CONSIDERATIONS REGARDING THE EVOLUTION OF THE CRIMINAL LEGISLATION IN THE ROMAN LAW

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Abstract. *In the present paper we have presented some considerations regarding the evolution of the criminal legislation in the Roman law. In order to fulfill this objective we made reference to the following reference periods: the archaic period; the period marked by the Law of the Twelve Tables; the era of the Republic; the Principate era and the period of the absolute monarchy. In the criminal field, Roman archaic legislation was greatly influenced by religious elements. By committing felonies the deity was offended, and for reestablishing the pax deorum, it was necessary to stop the fury of the gods by sacrificing the culprit. The merit of the present text consists of the comparative presentations of the evolution registered by the criminal legislation within the recalled periods.*

Keywords: *delicta, crimen, legis-actiones, litigare per formulas*.

1. Introduction

In the criminal field, Roman archaic legislation was largely influenced by religious elements. By committing felonies, the deity was offended, and so, for reestablishing the so called *pax deorum* it was necessary to "steam the anger of the gods"[1].

[1] To this effect, see: Teodor Mara, *Istoria dreptului roman*, Arad, 2001, p. 91. Also, refering to the religious nature of the criminal repression, see: Alberto Burdese, *Manuale di diritto publico romano*, Torino, 1997, p. 232.

In the archaic era, at least for the Latin and Sabinian stage (as long as kings Romulus, Numa Pompilius, Tullius Ostilius and Anco Marsius came to power) we cannot talk about an exquisite elaboration of a jurisdictional system for the protection of the rights.

To this effect we must underline that the City did not have the force nor the authority to impose itself to the privates, meaning it applyed the prescribed procedure, untill the resolution of the potential conflicts (conflicting moods).

In this era, the privates made their own justice, appealing to the force of their own stemma and of the family they belonged to.

The system of self-defense (of the private revenge) encompasses the entire Latin and Sabinian stage of the Eternal City[2].

In the 6th century B.C., during the Etrusco – Latin stage, it can be stated that, by the jurisdiction of the king and of the Pretorians, was highlighted the enhancement of their competencies, especially of the ones concerning the supervision and the proper law enforcement.

During this period of time, the protection of the rights can be found within the acte of the private revenge (a real *actio*)[3].

2. Criminal law during the archaic Roman period

In the criminal field, the archaic Roman structure was influenced, especially by religious elements: crimes which offended deity, and for reestablishing the so called *pax deorum* "divine anger" was supposed to be steamed by immolating the guilty.

The king, as "the supreme military and civilian chief", but also as "the authority" invested with a sacre function of the sacerdotal power, had the task of reestablishing the so called *pax deorum*. From this statement we are tempted to believe that the king was some kind

[2] Latin – Sabinian stage encompassed the 8th and the 7th centuries B.C., which was not characterized through the existence of a completely formed city, but was the time when were established the foundations of the *civitas Quiritium,* with a Roman origin, with all its typical structures. In the 5th and 4th centuries B.C. was consigned the last stage of the *Quiritar* State which is characterised by the decadence of its typical administrative structures.

[3] See: Teodor Mara, *op.cit.*, p. 91.

of a mediator – as the example of King Solomon provided by the Bible – but, in fact, his task may represent a mixture between the tasks of a judge and the ones of a mediator[4].

Therefore, the king was the one who, by his maximum authority:

- Indicated the crimes which offended deity (in this case he had a "creative task", in the criminal law);
- Sanctioned the guilty in order to steam the anger of the deity (in which situation he had a "repressive task").

The main ways of steaming the divine anger were:

- *consecratio*, which meant that the guilty presented himself for declaring the sacredness of the offended deity and so, for being victimized (killed), by anyone, at any time;
- the immolation or the sacrifice by the king's aides;
- the application of *lex talionis*, in case by the commited crime an individual or a family were offended, in which case the latter could react violently, making their own justice.

