

AGNIESZKA KACPRZAK

Uniwersytet Technologiczno-Humanistyczny
im. Kazimierza Pułaskiego w Radomiu

THE ‘SENATUSCONSULTUM CLAUDIANUM’
AND THE MYSTERIOUS ‘LEX’ ON THE STATUS OF
CHILDREN BORN TO FREE WOMEN COHABITING
WITH SLAVES (G. 1,86)

1. INTRODUCTION

The *Senatusconsultum Claudianum* has generated a fair amount of interest in the recent scholarship, but one aspect remains unresolved, its relationship to the mysterious *lex* which Gaius mentions in his *Institutiones* (G. 1,85-86). The *lex* in question, we are told, ruled that the children of free women by slaves were to be born slaves. Thus, the provision of the *SC. Claudianum* to the same effect might seem superfluous if we assume that it postdated the *lex*. This article attempts to clear up the relation between these two provisions, shedding new light on the scope of the *Senatusconsultum*. I will return to the latter problem in the closing part of the article.

2. AN ATTEMPT TO IDENTIFY THE *LEX* REFERRED TO IN G. 1,85-86

Gaius describes the *lex* in the two paragraphs which immediately follow his description of the SC. *Claudianum*:

G.1,85. *Ex diverso e lege ex ancilla et libero poterant liberi nasci; nam ea lege cavetur, ut, si quis cum aliena ancilla, quam credebat liberam esse, coierit, si quidem masculi nascantur, liberi sint, si vero feminae, ad eum pertineant, cuius mater ancilla fuerit. Sed et in hac specie dives Vespasianus inelegantia iuris motus restituit iuris gentium regulam, ut omni modo, etiamsi masculi nascantur, servi sint eius, cuius et mater fuerit. 86. Sed illa pars eiusdem legis salva est, ut ex libera et servo alieno, quem sciebat servum esse, servi nascantur. Itaque, apud quos talis lex non est, qui nascitur, iure gentium matris condicionem sequitur et ob id liber est.*

The *lex* in question applied to the status of children born to mixed couples, i.e. slaves and free persons, and introduced some exceptions to the rule of *ius gentium*, on the grounds of which extra-marital children would have inherited their mothers' status. In fact, no union of a free person with a slave could be qualified as marriage, since they had no *conubium* (right of intermarriage) towards each other. Gaius gives two exceptions to this rule, as provided by the *lex*. The first allowed the sons born to a slave woman to inherit their free father's status provided he did not know that the woman by whom he had had them was a slave. In accordance with *ius gentium*, they would have been born slaves, just like their mother. In contrast, the second exception worked to the detriment of children born to a free woman by a slave, making them slaves like their father. Under *ius gentium*, they should inherit their free mother's status. The exception applied only if the woman knew that her partner was a slave.

The provision concerning the sons of free fathers suggests that the *lex* applied to stable relations, probably intended as a surrogate of marriage, not to promiscuous sexual encounters, in which case it would have been

impossible to establish paternity. The same must have applied to the relations of free women with male slaves.¹

In fact the second provision is an exact mirror image of the first one: in the case of a free father and a slave mother, the exception protects the father and his son against *ius gentium*, which would have worked against their interests. The father's ignorance justifies the breach of the rule: his interest is clearly at stake. Men who knew the status of their slave partners did not deserve the same favor, so their children inherited their mother's slave status, in accordance with the rule of *ius gentium*. It was a very narrow exception, since it favored only the sons born to the couple.²

In the case of a free woman, an analogous protection would have been redundant, because her children were born free on the grounds of *ius gentium* alone. Accordingly, they would have been born free also if she knew that her partner was a slave. The *lex* ruled to the contrary, giving them their father's status in the latter case. As a result, the situation of children born to a free woman aware of the fact that her partner was a slave was the same as of children born to a free man who knew that the woman by whom he had had them was a slave: in both cases such children were born slaves.

