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## THE PROBLEMS OF THE TEMPLE ASYLUM GENESIS IN THE ANCIENT ROME

The issue of temple asylum (*asylum*)<sup>1</sup> genesis is itself interesting, however, I took it up due to the studies conducted on the legal problems of asylum that was given by the Christian churches (*ecclesia*) in the world, including the ancient Rome, cannot be the subject of my par excellence historical and legal Roman Empire in the Christian period<sup>2</sup>. On the other hand, the subject matter of the temple asylum genesis in the ancient study as the issue of the asylum genesis enforces the connection of research characteristic for jurisprudence with the anthropological research as well as applying the complex scientific method: legal-anthropological.

It is impossible to compare periods and conditions in which the asylum was conceived in the particular countries constituting the Roman Empire. Although, it is not risky to express the opinion on a possibility of research performed per analogiam on the genesis of the Roman temple asylum in the various ancient countries<sup>3</sup>.

Passing on to the essential considerations on the asylum genesis, it is worthy to point out that according to the generally accepted notion, the core of the primeval religious beliefs was the functioning of the confessional structures formally diversified, such as: animism, totemism, magic and sensu stricto<sup>4</sup> religion at last. At the basis of those conceptions the most important, at least in the field of knowledge I am interested in, was to distinguish between ideas of *sacrum* and *profanum*<sup>5</sup>. In understanding this basic distinction some phenomena of the physical world were given an extraordinary, supernatural, „sacred“ importance becoming the subject of metaphysical conceptions and emotions.

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<sup>1</sup> E. HERMAN, s.v. *Asile dans l'église orientale*, *Dictionnaire de droit canonique*, Paris 1935, vol. 1, column 1084 and further; *The New Encyclopedia Britannica*, Chicago 1976, ed. 15, vol. 1, s.v. *Asylum*, p. 611; M.P. NILSSON, *Geschichte der griechischen Religion*, München 1961, vol. 2, pp. 88 and further; U.E. PAOLI, s.v. *Asilo*, *Diritto greco e romano, Novissimo Digesto Italiano*, Torino 1957-1958, vol. 1 [1.2], columns 1035-1036; H.J. WOLFF, s.v. *Asylrecht*, *Lexikon der Alten Welt*, Zürich-Stuttgart 1965, p. 366.

<sup>2</sup> The Christian period was initiated in 313 with the Milan edict of Emperor Constantine the Great, or (in other interpretation) with the constitution of Emperor Theodosius I dated February 28, 380, later included in the Theodosian Code (C.Th. 16, 1, 2) and in the Justinian's Code (C.I. 1, 1, 1).

<sup>3</sup> N. CROSTAROSA SCIPIONI, s.v. *Asilo*, *Enciclopedia Cattolica*, Romae 1949, vol. 2, column 137 and further; R. YARON, *Reichrecht, Volksrecht und Talmud*, *RIDA* 11, (1964), pp. 282-283.

<sup>4</sup> É. DURKHEIM, *Elementarne formy życia religijnego*, translated by A. Zadrożyńska, Warszawa 1990 [*Les formes élémentaires de la vie religieuse*], pp. 43 and further; M. Eliade, *Traktat o historii religii*, translated by J. Wierusz-Kowalski, Łódź 1993, [*Traité d'histoire des religions*], pp. 3, 17.

<sup>5</sup> M. ELIADE, *op. cit.*, 7.

The temple asylum was one of the forms of effecting respect for hierophany of the place of cult. Anyway, it is possible to assume that notional conceptions of sacrum greatly affected situation of a person towards whom the penal (public) repression was applied. In the ancient Rome, asylum defined as one of the obstacles in effecting the penal repression<sup>6</sup> was originally based on the territorial factor<sup>7</sup>. Polytheistic asylum may be characterized as a binomial (a result of connection): „sacralized sphere - temple“. It meant protection of the place on the base of recognizing the place hierophany and, as its result, recognition of the temple hierophany.