On the other hand, for the crimed commited within a family, establishing the consequences, including the punishment, was the task of the unique family judge, namely of the *pater familias*.

Finally, Roman tradition, gave the king the possibility of elaborating a set norms refering to crimes and punishments. For example, *Numa Pompiliu* (716-672 B.C.) pointed out the necessity of settling manslaughter, and *Tullius Ostilius* (672- 640 B.C.) made reference to the attempt to the constitutional order of the State (*perduellio*).

[4] See more about the beginning of mediation in: Diana-Ionela Ancheş, *Mediarea în viaţa social-politică*, Ed. Universitară, Bucureşti, 2010.

3. Criminal law after the entry into force of the Law of the XII Tables

After the entry into force of the Law of the XII Tables (449 BC.) criminal law was still founded, for the most part, on the idea of private revenge.

The State intervened only in case of high treason (*perduellio*) and sometimes in case of commiting some "certain sacral crimes", much more serious, for example, in case of "criminal acts" particularly dangerous for the community.

Therefore, gradually, the punishment of the assassin (*parricidas*) was defered to the State magistrates.

Initially, as we already pointed out, the family group of the murdered one was forced to avenge the death of the close relative, by killing the assassin.

In this context, we can see the fact that, the innovations brought by the Law of the XII Tables in the field of "personal injuries", are of a high significance, in case it was desired an overflow of the archaic *lex talionis*, offering also the possibility of a peaceful approach of the vexation.

In case of breaking someone's limbs (*membrum ruptum*), the Decemviral law consecrated the possibility for the guilty to redeem his action, by paying an amount of dinars. For example, in case of *iniuria* (for minor injuries) the Law of the XII Tables expressly imposed reconciliation, as a result of the compensation of the injured person.

Also, another interesting aspect is the way the crime of *furtum* is regulated, for *furtum manifestum* (red-handed) and for *furtum nec manifestum* (the usual one).

For the red-handed theft, the punishment was the *trans Tiberim* sale, and for *furtum nec manifestum*, the conviction was limited only to the payment of an amounth of dinars, equivalent to twice the value of the stolen good.

However, we note that there were a serie of crimes for which the Decemviral law expressly foresaw the application of some criteria for the concrete settlement of the punishment, as for example:

- Equality and proportionality between the vexation and the revenge (*vendeta*).
- The instigator was convicted to burn at the stake;
- The witness to alienation who refused the accomplishment of the solemnities, on the occasion of mancipation, and the bearer of the Libra (*libripens*) who refused, in turn, the accomplishment of the solemnities of the mancipation, could no longer be witnesses, *libripens*.

4. The evolution of the criminal law in the era of the Republic

4.1. State constraint in the Republican era

In the Republican era, in the field of the criminal law the constraint of the State intervened, intensifying spreadingly and in a correlative way, we must show that this way the Roman citizens were deprived of the primitive ans exclusive power to sanction offenses.

The State has assumed directly the function of compulsion or punishment.

On the other hand, along with the expansion of Rome's territory (following the wars of conquest), crime was no longer an isolated phenomenon, but it was continuously growing.

The competence in the field of criminal repression belonged to the urban pretorian (*praetor urbanus*), who dealt only with the trials in which only the Roman citizens of a certain degree were involved, and the capital triumvirs had the task of punishing the citizens of the lower classes.

Private revenges through which corporal punishments were applied were abandoned and replaced with public constraint, accompanied by the application of pecuniary penalties rule[5].

Even though a certain differentiation was seen in the Law of the XII Tables, the evolution of the application of sanctions system represented the main source of separation between the public offences and the private ones.

[5] *Ibidem*, p. 206.

Private offence (*delictum*), is the one in which the damaged part had only the quality of Roman citizen, and the punishment was regulated by the application of a pecuniary conviction in the favour of the damaged citizen.

