

## **SERVI PUBLICI. WAYS OF ACQUIRING QUALIFIED CHEAP LABOUR FORCE IN PUBLIC ADMINISTRATION**

Prof. Bronisław Sitek

SWPS University of Social Science and Humanities in Warsaw  
e-mail: [bsitek@swps.edu.pl](mailto:bsitek@swps.edu.pl); <https://orcid.org/0000-0002-7365-6954>

**Summary.** The subject of this paper is the analysis of sources regarding the ways of acquiring qualified cheap labour force to work for public administration in Ancient Rome. In many papers about organization and functioning of that administration occurs the phenomenon of exploiting the highly qualified slaves. One of more important issues within this problematic area are the ways of public slaves acquiring. The purpose of this paper is to confront existing conceptions, accepted in Romanistic literature, with the results of sources analysis. Final conclusions include a kind of correction of existing conceptions. The result of this paper is also presentation of timeless mechanisms of searching cheap highly qualified labour force for public administration work.

**Key words:** slavery, public administration, public slaves origin, public duties

### 1. INTRODUCTION

Slavery has been legal institution applied since ancient times till nowadays. Therefore, for millenniums, slavery has been socially and politically accepted. Even at the beginning of 21st century some institutionalized slavery cases occurred, the example is the so called Islamic State (IS). Nowadays, human trafficking and real enslavement are made over the Internet. These several sentences of introduction are aiming to realize, that all the case studies concerning slavery, still have their value, not only educational but also explicit and preventive ones. Unquestionably, slavery is correlated with people's low incentives, i.e. predominating one over another, desire to exploit the other person to meet own needs. Contemporary slavery research has its additional role to play, namely controlling low incentives of people, which often have their sources in desire to dominate over the others, to fully and equally subject every person. This is a reflection of contemporary commonly accepted constitutional law regulation, in other words, equality of all the people in relation to law.

There is presented in this paper the issue of acquiring specific slavery group in Ancient Rome, namely public slavers, exploited to public works in the interest of widely understood state.

The need to present the ways of acquiring public slavers is issued by many reasons. Building the strong state required highly qualified labour force. Pragmatic Romans noticed that it is easier to acquire qualified workers than to educate them. A lot of rich countries nowadays continue pursuing the same policy through properly formatted migration policy. Australia for instance, implemented the point system for immigrants, which gives preferences highly qualified people [Wrona 2018, 107–23]. Another reason that it is worth to undertake the subject of the ways of public slavers acquiring, is their different social status in relation to the rest slavery group. This situation shows that applying law has often its social and political conditionings. As we can see, practice of applying law unequally has undoubtedly timeless character. The contemporary conception of legal state and all the citizens equality before the law is also undergoing different kinds of deformities depending on social and political needs.

Public slavers were the group of slavers working for different state organs. The assignments to perform required high professional qualifications and knowledge. They were often exploited to complete public investments as architects, craftsmen, and also in supportive duties in the army, at temples' works,<sup>1</sup> or during the period of principate they worked in imperial administrative offices.

In Romanistic literature the issue of acquiring public slavers to work in public sectors was basically discussed at the opportunity of presenting general problems connected with their legal or social status. Th. Mommsen very briefly listed the sources of the public slavers origin [Mommsen 1876, 321]. Then W.W. Buckland completely ignored the issue of the ways of acquiring public slavers [Buckland 1980, 319–30]. Walter Eder [Eder 1981, 6–33] addressed significantly more attention to the ways of public slavers acquiring. While in Aleksander Weiss's recent bigger paper about public slavers, the problem of this issue is presented on 13 pages [Weiss 2005, 17–28]. No papers on this subject have been written in Polish language.

According to Marcianus the source of slavery, after *ius gentium*, was war captivity or being slave-born *Iure gentium servi nostri sunt, qui ab hostibus capiuntur aut qui ex ancillis nostris nascuntur* (D.1.5.5.1). This quite general systematics of slavery sources in case of public slavers was specified by Th. Mommsen on the basis of sources analysis. According to him, an individual could become a public slaver in consequence of war captivity, purchase,

<sup>1</sup> In Ancient Rome celebrating religious cult was a part of social life. Looking after the places of cult was a public duty and they were often financed by public financial resources. CII.2338;2338: *servos publicus ex basilica Opinia*.

donation or a last will, judicial sentence or *publicatio* [Mommsen 1876, 321]. Such the sequence of acquiring public slaves was continued in subsequent literature. In my opinion, such qualification of the ways of public slaves acquiring, cannot be remained in the light of sources analysis.