The mentioned binomial meant the following types of protection:

- 1) protection of people occupying the place of hierophany conception (*pax in templo*)<sup>8</sup>,
- 2) protection of the temple treasury (Latin: „*aerarium*“). I think that protection of this type was a result of protecting every temple item (and not only belonging to the temple in a sacral way). Not only valuable items dedicated to the religious cult were kept in the temple treasury but also votive mass and private deposits<sup>9</sup>.

The special protection of the sacral-liturgical values can neither be distinguished nor extracted from the above mentioned. In my opinion, the explanation is provided by the formula of space-time unity of the *sacrum*<sup>10</sup> not allowing any theoretical speculation as the term „asylum“ was obviously equivalent to the „*sacrum*“ of a specific sanctuary. Theory of this kind may seem artificial, however it is confirmed by historical relations about „holy groves“<sup>11</sup>, mountains<sup>12</sup>, necropolises of great importance<sup>13</sup>, „sanctity of boundaries“<sup>14</sup>. Apart from that, there were many conceptions comprising the cult subjects of the ancient polytheistic religions (armor, fleeces)<sup>15</sup>.

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<sup>6</sup> TH. MOMMSEN, *Römisches Strafrecht*, Leipzig 1899, p. 452.

<sup>7</sup> In my opinion the traditional sacral forms affecting suspension of the penal (public) repression appeared themselves in the following factors: 1) territorial, 2) personal, 3) of time. The territorial factor originated from the place hierophany effected as the temple asylum mainly. The personal factor was a result of sacrum attributed to a specific person, e.g. to vestal virginis. The time factor was a result of the day segregation, e.g. „sacred“ (*dies religiosi*) or ordinary. Compare: „*dies fasti*“, „*feriae*“. This factor could result in „*vacatio*“ - exemption from duty or curse.

<sup>8</sup> Compare: the Greek term „*eirene*“, Jewish „*shalom*“ - Vetus Testamentum, *Lev.* 26, 6; *Is.* 52, 7.

<sup>9</sup> TIT. LIVIUS, *Ab urbe condita libri 29, 37, 12*. See also: L. HOMO, *Les institutions politiques romaines*, Paris 1970, p. 171; TH. MOMMSEN, *Abriss des römischen Staatsrechts*, Leipzig 1907, p. 274.

<sup>10</sup> Compare: „*mundus*“ according to MACROBIUS, *Saturnalia*, 1, 16, 18.

<sup>11</sup> For example: „*Anna Perenna*“: P. WISSOWA, s.v. *Anna*, /in:/ *RE* 1894, vol. 2, new edition, vol. 2, columns 2223-2225. Compare: *CIL* 1 [1.2] 1, 313.

<sup>12</sup> For example: „*mons sacer*“: TIT. LIVIUS, op. cit., 3, 55; DIONYS. HALIC. 6, 89, 3-4; 7, 17, 5; Compare: significance in Mesopotamia: TH. DOMBART, *Der Sakralturm*, München 1920, vol. 1, p. 34.

<sup>13</sup> *Wörterbuch der Antike mit Berücksichtigung ihres Fortwirkens*, s.v. *Nekropole*, Leipzig 1933, 2nd edition, p. 511.

<sup>14</sup> Fossa“ boundary: OVIDIUS, *Fasti*, 4, 821-825, Compare: PLUT., *Romulus*, 12. A furrow was a „world“, i.e. it isolated the „*mundus*“ world.

<sup>15</sup> On weapon significance: O. MASSON, *A propos d'un rituel hittite pour la lustration d'une armée*, *Revue de l'histoire des religions*, Paris 1950, pp. 5 and further.