Public offence (*crimen*), was different from the private one, by the fact that, the damaged parts were both the society and the damaged citizen. This offence (*crimen*) was punished, not by a private revenge, but directly and exclusively, through the regulations existing in the City.

Crime repression was the task of the magistrates who could apply one of the following punishments:

- The pecuniary punishment (*mulcta*);
- The seizure of the "body of crime"/*corpus delicti* (*pignoris capio*) ;
- The death penalty (*poena capitalis*).

Also, the magistrate joined the private citizen, in the sense that they banded together and he sustained the latter in his "incriminatory" work.

The right of the state to punish was not exercised only by the magistrates, as an important role – from a procedural point of view – was confered to the "comitial appeal" against the sentence (is the so-called *provocatio ad populum* procedure).

This institution was replaced by *Lex Valeria provocatio* since 300 B.C. in order to confirm to the Roman citizen that he was judged by the *comitia centuriata*.

The comitial process (in appeal) developed in two stages:

- *anquisitio*, was the stage which started with the enquiry made by the magistrate over the effective existence of the crime, and which concluded with the conviction or with the absolution of the surveyed person;
- *rogatio*, was the santencing stage which concluded with a request addressed to the Assembly (*comitia*), which also gave tongue regarding the penalty.

Provocatio had the following main features:

- it could be exercised only against the decision of the magistrate who detained *imperium domi* and not at all against the decision of the magistrate who detained *imperium militiae*;
- there was no possibility to appeal to *provocatio* for the crimes for which the punishment was established by the magistrate (for example, for the violation of the vote, of the chastity of the vestals or for high treason).

4.2. Criminal procedure in the Republican era

During this period, an important moment was recorded concerning the reform of the criminal process, related to the persecution of crimes (remained unknown till that era), and refering to the abuses or to the so called *crimen repetundarum* (which consisted of the illicit attainment and the extortion of the allied populations and submited to the Roman domination by the Roman magistrates).

In the case of the crimes commited by the provincial governors (*nobilites senatoria*) there has been a growing interest in the direct "managing" of the trials and as such, the *comitia centuriata* – which was competent in criminal matters – was replaced by "a jury" that only the "senatorial gentry" had the possibility to control.

It is the so-called "tribunal", *questiones*.

At first, complaints and denunciations were presented by the "provincials" before the senate, and then these inhabitants of the province had a lawyer (*patronus*) who represented their interests.

The senate charged a college of expressly named *recuperatores* with the analysis of the complaints.

Then, by *Lex Calpurnia* since 149 B.C. it was established a procedural rule by which it was stated the entrusting of the cause to a *praetor peregrinus* who was later replaced by *Lex Acilia repetundarum* since 123 B.C., with a magistrate.

The trial developed after choosing one hundred people (*editio*), by the injured – incriminatory, from a list of 450 Roman citizens, presented by the *praetor*. The names of the "one hundred" were then

communicated to the accused, whom, in turn, had to choose (*electio*) from that list 50 persons in order to form the jury (*iudice selecti*).

The trial was started through a *delatio nominis*, meaning a denunciation formulated by the private citizen, that was addressed to the competent tribunal, against the presumed accused (*reus*).

If the delator was a well-known person, the President of the tribunal declared the denunciation opened to be followed on legal basis, hence it was being transformed into a formal accusation (*accusatio*).

Each part presented its own evidences, and then exhausting the debates, the college of juries detaining the cause for deliberation, hence passing to the final voting, of conviction or of absolution.

This procedure was named *quaestio*, after the name of the *questiones* trial.

Also, *questiones perpetuae* were constituted, meaning permanent tribunals, real permanent Courts, which had the competence of resoluting some trials refering to certain types of crimes (*crimina*), and which were created for the punishment of some common political crimes (having the model established by *Lex Acilia*).

Later, the procedure was modified, in the sense that it was established that the name of the juries to be tossed (*sortitio*), after an appeal made by the parties.

