Emperor himself exercised the legislative power, and the imperial decrees (*constitutiones Principes*) as well as the People's Assembly Law (*lex*), have become sources of jurisprudence. Occasionally emperors have issued *edictum* types of regulations⁶.

The Roman Empire and the field of constructions

After the introduction about the development of the legal system in ancient Rome, the following part of the paper, is meant to be an attempt to find patterns in the construction field through its legal background, but as the introduction shows, this field had to be one regulated by custom

law, or by decrees issued by the officials. As presented above, the Emperor had the right to issue *edictum* types of regulations, it is probably that the field of construction to be regulated by this type of norms, because at a global analyzation of the constructions, the whole Roman empire had to be characterized by unity in this filed.

Every time one gets out of the subway at the Coliseum station, the beautiful sight of the built up area constrains to another tour, in order to admire, as well as to wonder. Emperor Vespasian, in order to achieve reconciliation between the Roman citizens, reached out to political gestures, like giving back the lands seized from the city center, just like in the times of Nero, and built on them the Coliseum, in the same place of the huge artificial lake of Nero's palace. The construction has started in the year 72 and the finished building has been inaugurated by the son of Vespasian, by Titus in year 80. The construction has taken less than ten years - it has been a fantastic performance, compared to monument of 2nd King Victor Emmanuel – by using modern technology – it has been built in 40 years. According to archaeologists, the construction has been begun by 4 different contractors, that is the reason of the slight of differences between the discovered parts.

The opening of the Coliseum ceremony has lasted 100 days. During the opening day thousands of wild animals had been killed⁷. This is no accident, as it has been conceived by the emperor, the achieved giant construction, as it has been already mentioned, is still the Eternal City, one of Rome's most famous ornament. The basis of the Roman architecture is the arch, borrowed from the constructions of the Etruscan civilization, combined with the Greek's columns. The vault has been necessary mainly in order to achieve fulfilling the dream of creating a large tiled and without the roof close to each other by the rest, pressure. Because of the Roman megalomania, it has been created a giant-sized building, and the vault has not only been the answer to the creation of large internal areas, but also has served to revive walls, arches and niches when it formed, in addition it has been a solid framework for gates and windows. Three types of arch has been developed by the Roman architecture.

The simplest vault has emerged from two parallel wedge-shaped walls from carved stones or bricks that could, however, reveal a semi-circular shape. As the wedge shape of the stones put together have started a pressure force of impact, the vault had to have the basis made of very thick walls. All of these above-mentioned clauses in the field of construction have been regulated by the customary law or by issued decrees.

Let's take for example the making of bricks, an art spread in the west by the Romans. Every time they led to a campaign, they have introduced the use of the bricks. Even if they have taken over the technical of the domed building from the Etruscan civilization, they had further developed it. Even today, there are a number of excellently preserved evidences that are no coincidence, that the Romans had known how to handle the art of building. The monumental buildings have been built mainly in the 2nd century BC, because from this time on, it has been used the rubble of the building materials, using brick instead of a nice the stones of travertine (*lapis Tiburtinus*), that has been receiving shines in the light. Quarrying, cutting and transporting them to Rome, naturally, had cost a lot of money, so only the most important buildings have been made out of travertine. Others, have been resorted to simpler modes. The options have been or to be bonded

with lime, the form of increased irregular mesh stone walls (*opus reticulatum*), or to be built of bricks, because bricks perfectly enveloped marble (*opus lateritium*). Thus, due to the help of workers it has been erected a simple and straightforward material that daring the vaults, which defied centuries of devastating power. The construction has mainly developed towards the end of the republic by taking great rates, while at the age of the empire it has become even more intensified. With a fabulous speed it has been increased, not only the construction field in Rome – the monumental tombs and temples – but throughout all over the empire, preserving the health of promoting the water pipes and the baths, as well as, the development of the trademarks, the entertainment of people, the theaters, the amphitheaters and the circuses, the battle of glory and rewarding monuments of the arch of triumph. The water pipes have been delivering to an increasingly large part of the Roman Empire's public baths. These exceptional comfort has been soon known in the wide empire, becoming a natural thing within cities from the province. The bath has been equipped with swimming pools, saunas, porticos, and places for playing with balls; some of them even had a library. Mainly, these types of buildings have been prevailed with vaults.