If the *sacrum* comprising the specific place, sphere was linked with the phenomena at that time regarded as transcendental, and the phenomena occurring were of intermittent and complex (or, at least, stable) character, then a specific cult of the place was established. One can say that recognition of the place hierophany changed a secular and ordinary place into a supernatural and sacred one. At the same time, a corresponding legend (myth) and an idea of sacredness, i.e. of inviolability of that place<sup>16</sup> were connected with the place of cult. As I assume, it referred originally to physiographic objects, whilst later, in unknown circumstances and time, it could involve cult of man-made items (e.g. monuments<sup>17</sup>, pictures<sup>18</sup>). It is easier to understand cult transformations of that type, when we consider an example of burial places (necropolises)<sup>19</sup>, boundaries (e.g. of towns)<sup>20</sup>, city walls being surrounded with a cult. Finally, we can talk about exact circling of the protected sphere (sacred circle, sacred sphere)<sup>21</sup>. A phenomenon of this kind is called „the consecration of sphere“<sup>22</sup>, though it was not always connected with the necessity of the formal act of consecration.

The place of cult was never random, it was always connected with the idea of deeper transcendental experience and generated or adapted the myth<sup>23</sup>. Similar phenomena included also some small items and sometimes even people<sup>24</sup>.

The phase of passing from the natural hierophany (e.g. comprising natural phenomena or physiographic objects) to the creation of sanctuary still needs to be explained. I think that the primary sphere separation was a crucial phenomenon in this matter. From this moment, the sphere began to function on the hierophany basis, though recognized *in illo tempore*, however physically determined by active operation of a man. Finally, it led to public recognition of the separated area consecration. The specific example may be provided by the Eshnunna sanctu-

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<sup>16</sup> *Vetus Testamentum*, 2 Mch. 3, 12. On temple sanctification: W. ROBERTSON SMITH, *Lectures on The Religion of The Semites*, 3rd edition, London 1927, p. 436. The significance of inviolability appeared itself in the institutional forms of protection of the sanctuaries by the international community, as „amphictionia“ - F. CAUER, s.v. *Amfiktionien*, *RE*, Stuttgart 1894, vol. 1, column 1905 and further.

<sup>17</sup> For example: cult monument of Jove, made of terracotta, in the Capitol temple: OVIDIUS, op. cit. 1, 201-202. Other examples: M.T. CICERO, *De oratore* 3, 180: „columnae templa et porticus sustinent“; QUINTILIANUS, *Institutio oratoria* 5, 11, 42: „signum Iovis columnae impositum“.

<sup>18</sup> Suetonius, *De vita Caesarum, Iulius*, 84, 1: „aurata aedes ad simulacrum templi Veneris (...) collocata“.

<sup>19</sup> G. BEN, s.v. *Necropoli*, *Enciclopedia Italiana*, Roma MCMXXXIV-XIII, vol. 24, pp. 487-492.

<sup>20</sup> TIT. LIVIUS, op. cit. 22, 8, 6-7; 25, 7, 5; APPIANUS, *Bella civilia*, 1, 66. Compare also reference No. 13.

<sup>21</sup> Encircling the sacral sphere took place also by sanctification of the temple door sills: Sir JAMES G. FRAZER, *Folklore in The Old Testament*, Oxford 1923, vol. 3, 1-18.

<sup>22</sup> G. VAN DER LEEUW, *Phänomenologie der Religion*, Tübingen 1933, pp. 369 and further.

<sup>23</sup> The term „edifices“ specified places of making the ceremonial sacrifices (*auspicia*): A. BERGER, s.v. *Templa*, *Encyclopedic Dictionary of Roman Law*, Philadelphia 1953, p. 730; W. OTTO, *Die Götter Griechenlands*, Frankfurt a.M. 1934, pp. 22 and further.

<sup>24</sup> I guess, the position of Vestal virginis should be understood this way.

ary<sup>25</sup> discovered by archaeologists in Sidon (territory of Phoenicia). The ruins are surrounded by a wall embracing 57 m by 37 m of area. Two or three terraces are known to be there. The sanctuary dates back to the 5th century B.C. or it is a bit older (the Persian period). Moreover, also in the ancient Phoenicia<sup>26</sup> one can observe the Ain el-Hajat cult circle comprising a pond and two shrines situated opposite each other, and finally the temple in Byblos<sup>27</sup> being presented on the coin not as a *templum in antis*, but rather as an entrance to the holy circle.