As a result of the political struggles of the past, for the denomination (ellection) of that council of juries, by *Lex Aurelia Cattae*, since 71 B.C., it was created the possibility for the senators, knighthoods, and *tribuni aerari* (military cashiers) in an equal number, to be selected as full members on the list of the juries.

4.3. Offences and penalties in the Republican era

The main offences punished through the procedure *per questiones* are:

- *crimen ambitus* (ellectoral corruption);
- *crimen maiestatis* (crime against dignity and honor);
- *crimen calumniae* (columny) ;

- *crimen peculatus* (evasion from the public treasury);
- common offences (*homicidii*, *falsi*, *iniurianum*).

a) ***Crimen ambitus***, encompassed any type of ellectoral corruption, consisting of illicit acquiring or capturing of the votes. It was punished by the application of some contraventionale fines and the temporar ban to occupy a public function for a period of 10 years by *Lex Cornelia Baebia*, since 180 B.C., and by *Lex Calpurnia* since 67 B.C. it was stated a permanent ban.

b) ***Crimen maiestatis***, was the worst political offense and it consisted of an abuse of authority, commited by subjects which were accomplishing public functions. Initially this offense was punished only with a fine. By *Lex Cornelia maiestatis*, it was extended and clarified depending on the nature of the offense, and the capital punishment was established for any act which offended the authority and the prestige of the Senate, and especially of the senators[6].

Also, an *apposita questio perpetua* was established and it permanently replaced the jurisdiction of the tribunes, except for the case of refering the case to the *comitia tributa*, when the pecuniary punishment exceded a certain limit.

Offenses against the Constitution remained the responsability of the *duoviri perduellionis*, while, betrayal was given to the competence of the consuls, and the applicable punishment was *suplicium more maiorum* (torture or crucifixion, depending on the habits of the ancestors).

The denomination of *crimen maiestatis* was generated by the espression of *maiestas populi romani* (the Majesty of the Roman people), as a tendency to expand the competence of the permanent tribunals, at first through the inclusion of some less serious crimes (risings, arbitrary recruitment, incitement to civil war). Within the concept of *maiestas* (dignity, Majesty) entered all these, in order to be investigated as *crimen maiestatis*.

[6] See: Mario Talamanca, *Istituzioni di diritto romano*, Milano, 1990, p. 630.

By *Lex Plautia* since 78 B.C., the resolution of the *crimen vis* was defered after the same procedure which consisted of different acts of compulsion, necessary for hampering the execution of the senatorial and of the Court's power.

c) ***Crimen calumniae***. In an "accusatory" system par excellence, the accusations were quite common, obviously unfounded, maliciously sustained, in order to obtain a profit.

To curb such abuses, *Lex Remnia* since 90 B.C., provided that the persons (backbiters) who were judged by the permanent tribunal, in the front of which the charge was claimed, totally lost the right to promote public complaints.

d) ***Crimen peculatus***. This offense consisted of the evasion or of the abuse committed in connection with the management of public funds. The deed was committed for private or specific purposes by the public servants.

For the punishment of this offense was created a special procedure in 86 B.C.[7]

e) ***Crimen homicidii***. This offense was regulated by *Lex Cornelia de sicariis et veneficiis* since 81 B.C., which punished robbery, pillage, false testimony, arson or sorcery and even in their form of attempt, and a corresponding procedure (*questio*) was established for its judging.

The applicable punishment was era *aqua et igni interdictio* and the capital punishment.

g) ***Crimen iniuriam***. By *Lex Cornelia de iniuriis* since 82 B.C. was punished the public form of some very grave facts, as for example blows, serious injury, violation of domicile, etc.

For this offense, the establishment of the *questio* procedure is not certain, nevertheless, the urban praetor, when he needed to solve such an offense, invested a set of judges composed of a single judge or a college of judges, depending on the seriousness of the offense.