Due to their southern temperament, the Roman people, have encounter and greeted triumphantly the returning of their generals with an outbreaks of enthusiasm. For a long time, the transient decorations has been specific to the city, but starting with the 2nd century it has been announced a new way of commemorating the triumphs. This custom has created the introduction of arches of triumph and the commemorative monuments, stating that similar works have not been known before in the ancient world. Starting with Caesar's age it has began a new way of celebrating the pride of the Roman Empire, by using many symbols of this size. Similarly, the commemorative monuments have been seen as symbols of triumphs and the first *Duilius* has been set up in honor and glory of the Battle of Actium, the column's duty being to announce and state the victory. During the centuries their number has risen; the largest one being Trajan's Column, erected in order to commemorate the conquest of Dacia.

As the interest of the empire has been demanding, the Roman Empire had to be careful about the conquered area's protection. Due to this, fortifications have been built, in order to respect the power of the office of regulation, or even the head of the occupied province, by establishing the line of defense that needed to be strengthened. As an example, one can think about the conquest of the British Isles, when in the year 43 AD the Romans invaded, but only seven years later took over the rule over England. The biggest problem had always been the Scottish and the Welsh lineage. As in the northern part of the English marauding, has been inhabited by the Scottish tribes, who notably refused the surrender, it has thought of a way of keeping them away of the conquered area by building Hadrian's Wall. The Romans could never be beaten, they have withdrawn in the year 410, when the empire has began its decline.

The homes of the emperors

During the era of Augustus Caesar, the cement and the lime have been used firstly as building material, and their development have been regulated by these imperial decrees. Also, Augustus has been the one, who brought to Rome for the first time the Luna (Carrara) marble from the mines. The marble has so widespread and so largely been used to the happiness and pride of

Augustus, that he could have even be praising to have been building a city of marble, instead of the former bricked one.

The urban planning has held an outstanding place in the agenda of Emperor Augustus. Not only, that he has increased the area of the city, but also the safety within the rented areas. Using the lands efficiently has opened doors to a better use of space, a lot of tenement blocks of apartments have been built. The old wooden buildings have not been providing sufficient security, due to the non-dried material gaps, cracks formed, and as it has been expected the buildings' broke down. Therefore, the Princeps has established as being necessary that the maximum of the height of the tenement buildings to be up to 70 feet (20.72 m), without taking into consideration the width of the roads.⁸

Within the exceptions can be included the infamous emperor's Nero Domus Aurea - the famous golden palace – only it's size and dimensions found in the ruins could give some ideas about its gigantic image. Further on the historian Suetonius describes its richness: "In no area has been seen such megalomania as in the field of construction, so the palace stretched starting from Palatinus up to Esquilinusig, naming it first a home for need, so that later, after being burned down and rebuilt to become his golden palace. About its dimensions and its extravagancy it's enough to mention the following: in the lobby it has been seated his 120-foot-high statue, typical of the extent the three colonnaded Promenade being one mile long, while the size of the lake basin – today's site of the Coliseum – all around the buildings, real city, in addition to a large park, where arable land and pastures, meadows and forests alternated, full of all kinds of domestic and wild animals. Within the building glitter, decorations of precious stones and pearls have been the basis; moving in the dining room the ceiling has been fitted with ivory and pipes spraying perfumes of roses for the guests. The special dining-room has been round, and has been up to the sky, day and night, ceaselessly spinning around; the bath has been fitted with water from the sea and from the springs of Albula. When the palace has been finished and inaugurated, the only words he said that from now on, it looks like a decent place to live ...⁹"

The Roman Empire and the urban planning

Emperor Augustus, has started a way to innovation in the field of city management. Starting with the old area split, he has established 14 districts in the place of the 4 old ones, the region has changed, making for better administration and better visibility, the division of tasks achieved. The princeps has been attaching numbers to all fourteen identified districts, than named all of them, according to the names of the important of the buildings or roads. At the intersections of major streets (*compitum*) through the neighborhoods it have been built small chapels, and that has been the place where the magistrate of the district, the *vicomagister* presented on behalf of the inhabitants of the quarter the offering to the defendant gods (*Lares compitales*). From order of the Emperor Augustus, also known as the construction law of the Emperor within the architectural literature, it has been established the maximum height of the houses up to 70 feet (approx. 21 meters).