Such a view is of essential significance as the observation of the polytheistic sanctuaries (in fact, the whole architectonic complexes the most beautiful of which being Acropolis in Athens<sup>28</sup>) is associated only with the multiple-function of these premises consisting of: performing the cult, execution of some public functions, running the expanded household. On the other hand, it should be acknowledged that all premises and natural objects (lakes, groves, soaring mountains) with a closed sphere were most of all a part of the „magical circle“<sup>29</sup>. Later on, a conviction on mythical sacredness of the temple (*hieron, templum*)<sup>30</sup> was born. However, I think that at least afterwards founders of the temple or other cult places tried to construct a legend linking the place of the temple with a specific event, initiated the myth, referring to the legend *in illo tempore*<sup>31</sup>.

In addition, it is worthy to explain that the consecration of sphere was often connected with recognizing the temple or altar (i.e. the place where the expiatory sacrifices were made) to be the center of the world. Other types of sacred spheres as a home<sup>32</sup>, a theatre<sup>33</sup>, and the before mentioned city boundaries are also known. It is interesting that the theatre originally

<sup>25</sup> S. MOSCATI, *Swiat Fenicjan*, translated by M. Gawlikowski, Warszawa 1971, [*Il mondo dei Fenici*], p. 55; Compare: Etruscan temples: A. VON GLEICHEN-BUSSWURM, *Der Kulturkreis des Imperium Romanum*, Wien-Hamburg-Zürich (edition year not provided), vol. 5, p. 484; TH. MOMMSEN, *Römische Geschichte*, Berlin 1881, vol. 1, pp. 174 and further, p. 236.

<sup>26</sup> S. MOSCATI, *op. cit.*, p. 64. „Templum“ as the sphere where the prophetic omens are observed and interpreted: TIT. LIVIUS, *op. cit.*, 1, 6, 4 or as a cave: VERGILIUS, *Aeneis*, 4, 457.

<sup>27</sup> S. MOSCATI, *op. cit.*, p. 65; More details on the Roman and Italian cult as well as on Roman temples: *Encyclopaedia Britannica*, Chicago-London-Toronto-Geneva-Sydney 1963, vol. 19, pp. 458-461.

<sup>28</sup> Wörterbuch der Antike, s.v. *Akropolis*, Stuttgart 1933, p. 15. Whereas on *Ceres* and *Libera* temples in Aventinus: G. PLINIUS SECUNDUS, *Naturalis historia*, 35, 154, and on *Apollo* temple: TIT. LIVIUS, *op. cit.*, 4, 25, 3; 29, 7, and on *Concordia* temple: PLUTARCHUS, *op. cit.*, *Camillus*, 42.

<sup>29</sup> J.L. BARCELÓ, *Czarna magia w XX wieku*, translated by Z. Siewak-Sojka, Warszawa 1991, [*Magia negra en el siglo XX*], s.v. *Krąg magiczny*, p. 304.

<sup>30</sup> *Lexikon der Antike*, s.v. *Tempel*, Leipzig 1971, p. 543.

<sup>31</sup> TIT. LIVIUS., *op. cit.* 29, 18-21.

<sup>32</sup> GAIVS, *Commentary to Lex XII tabularum, Digest* (D. 2, 4, 18): „*nullum de domo sua in ius vocari licere*“ (similarly: D. 2, 4, 21). Compare: „*domus divina*“ - *CIL* VII, 11.

<sup>33</sup> J.A. HANSON, *Roman Theatre-Temples*, Princeton 1959, pp. 9-26. While the excellent example of later, though based on the tradition of linking a theatre with a polytheistic temple, was a Roman theatre built by Pompeius in 55 B.C. next to the *Venera* temple and consecrated to her adoration: M. BIEBER, *Die Denkmäler zum Theaterwesen im Altertum*, Berlin 1920, p. 95.

performed mystery connected functions<sup>34</sup>, either in the open cult (e.g. as an amphitheatre), or for the initiates<sup>35</sup> (*mystai*). The „*genius loci*“<sup>36</sup> was a personification of these conceptions, especially since the world arranged in this way linked permanently the particular places with the specific transcendental values. Another temple feature was conviction of believers about its centralistic characteristics (the central place of Earth, space)<sup>37</sup>. It was important not only for liturgical purposes but most of all created the crucial circumstances for performing the expiation.