[7] See: Teodor Mara, *op.cit.*, p. 211.

h) ***Ius exilii***. The accused, in the ancient period had the possibility of choosing between the acceptance of the conviction and the exile (*aquae et igni interdictio*).

During the comitial process the accused had the possibility to back out of the death penalty, leaving willingly the *homeland*, before the reading of the sentence, a rule consecrated by the consuetudinary law, on the basis of respecting the integrity of the Roman citizenship.

Against the citizen who chosed the way of the exile, the magistrate who filled the chair of *comitia* pronounced the words *interdictio aquae et igni*, a moment which had as a consequence the loss of the citizenship and of the patrimony, and in the case of the return of the exiled on the Roman territory, the death sentence was immediately put into execution.

During the Republican era, the praetorian, even before the reading the votes of the judges from the tablets, asked the accused waiting for the sentence, if he acceptes the exile in case he was found guilty. When the accused responded positively, the magistrate, after an adverse vote, could do nothing else but to condemn him to *aquae et igni interdictio*, as an alternative punishment.

5. Criminal jurisdiction and the evolution of the Criminal Law in the Principate era

A. Criminal jurisdiction

Lex iudiciorum publicorum since 17 BC., regulated definitively criminal procedure according to which *per quaestiones* trial was going to develope, but did not encompass the competence of these tribunals for all offences provided by the criminal laws.

Nevertheless, we underline that the comitial procedure was not abolished, and some competences of the Comitium were attributed to the Senate.

On the other hand, the intervention of the prince and of the Imperial officials in the resolution of the criminal trial gave birth to the extraordinary procedure (*cognitio extra ordinem*), which replaced another system, the formular procedure.

B. The evolution of the Criminal Law in the Principate era

By the legal will of the prince (*princeps*) and by the *procedural instrument* of the *cognitio extra ordinem* procedure, it was created a new legal system, substantially opposed to the previous one, a classical *ius novum*.

In its evolution, criminal law suffered many changes.

Hence, there existed a systematic tendency to get back crime to its previous significance, for the new illicit facts which were better individualised.

In the research literature it can be seen that in the old form of the crime were inserted hypothesis much more numerous and complex concerning the way of perpetrating it.

Also, the system of the punishments was enriched by taking into consideration and by the individualization of the numerous aggravating or attenuating circumstances.

Hence, for any crime it was foreseen a double regime of punishment:

- For *huimiliores* (persons of an inferior condition) there were provided more severe or evem more defamatory punishments;
- For *honestiores* (persons of a noble condition) there were provided, for the same crimes, much lower punishments.

Finally, the classical jurisprudence established and defined the concepts of: "premeditation", "praeterintention", "relapse", "attempt" and "challenge", anticipating the modern notions of the criminal law.

During the Principate era, Roman criminal law has known many forms of crime. Here we will present the most important ones.

a) Crimen ambitus, crimen sodaliciorum

Electoral corruption crime and the crime of secret association have known an ascending evolution, along with the decadence in importance of the election meetings.

Crimen ambitus was regulated by *Lex Iulia de ambitu* (the electoral corruption law) since 18 BC.

b) Crimen calumniae

Calumny encompassed even the accusations or the slanderous denunciation.

The punishment provided was exactly what the victim of the accusation or of the denunciation risked by the assignment of the false, untrue facts.

c) Crimen maiestatis

This crime was regulated *ex novo* by *Lex Iulia maiestatis* since 8 BC., which encompassed any kind of attempt to the constitutional order or to the representative institutions (especially regarding the *princeps*), commited either by privates or by public servants, besides the facts that constituted the elements of the old crime of high treason (*perduellio*).

The punishment applied for the *crimen maiestatis* was death, through different ways, for *humiliores* for example, through terrible torment[8].

d) Crimen repetundarum

This crime was much expanded, until encompassing all types of fraud perpetrated either by public servants, or by the privates whom exercised public functions.

The punishment provided, in such cases, was deportation, with the obligation to return four times the stolen amount.