## 1. WAR CAPTIVITY

The basic source of acquiring slaves in Ancient Rome was war captivity, particularly during the period of republic and the beginning of principate [Wieling 1999, 4]. For Romans, war was national rights institution, hence Hermogenianus claimed that *ex hoc iure gentium introducta bella*. Consequently, also slavery was treated as national rights institution. Florentinus claimed that *Servitus est constitutio iuris gentium, qua quis dominio alieno contra naturam subicitur*. This lawyer even claimed, that slavery is the coercion to stand superior authority, contravolitionally. This situation is contrary to the natural order of things. Florentinus claimed further that, individual liberty is our natural attribute: *Libertas est naturalis facultas* (D. 1.5.14 pr.).

Captivity of new territories, ended under the rule of emperor Hadrian, was favourable to that way of acquiring significant number of slaves. It does not mean however, that all the people of occupied territories became slaves automatically. According to Pomponius, slaves could become only those, who were caught as enemies (*hostes*) and brought to the camp, means to the place for prisoners of war, quite often situated in the outskirts of military camp. That rule referred to both, Romans captured by enemies and to the enemies captured by Romans – *In bello, cum hi, qui nobis hostes sunt, aliquem ex nostris ceperunt et intra praesidia sua perduxerunt* (D. 49.15.5 pr.).

It is difficult to fix the moment when prisoners losing their liberty, gained their status of slaves. This doubt occurs, because in legal sources the most frequent notion is *captivi*, in other words captives.

War prisoners acquired as a consequence of victorious war, became Roman Empire possession, on the basis of the institution to appropriate nobody's items (*occupatio rerum hostilium*). Losing their liberty they quitted to be legal subjects – *servile caput nullum ius habet* (D. 4.5.3.1) [Westrup 1956, 21]. According to Gajus those who were caught to war captivity were treated as natural public benefit: *ea quoque, quae ex hostibus capiuntur, naturali ratione nostra sunt* (G. 2.69). Mario Talamanca does not exclude that in the bygone times, the soldiers themselves also could appropriate individual war prisoners [Talamanca 1990, 91]. The opinion predicated by Rosann Ortu should be rather accepted as correct, that war prisoners, as a part of war trophies – *praeda*, became possession of the Roman nation. Military commander was

responsible for the fate of captured prisoners. He could also share the trophies among soldiers [Ortu 2005].

Prisoners were sold by means of public auction (*sub corona*) on trade fairs in different Empire parts, called *venalicia* or *statarium* (D. 21.1.65.2).<sup>2</sup> Florentinus, already mentioned above, wrote that, those captured as prisoners are not killed but sold: *servi ex eo appellati sunt, quod imperatores captivos vendere ac per hoc servare nec occidere solent* (D. 1.5.4.2).

I understand that such a solution was not a result of humanitarianism. It would be rather assumed, that it was a pragmatic solution. Such prisoners' trade enlarged their revenue *aerarium populi romani*, and during emperor principate, their Inland Revenue.

According to Allus Gellius, it is necessary to differentiate war trophies (*praeda*), including material properties and prisoners, from money acquired from sales (*manubiae*) of those trophies, which over the republican period were transferred to questors' management, and over the period of principate, they were managed by *praefectus aerarii* [Millar 1964, 33–40]: *Manubiae enim sunt, sicuti iam dixi, non praeda, sed pecunia per quaestorem populi Romani ex praeda vendita contracta* (N.A. 13.25.27).

It should be also realized that not every prisoner being Roman empire property, acquired the public slaver status. War prisoners were stated as *cap-tive*. This quite long presentation related with general legal rules concerning prisoners fate, is unusually important in regards to the need to reveal a character of searching candidates as public slavers out of prisoners. Public slavers, as a general rule, were appointed to perform specific public duties at the side of public officials in Rome, in municipalities and colonies, and then in emperor administration. They had to be useful, which means they had to have proper professional qualifications or knowledge.