This feature was reinforced with an inevitable function of every *sacrum*: „strangeness“, „inaccessibility“, along with „arising the feeling of dread“ (so called „*taboo morphology*“) constituting the *mysterium tremendum*<sup>38</sup>. The place of *sacrum* brought about also a conception of the sacral time<sup>39</sup>, and thus phenomena as introduction of the special calendar and eponymic system<sup>40</sup>.

Nevertheless, the specific value of the cult was the hierophany permanence or, according to the primary beliefs, even endlessness<sup>41</sup>. I think this was the idea from which the conviction of the permanence of „*fas*“<sup>42</sup>, and later „*ius*“<sup>43</sup> originated. A specific feature that should be stressed here is the universality of the *sacrum*, and as a result, the universality of the temple, the cult, and the asylum.

Openness towards other beliefs and affirmation of the foreign religions and cults, apart from the care for own native religious traditions, was typical for the world of the polytheistic culture. On the contrary, the monotheism in Judaism and Christianity implied confession to be hermetic. On the other hand, the functioning polytheistic and pantheistic conceptions caused acceptance not only of foreign beliefs but, what should be stressed, the acceptance of the expiatory practices. Approval for the hierophany of the cult places spread on

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<sup>34</sup> Whereas: *A Guide to the Exhibition Illustrating Greek and Roman life (by: British Museum)*, London 1908, pp. 48-49 discerns the traces of the ritual of a scapegoat sacrifice for *Dionisos* sanctification in the drama genesis.

<sup>35</sup> More details on „*mysteria*“: M.P. NILSSON, *op. cit.*, pp. 90-103.

<sup>36</sup> See: G. WISSOWA, *Religion und Kultus der Römer*, München 1912, 2nd edition, reprint [Handbuch der klassischen Altertumswissenschaft V, 4], pp. 175 and further.

<sup>37</sup> JOSEPHUS FLAVIUS, *Antiquitates Judaicae*, 3, 7, 7.

<sup>38</sup> The term derived from: R. OTTO, *Swietosc. Elementy racjonalne i irracjonalne w pojeciu bostwa*, translated by B. Kupis, Wrocław 1993, [*Das Heilige. Über das Irrationale in der Idee des Göttlichen und sein Verhältnis zum Rationalen*], pp. 39 and further.

<sup>39</sup> Compare: *La Grande Encyclopédie*. Librairie Larousse, s.v. *Sacré*, Paris 1976, vol. 50, p. 10690.

<sup>40</sup> From: *Archon eponymos* - B. BISCHOFF, s.v. *Kalender (griechischer)*, RE, Stuttgart 1919, vol. 20, column 1569.

<sup>41</sup> „Continuum“ and periodicity understood in most cases as „mythical time restoration“ - L. LEVY-BRUHL, *Mythologie primitive*, Paris 1935, pp. 7-8.

<sup>42</sup> WASER, s.v. *Fas*, RE, Stuttgart 1909, vol. 12, column 2001; TIT. LIVIUS, *op. cit.*, 1, 32, 6; 8, 5, 8 (*ius fasque*).