Since it had a very crowded population within a small area, about one million people living in Rome - the city has been made up of narrow streets – often five levels tenements were

characteristics, sometimes the number of floors reaching to ten. The city's sewerage and water system (*aquaeductus*) have been very advanced. The republic had thirteen emperors during who's reign the existing pipes have been built, and many of them are still in use.

The water has been stabbed, then it was transported to the houses and baths. The Aqua Appia is the best known old water pipes system (ca. 15 km long, Caecus led by Appius Claudius in the year 312 BC, the city's south – western tip), as well as the 80-km-long Aqua Marcia, which is not only the longest but it was the greatest. The Roman Bath, also, deserves to be mentioned. Even if initially, the bath had no great importance in the everyday life of the Roman population, in a short time, the use of baths, throughout the empire, has become fashionable. Everywhere, baths have been built by the same title. It has been separate tub for cold, warm and hot water. The population has used very often the public baths.

The Roman Empire and the building of roads

Before the Romans, the Etruscans had road-building activities in Italy, and the roadside ditch has also underlined the aqueduct. The Roman Empire established as a priority the task of reconstruction of the existence roads and the development of long - distance trips. The initiator of the first road has been censor Appius Claudius (ex-consul, responsible for integrity checking) (312 BC), who has been leading the built of the Via Appia, the rode from Capuába to Rome.

Italy, has been a difficult site to be approached and to be built because of its mountainous and swampy areas, e.g. the problems reported in the Alps region, where the local conditions and weather conditions more than ever had to be taken into account.

The Roman road engineers have established the best trails, implementing new technical solutions: roads built on depressed or just floating piles, which crossed the pontoons and marshes, serpentine roads developed in the mountains. The new socket has been made of solid ground on the roads. Tamping carefully packed ducts have been placed in the multi-layered body. The base has been the following: 1st layer 1 / 3 part cement and the 2nd one 2 / 3 of grit of concrete layer. On this they have put the large tiles used also by the Etruscans. It has also been built ballast based roads. The Roman roads have fluctuated from 3 to 12 meters wide spread. Within the imperial age 80 thousand km long stone road system has been developed, 300,000 km of 'second and tertiary "road have been built.

The Roman road network has included the following routes: Rome, Africa, Asia, Rome, Rome-Danube Bizantium, Rome, Hispania, Gaul, Britain, Rome, Germania. The *Miliarium Aureum* – the gold column made at the orders of emperor Augustus has been the ‘ mesurement unit’ when calculating the distance from the "eternal city" to any part of the world. Hence the saying: "All roads lead to Rome."

The distance has been determined by using measurements machines. Every two thousand steps it has been placed a milestone. In order to determine the length it has been used 10 feet long straight edge (*decempede*). The perpendicular direction of any angle has been measured with the *groma*, and it has been established by using *dioprovval*. The measurements have been made

according to a rectangular coordinate system, which has always north-south axes and east-west direction. The determination of the north-south direction has been possible due to the use of the tool called *Gnomon*. This device has been somehow similar with the sundial, having essentially the same structure, determined on the basis of the shadow of time and climate. The Romans have ensured the maintenance of roads as well. The roads have been under the supervision of the curator. It has been issued road maps, itineraries, initially only for the use of the generals and principal officers of the Administrators.

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² Peter Stein: *A római jog Európa történetében*. Budapest, 2005, Osiris Kiadó

³ Ibidem

⁴ Wikipedia

⁵ Nagy képes világtörténet.

⁶ Peter Stein: *A római jog Európa történetében*. Budapest, 2005, Osiris Kiadó.

⁷ Siposné Kecskeméthy Klára: *A Colosseum, az ókori építőművészet egyik lenyűgöző alkotása*.

⁸ Suetonius: *Nero*. Maróti Egon fordítása

⁹ Ibidem