The capture of New Carthage, (nowadays Cartagena, the city situated to the south of Valencia in Spain), exemplifies the way of acquiring public slavers out of war prisoners. Scipio The Elder, the commander of Roman forces in the war with Hannibal in 210 BC, after defeating the city defenders, out of 10 thousand, left free only indigenous Iberians. Livius writes further, that thousands out of them were chosen, who were craftsmen. Their duties were the works supporting Roman forces. What is more, at the same time, they were given the hope to regain liberty, if they perform their duties rewardingly. The subsequent group of captured prisoners, particularly young and strong, was boarded on the ships to complete the number of rowers. It allowed to enlarge the Roman fleet with further 8 ships, anyway captured from Carthaginians. Scipio ordered the questor to sell the rest of them (Liv.26.47).

<sup>2</sup> On the basis of auction *sub corona* individual war prisoners could be sold. They were not treated as total property, as in case of bankruptcy estate. Then, they call the auction *sub hasta*.

In 209 BC after the next Scipio's triumphant battle of Bekula, it was similar scenario concerning prisoners' fate. Then 10 thousand infantry and 2 thousand cavalry were captivated. The prisoners of Spanish origin were relieved. The rest of them were ordered to be sold by questor (Liv.27.19).

Both stories described by Livius show that not all the imprisoned became public slavers. The majority of war prisoners was sold to private individuals, and money acquired in that way became public purse – *aerarium populi Romani* or Inland Revenue. The types of public slavers and their number were mostly depended on army needs. We can even claim that the majority of them had duties in the army. Such the solution was anyhow reasonable. War prisoners were mostly the soldiers, so their knowledge was useful to perform public duties associated with the Roman forces.

## 2. ACQUIRING PUBLIC SLAVERS BY PURCHASE

Recruiting a group of public slavers through war captivity was relatively easy. However, not always there were the highly qualified persons. Meanwhile, the slavers quite often performed vital and responsible duties, which required to have high qualifications and knowledge. Such duties included work at accounting convenience, keeping city or legion financial books (*Lex Irnitana, cap. 20 i D. 50.4.18.2*), work in public library or supporting geometer works *agrimensores* [Sitek 2014, 123]. Therefore, public slavers were not purchased at slavers trade fair. Highly qualified slavers were searched among individual's slavers.

Right here dogmatic character problem occurs. The controversy is being carried on in literature, whether acquiring public slavers by state or municipality was made by means of common sales agreement (*emptio venditio*). Th. Mommsen suggested that it rather came to hiring slavers to perform public duties.

Therefore, that would not be there a common sales contract but a service rental agreement, in other words *locatio conductio operis*. Th. Mommsen relied his confidence on terms about payments in such kind of contracts in source books. Namely, they used terms *emere* or *redimere*, typical for work rental agreements, not sales agreements. W. Eder accepted the same attitude. Consequently A. Weiß signaled that in Ancient Rome, they did not have consistent law practice of acquiring slavery qualified labour force to perform public duties [Weiß 2004, 19]. From the content of inscription CIL X 1453 it is issued that, *ordo decurionum Herculaneum* city made the decision of committing proper financial resources to purchase public slavers *servos, qui eius rei k(ausa) emptus erit* [Weiß 2004, 19]. Similar conclusion should be taken from the text *lex Irnitana* 79, in which they say about the requirement of having voting qualified majority when

passing a resolution concerning a.o. public slavers purchase – *cibaria vestitum emptionesque eorum qu[i] municipibus [w]serviant* [Sitek 2008, 174–75].

The final proof, that not only the cities purchased public slavers, but central organs did it as well, is the text by Livius 22.57 in fi.: *Et aliam formam noui dilectus inopia liberorum capitum ac necessitas dedit: octo milia iuuenum ualidorum ex seruitiis, prius sciscitantes singulos uellentne militare, empta publice armauerunt. Hic miles magis placuit, cum pretio minore redimendi captiuos copia fieret.* In 216 BC, after the defeat in Battle of Kannas they decided to supply the army personnel. Despite incorporating free young people in legions, they also decided to reach for slavers. The decision was to purchase eight million of slavers, definitely, from private individuals. The dictator Markus Janusz recognized that purchasing slavers capable to battle was better solution than taking out their own enslaved soldiers. No doubt, it was very important to maintain high morale in the army. Unquestionably, a soldier in captivity loses fighting spirit.