Related to this crime, was also the socalled *crimen concussionis* which consisted of money "extortion" by the magistrates or by the public servants by threatening with the fulfilment or unfulfilment of the official acts.

The punishment applied for this crime was more severe for *humiliores*, and it was, as a general rule, the capital punishment.

e) Crimen peculatus

This crime encompassed cases or frauds accomplished by the public servants, based on the "popular credulity", and *a fortiori* regarding the thefts of public goods.

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[8] See: Giovanni Pugliese, *Istituzioni di diritto romano,* Torino, 1991, p. 313.

The punishment applied in the case of this crime was *deportatio in insulam.*

f) Crimen vis

Lex Iulia de vi during Caesar's time (48-45 BC.) regulated acts of public and private violence. In time, we must mention that, there were regulated other acts too, for example, the theft committed on the occasion of natural disasters, the refusal of the judges to follow the appeal formulated by the part who lost the trial[9].

The punishments were different depending on the gravity of the offence and on the degree of guilt, from the simple pecuniary sanction, to the death penalty applied in conditions of terrible torment for the *humiliores* (crucifixion, throwing to wild animals).

g) *Crimen homicidii*

This crime encompassed new facts which were always persecuted. For example, for *parricidium* (the killing of blood relatives) Augustus established a awful punishment, *poena cullei*, according to which the ones who commited parricide were put in a leather bag in order to be drowned or to be thrown to wild animals.

Between the new facts, which were now regulated, there also were the ones commited by a magistrate, for example: in case of a criminal execution without trial; killing a slave with intent; administration of aphrodisiacs; or even inducing abortion.

The punishment for these facts was the one of *deportatio in insulam*[10].

h) Crimen falsi

This crime encompassed among others, fraud and forgery in weighing and measuring, hiding under a fake name, corruption of witnesses.

The punishment for such deeds was *deportatio in insulam* (for *honestiores*) and referring to forced labour in mines (*damnatio ad metalla*) or crucifixion (for *humiliores*)[11].

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[9] See: Mario Talamanca, *op.cit.,* p. 422.

[10] See: Teodor Mara, *op. cit.,* p. 324.

[11] See: Alberto Burdese, *op.cit.,* p. 255.

i) Crimen plagii

Encompassed any abuse in the exercice of power over the slaves (*domenica potestas*), either over the own ones, or over the ones of others, and a fortiori the return in the condition of slavery of a free man.

The punishment for *honestiores* was *deportatio in insulam,* and for *humiliores,* it was *deportatio ad metalla*[12].

j) Other forms of crimes

There were considered as crimes, some illicit forms of assault and battery, of falsely offense (*iniuria*): *verberatio* (hitting or injury); *vi domum introire* (the penetration through violence in the house of another).

On the other nahd, there were regulated new facts, as: defamation, the offence to the shyness of women or girls in high society.

Finally, there were individualised new forms of crimes, as for example:

- *abigeatus* (cattle theft);
- *expilata hereditas* (baking up things from an unaccepted inheritance);
- *sepulchrum violatum* (the violation of tombs);
- *sacrilegium* (the theft of sacred or religious things);
- *crimen termini moti* (the destruction of borders between the funds);
- *crimen annonae* (speculations concerning food);
- *crimen stellionatus* (fraudulency, swindeling or suffling).

6. Criminal procedure and criminal law during absolute monarchy (Dominion)

A. Criminal procedure

Absolute monarchy leaded to the final abolishment of the *questiones* procedure and also to the assertion of the exclusive jurisdiction through Imperial officials (*cognitio imperiale*)[13].

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[12] *Idem*.

[13] See: Alberto Burdese, *op.cit.,* pp. 257-269; Teodor Mara, *op.cit.,* p. 367.

Criminal trial, exclusively *imperial*, received a prevailingly accusing character.

The Senate which previously kept this *sector* under control was totally excluded or eliminated, in the field of criminal repression.