<sup>43</sup> M. KASER, *Das altrömische Ius*, Göttingen 1949, pp. 20 and further, and p. 27. Compare: R. LEONHARD, s.v. *Ius*, RE, Stuttgart 1917, vol. 19, columns 1200-1202.

the whole area of the Mediterranean cultures was established. Reference to the *sacrum* against a representative of the enemy did not have to be always effective, however, the fact of mere using this point proves recognition of the universal features of the temple as such<sup>44</sup>. Moreover, I have to stress that the lack of convincing mentions on the intellectual layer accompanying the sacral phenomena makes simple presentation of the contemporary asylum functions in the ancient societies impossible. All what is left are the considerations leading towards formulating the following hypothesis:

The incidents of temple asylum employment in the pre-Christian period, known from the source references, do not explain the essence of this institution directly. Furthermore, basing on the historical sources it is not possible to show the connection between the temple *sacrum* and the protection given by the temple to a man assiduously breaking the legal order, violating the standard that was traditionally sacred „*ius*“, sometimes „*fas*“, and eventually „*taboo*“<sup>45</sup>. A criminal, as a person committing „*nefas*“<sup>46</sup> or „*iniuria*“<sup>47</sup> (in the wider, ancient meaning) could not count on the indulgence especially in the sacral place, as his assault on the basic values of the society was condemned both by the people and, according to the beliefs, by the supernatural forces. I am saying nothing on the case of committing the *sacrilegium*<sup>48</sup> (sacrilege or the temple profanation), as explicit protection of such a crime would be a denial of the hierophanic function.

The sacral inviolability of the temples comprising both people and the treasury can be found not only in the polytheistic temples of the Mediterranean world but also in the Jewish temple (so called the Solomon Temple) in Jerusalem<sup>49</sup>. Nevertheless, the inviolability of the temples is absolutely incompatible with the protection they gave within the asylum as well as with the religious worship. The temples, by their nature, associated the positive values of the archaic society. Cases of deliberate and political fugitives (*fugitivi*)<sup>50</sup> are left out of this discussion dealing only with those who committed *crimen*<sup>51</sup> or *nefas*. I think that an answer to those doubts may be found rather in the original relation of *crimen* to *iustitia*<sup>52</sup>, most often understood as the antagonism: *fas-nefas*.

<sup>44</sup> Vetus Testamentum, *Mch* 3, 12.

<sup>45</sup> The subject of Roman „*taboo*“ was also weapon won from the enemy. The weapon was hanged at temples or private houses. Further information on Roman totemism: S. REINACH, *Le totemisme animal*, *Revue Scientifique*, ser. IV, vol. 14, 1909, II, pp. 449 and further.

<sup>46</sup> M. BARTOSEK, *Encyclopedie rimskeho prava*, s.v. *nefas*, Praha 1981, p. 233.

<sup>47</sup> M. KASER, op. cit., p. 24.

<sup>48</sup> E. CUQ, s.v. *sacrilegium*, *Dictionaire des antiquites grecques et romains* (Daremberg-Saglio), vol. 4 (2), pp. 985-987; J. PFAFF, s.v. *sacrilegium*, RE, Stuttgart 1920, new edition, vol 1, columns 1678-1681.

<sup>49</sup> For example: In a case of Q. Pleminius, legatus of Scypio, who seized the temple treasures in Locri in 204 B.C. - TIT. LIVIUS, op. cit., 29, 8-9.

<sup>50</sup> Not exactly in the meaning of „*servus in fuga*“ = „*servus fugitivus*“ but of „*fugiens*“ - a defendant in the criminal proceedings: A. BERGER, op. cit., s.v. *Fuga*, s.v. *Fugiens*, s.v. *Fugitivus*, p. 479.

<sup>51</sup> W. REIN, *Das Criminalrecht der Römer von Romulus bis auf Justinian*, Leipzig 1844, reprint (Aalen) 1962, pp. 98-111.

<sup>52</sup> Justinian's Digest - D. (ULPIANUS) 1, 1, 10 pr. and Justinian's Institutions - I. 1, 1, 1. Compare: M.T. CICERO, *De natura deorum*, 3, 5, 38.

And so, as the traditional bans had been broken or the dictates had not been observed, *crimen* and *nefas* required the return to the previous status, i.e. the status before the mentioned blamable deed had been committed. In the same time, it should be signalized that the right for demanding a ransom elaborated in the customary law development was the form exchanging or replacing the earlier law of talion (*talio*)<sup>53</sup>. The criminal and the whole community were forced to appease a divinity, or the deified forces of nature by bringing the traditional sacrifice of „*piaculum*“<sup>54</sup>. The expiation of the criminal was obtained by the „*piaculum*“. Note that in the ancient Rome a criminal who committed *crimen-nefas* could be recognized as a „*sacer*“<sup>55</sup>, i.e. sacrificed to the gods to his own doom.