To sum up, we can claim that, both central Roman authorities and in municipalities in province, they purchase public slavers, who had proper qualifications to perform public duties and even to become military professionals. However, it cannot be eliminated the possibility of the practice to hire the slaver work, in particular if it comes to seasonal works.

### 3. ACQUIRING PUBLIC SLAVERS BY WILL OR BIRTH

There is indicated in literature, the possibility of purchasing public slavers by hereditary succession or birth. W. Eder claims that the state could not inherit in the same way as private individual, similarly anyhow municipalities and councils. In Roman inheritance law system, state was treated as *incerta persona*, in other words as unidentified legal subject [Eder 1980, 21]. Meanwhile, in the last will there should have been clearly established the beneficiary – *heredis institutio*, what was anyway, the first provisions of last will (G. 2.229).

At that time the conception of legal person was not known. Hence, Max Kaser claimed, that Roman State could not be constituted as beneficiary. However, that does not mean that the state did not acquire mass of the succession property. It happened however, not on the basis of private law but the public one [Kaser 1955, 577].

In literature there can be found opposite statements, according to which, Roman state could be a beneficiary [Radke 1972, 423]. All the more, there are some sources acknowledging such the practice over the empire period (Tac. Rom. 5.1–4). According A. Watson the evidence of this is the fact that, during the republic period it was still possible that *gentes* came into possession

of the heritage. All the more, the beneficiary could become as well *populous Romanus* [Watson 1971, 181n.].

The particular example of Roman state heredity succession can be a story associated with Marcus Agrippa. That politician created private slavery team maintaining aqueducts. While passing away, he made a last will and left by will those highly qualified slavers to Augustus, the emperor, head of the state. That in turn, passed the obtained by will slavers to an official, specially appointed out of senators (Front. Aqua. 98–9). Therefore, they were not assigned to perform private duties for the emperor, but to public duties. The emperor Claudius in turn, modelling after that service, created his own emperor service maintaining aqueducts, appointing at the head his new official called *curator* [Biezuńska-Małowist 1987, 133].

In Romanistic literature you can often read the story about the last will of Attalus III, the last king of Pergamum, who left all his kingdom to Rome by will. In this case, we can see the dogmatic structure similar to privative one. The subject of the last will was the whole kingdom, not parts of them. That was therefore, universal succession. The subject, which is Roman state, was also well defined [Daubner 1955, 17–30]. Therefore, it can be assumed, that it was the case of acquiring all the elements of inherited property by Roman state. The weakness of this example is, that we do not know if among those elements were also public slavers.

We do not have any evidence that public slavers were acquired through testamentary gift. From the dogmatic point of view, such the possibility existed. The interpretation of the Marcus Agrippa gesture as testamentary gift does not find its argumentation in sources, where they explicitly said about the last will.

According to A. Weiß the state, and as a consequence also cities could acquire public slavers by natural slave-birth delivered by public slaver and slave-girl being the state or city property (CIL XIV 2156). A child born in such the couple became the property of the state or municipality, and consequently, acquired public slaver status [Weiss 2005, 24–26]. Children had easier way to obtain relevant competences as their parents had, particularly to succeed an office after father.

#### 4. ACQUIRING PUBLIC SLAVERS ON THE BASIS OF COURT JUDGEMENT OR PUBLICATIO

In literature it is given the possibility of acquiring the public slavers out of people being sentenced – *servi poenae* – for crime *crimina* by court judgement, or *publicatio* in other words proscription [Eder 1981, 27–29]. However, such possibility could not exist in legal regards. *Servi poenae*, that is people sentenced to work in mines or to fight against animals (D. 48.19.8.11) [Weiß 2004, 18] waited for imminent death. Similar was the fate of people sentenced

to exile – *relegatio* [Jońca 2008, 284n.]. Those sentenced in criminal trial often were announced the state enemies and they fell into infamy. They could not perform public duties [Sitek 2003, 225n.].

Public slavers, in regards to obtained competences, could expect completely different fate. Regarding their usefulness to the state or city, they did not have to die, quite the opposite, they should have served as long as possible, working in favour of the benefit of Roman empire.