Accusatio publica (the complaint or the denunciation) was opened to any citizen, but only for the most serious offences (*crimina*), as for example, *crimen vis*.

In the case of adultery, *accusatio* was to be agreed only for the husband, for the father or for the cosed relatives.

The institution of the appeal was similar to the one of the civil trial.

Finally, the imposibility of the emperor to follow and controle the entire procedure, inclooding in the criminal field, which developed in the vast Empire, leaded to the multiplication of the number of tribunals, whose competences were, for these reasons, strictly determined.

B. Criminal law

Mutations of procedural nature have had a great influence over the system of criminal law.

These influences mainly concern:

- the increasing of the number of crimes with regard to the classical era;
- the aggravation of punishments in general;
- the existence of a tendency to consider as a crime any violation of the law in the field of private and public law;
- the State took over for himself the entire power to punish.

Besides the reduction of the punitive powers of the *pater familias*, in the 5th century it was suppressed the socalled *ius vitae ac necis* of the master in the confrontations with its own slaves.

a) Categories of punishments

The main categories of punishments which applied in the Dominion era were:

- *the death penalty*, which had a had a wide scope, the institution of the permanent tribunals, the socalled *questiones perpetuae* felt into desuetude, and the socalled *questiones repetundarum*, created at Silla, no longer provided the opportunity for the sentenced to death to evade the execution of the sentence through recourse to the voluntary exile (*ius exilii*);
- *damnatio ad metalla*, was a permanent punishment which applied, as a rule, to the slaves (*servitus poena*), it was a conviction to forced labour in the mine;
- *poena extimationis*, which involved the loss of the function, or the removal from the function.

Besides these punishments, there have been widespread other categories of criminal sanctions too, as for example:

- the exile;
- the confiscation of goods;
- *poena cullei* (the introduction in a leather bag, the throuwing to the beasts and then the drowninh into the sea).

b) The main news in the field of crimes and offenses

In the post-classical Roman period there were many new deeds which were inserted within the pre-existing crimes. To this effect, we underline that there were followed four main directions in the repressive policy of the criminal offences, namely:

- the widening of the public repression of the deeds which had their origin in the civil illicit, by mixing crimes (*crimina*) with offences (*delicta*);
- the incrimination of any violation of the norms of public law;
- the incrimination of any types of violations concerning family life or religious consciousness;
- the strong tightening of the punishments for the ones who provoked disorder, as a rule, the conviction to being devourd by wild beasts.

Concerning the singular deeds which were considered crimes, we recall:

- *crimen adulterii*, which encompassed kidnapping for rape and incest, and which was punished much more severly (the capital punishment) and was applied by the subsimmsion of the convicted to terrible torment, and by burning alive in the case of a homosexual rape (*stuprum cum masculis*);
- *crimen calumniae*, which encompassed even the denunciations and which continued to be punished with the penalty demanded by the victim of the calumny, and the author of some defamatory letters was punished with the capital punishment;
- *crimen falsi*, has also been extended to falsifying coins, and in some cases it has been applied the capital punishment;
- *crimen homicidii*, also encompassed the exercice of magical arts, male circumsicion (cutting around) of the persons who were not of the Jewish religion, neonaticide which was punished with the capital punishment;
- *crimen peculatus*, was punished with the capital punishment, in the case of dinars evasion by the public officials;
- *crimen repetundarum*, also encompassed any type of violation of debts or of formal obligations, and the abuses in dismissal of soldiers;
- *crimen sacrilegii*, encompassed any type of outrage brought to the Christian religion and it was aligned to the new *crimen violatae religionis* (referring to the violation of the precepts of the Christian religion, inclooding the ones concerning the duties towards the cult);
- *crimen vi*, was punished, at least in principle, for *humiliores* with the capital punishment, and Justinian's legislation renewed the distinction between *vis private* and *vis publica* (for this it was provided the *deportatio in insulam* punishment).

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