It is possible to believe that the expiation was not a private affair of the criminal, but a public obligation. It was generally thought that a crime would bring about the divine anger on the whole community<sup>56</sup>. The issue of the thanksgivings and supplications ordered and performed by the Roman commanders may throw some light on this problem.

M. Jaczynowska<sup>57</sup> states even that a specific feature of Rome was that the „offences“ (though she talks about „the religious offences“ only) were answered with the means taken in order to reverse their social consequences. Anyway, the sacrifice made to appease the supernatural factors introduced the status called „*pax deorum*“<sup>58</sup>. Therefore, in my opinion, it is possible to put forward a hypothesis that a criminal, if his deed was known (committed „*palam*“) to the magistratures and the people, was forced to go to the temple and appease the gods by making the ritual sacrifices. The expiation could be both strictly religious and of the compensatory character. It is difficult to speculate on the simultaneous occurrence of those elements as well as on the specified order of them that took place between the ransom and the expiation.

All the above stated points seem to prove the reasoning of this kind, especially that the sanctuaries by their nature performed the sacral duties (*officia*).

The whole is completed, at least as far as the Roman law is concerned, by the connection of the social (state, family) repression system with the system of magical conceptions and actions. Therefore, I suppose that the unity of the temple „*piaculum*“ with the ransom affected the conception of the temple asylum. I assume that the payment of the ransom was

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<sup>53</sup> The „*poena talionis*“ relic is found in *Lex XII tabularum* from 450 B.C., *tabl. VIII, 2*: „*Si membrum rupsit, ni cum eo pacit, talio esto*“.

<sup>54</sup> The term: „*piaculo expiare*“ is given by: TIT. LIVIUS, *op. cit.*, 5, 53, 1; 37, 45, 7, and also 28, 27, 6. Compare: W. EHLERS, s.v. *Piaculum*, RE, Stuttgart 1941, vol. 39, reprint, columns 1179-1185.

<sup>55</sup> The following passage was saved from the mentions of the Twelve Tables Act: „*Patronus si clienti fraudem fecerit sacer esto*“ - *Tabl. VIII, 21*. Compare: K. LATTE, *Römische Religionsgeschichte* [in:] *Handbuch der Altertumswissenschaft*, section 5, part 4, München 1960, p. 38. Whereas, according to the commentary of Eustatios to Vergilius, Aeneis: *Ad Aen. 3, 75*); Compare: EUSTATIUS, *Ad Iliadem*, 23, 429 - the term „*sacer*“ means „damned“ and „sacred“ at the same time, similarly the Greek word „*hagios*“ - „pure“, „tarnished“.

<sup>56</sup> TIT. LIVIUS, *op. cit.*, 21, 62; 27, 37.

<sup>57</sup> M. JACZYNOWSKA, *Religie swiata rzymskiego*, Warszawa 1987,

<sup>58</sup> „*Pax deorum*“ - in other words „*pax deum*“: K. LATTE, *op. cit.*, 40-41.

effected due to the interference of priests from the specified temple. Therefore, I think, the *pax* in *templo* was accessible with the act of agreement („*pactum*“ from „*pacisci*“)<sup>59</sup>, by virtue of which the offended person renounced the act of retaliation, and maybe the act of revenge as well, for the promise of ransom payment.

In one word, we can say that a criminal was not escaping to the temple (*per fugium*) in order to enjoy the impunity, yet went there due to his infringement of the religious and moral order to regain *favor* of the gods. In the same time, the significance of ransom in the development of law, especially the criminal law and legal obligations should be stressed.

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<sup>59</sup> „*Pactum*“ from „*pacisci*“: M. KASER, *Das römische Privatrecht*, 1st vol., München 1971, p. 527.