We can have some doubts considering the way of acquiring public slavers from proscribed properties. People proscribed, could not become public slavers, because they were accused of crimes against the state. Over the period of kingdom and in the early days of republic, they were defined as *homo sacer* and their properties were dedicated to gods – *consecratio bonorum* (Liv. 2.33.1.). According to Francesco Salerno sacral rite over time was replaced by the confiscation of property procedure of convicted person – *publicatio bonorum* [Salerno 1990, 107n.]. As a result of that procedure, guilty was condemned to death, his house was destroyed, whereas the rest of his property was sold at public auction. In that remaining property could be the slavers. Conceivably some of them were purchased to state or city public administration work, according to their qualifications. In the latter part of the republic occurred a new form of mass political control, namely it consisted in public notice of Roman State enemies. People written on the lists were killed by proper services and their properties, as public ownership, were sold at auctions.

## CONCLUSIONS

Searching professional and at the same time cheap labour force to perform public duties is not the feature typical for nowadays. In antiquity the need to acquire highly qualified workers was increasing together with the development of public institutions, both in Rome and in the province. The perfect solution was exploiting slavery power to perform some public duties. Slavers employed at maintaining aqueducts, fire brigade units, handicraft services working for the army, in emperor administrative offices, in temples, in municipal offices were defined as *servi publici*. Their legal position was analogical to other slavers. They were the state or municipalities property. However, their social position was significantly better than the remained slavers, even, they were socially respected.

The fundamental issue, that is the subject of this paper, is the way of acquiring candidates for public slavers. In literature dominates the conception worked out by Th. Mommsen, namely public slavers were recruited out of war prisoners, acquired on the basis of purchasing agreement, last will and donation, and also by judicial sentence and proscription. Sources analysis shows however, that the maximum quantity of public slavers were acquired out of

war prisoners. Most often they were craftsmen with particular competences useful to work for Roman armed forces. However, highly qualified slavers were acquired by purchasing agreement or by hereditary succession. There was the possibility to regain a public slaver also by contract for hire of services – *locatio conductio operis*. In the sources, any evidence does not exist, that any cases of qualified slaver donation occurred in the interest of the state or municipality.

It was also impossible to acquire the slavers out of criminals sentenced for crimes against the state. *Servi poenae* they were the state property, quite often they were highly qualified people, but their fate was decided. It is difficult to imagine that the individual sentenced for crime against the state, performs public duties in this state. At most, we can assume that in case of proscription the state overtook the property of condemned person together with the slavers. Apparently, there could be among them highly qualified slavers.

In literature we do not have the problem of acquiring the public slavers out of children born from couples slavers with working slave-girls in public sphere, e.g. on emperor palace. In this case natural could be to employ such a child in the future to perform similar duties as their parents.

To sum up, we can claim that the mechanisms of functioning the public organs in the past and nowadays are very similar. The only difference is that nowadays we cannot say about public slavers, but about using humanitarian rules towards average workers employed in public administrative organs.

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*SERVI PUBLICI*. SPOSOBY POZYSKIWANIA FACHOWEJ I TANIEJ SIŁY ROBOCZEJ  
W ADMINISTRACJI PUBLICZNEJ

**Streszczenie.** Przedmiotem opracowania jest analiza źródeł pod kątem sposobów pozyskiwania fachowej i taniej siły roboczej do pracy w administracji publicznej antycznego Rzymu. W wielu opracowaniach dotyczących organizacji i funkcjonowania tejże administracji uwidacznia się zjawisko wykorzystywania niewolników o wysokich kwalifikacjach. Jednym z ważniejszych zagadnień w tym obszarze problemowym są sposoby pozyskiwania niewolników publicznych. Celem opracowania jest skonfrontowanie dotychczasowych koncepcji przyjętych w literaturze romanistycznej z tym co wynika z analizy źródeł. Wnioski końcowe zawierają pewną korektę dotychczasowej koncepcji. Efektem tego opracowania jest również pokazanie ponadczasowych mechanizmów poszukiwania taniej i wysoko kwalifikowanej siły roboczej do pracy w administracji publicznej.

**Słowa kluczowe:** niewolnictwo, administracja publiczna, pochodzenie niewolników publicznych, zadania publiczne

**Informacje o Autorze:** Prof. dr hab. Bronisław Sitek – SWPS Uniwersytet Humanistyczno-społeczny w Warszawie; e-mail: bsitek@swps.edu.pl; <https://orcid.org/0000-0002-7365-6954>