¹ In one of my previous articles (*Servus ex libera natus – Überlegungen zum senatusconsultum Claudianum*, [in:] *Sexualität und Sklaverei*, ed. I. FISHER, D. FEICHTINGER, Münster 2018, p. 70), I argued that the *lex* mentioned in G.1.86 might have concerned children born from casual relations between persons of different status (slaves and free persons) as well. It has to be noted, however, that in the case of casual relations it would be impossible de facto to prove that the children were descended from their mother's sexual partner, whose status they were supposed to inherit. Hence, the *lex* must have applied primarily to stable relations, just as in SC. *Claudianum*.

² Similarly, the *lex Aelia Sentia* enabled Latins to obtain Roman citizenship on the grounds of marriage with a Roman citizen or a Latin, provided that they had a one-year-old son (cf. G. 1.66). However, this provision was extended by way of interpretation to comprise daughters as well. Moreover, the Senate issued a series of related resolutions which provided the same privilege to Romans and Latins who married peregrines, taking them erroneously for Latins or Romans (G. 1.67-70, see below). Jurists interpreted all these provisions as applicable to daughters as well – G. 1.72: *Quaecumque de filio esse diximus, eadem et de filia dicta intellegemus*.

However, the situation of the free woman and her children was better than that of the free man if they were not aware of the status of their slave partners. All the free woman's children benefited from *ius gentium*, whereas the exception in favor of the ignorant father applied only to sons. Moreover, Vespasian overruled it.

The latter exception was clearly designed to balance the interest of the free man with that of his slave partner's master: her master would lose her male children but keep her female offspring, whereas her partner could keep his sons as free persons. The fact that Vespasian overruled this favor shows how important the interests of slave masters were. The exception to the detriment of the woman who knew she was cohabiting with a slave made her position similar to that of a free man in the same situation. It is noteworthy, however, that slave owners had no claims to the progeny of their male slaves. The provision in question gave them an advantage they would otherwise not have had.³ So the question of the aim of this particular provision – apart from making the free woman's case correspond to the situation of the free man – remains open. However, its aim does not seem have been to punish the woman's 'immoral' conduct. She was not penalized at all (as she would have been under the *SC. Claudianum*), moreover, a punitive aim does not appear to underlie the regulation as a whole, especially if we consider the provision concerning the free woman as a pendant to the provision regarding the free man.

Unfortunately, we do not have any further information on the *lex*, such as when and in what circumstances it was passed, or who proposed it. Nevertheless, some scholars have tried to identify it, suggesting that it was part of either the *lex Minicia* (ca. 90 BC),⁴ or of the *lex Aelia Sentia*

³ Cf. B. SIRKS, *Der Zweck des 'Senatus Consultum Claudianum' von 52 n. Chr.*, «ZSS» 122/2005, p. 144.

⁴ C. CASTELLO, *La condizione del concepito da libero e schiava e da libera e schiavo nel diritto romano*, [in:] *Studi Solazzi*, Napoli 1948, p. 245. Unfortunately, we do not know the exact date of the *lex Minicia*. C. CASTELLO, *La data della legge Minicia*, [in:] *Studi in Onore di F. Arangio-Ruiz*, III, Napoli 1953, p. 301-311, maintains that it was issued on the early first century BC, i.e. after the Italian social war (*bellum sociale*). G. LURASCHI, *Sulla data e sui destinatarii della 'lex Minicia de liberis'*, «SDHI» 42/1976, p. 431-433, proposes 62 BC as a probable date. E. VOLTERRA, *Matrimonio. Diritto Romano*, «ED»

(4 AD).⁵ Others say that it did not apply to Roman citizens at all. Gaius described the *SC. Claudianum* as if it were the first and only Roman regulation to depart from the rule of *ius gentium* regulating the status of children. Moreover, he maintained that Hadrian restored the rule of *ius gentium* by overruling the relevant provision of the Senate's resolution. Hence, they argue, there could not have been another regulation to the same effect in force in Roman law. Consequently, they conjecture that the *lex* in question was either a Latin law,⁶ or a *lex Romana* applicable to a group of peregrines.⁷ However, the provision of the same *lex* regarding a free man's sons, which Vespasian later overruled, did not overlap at all with the *SC. Claudianum*. Furthermore the *senatusconsultum* contained a couple of regulations that Gaius does not mention in the context of the *lex*. Therefore the Senate's resolution was not a simple repetition of the provisions which Gaius ascribes to the *lex*. Moreover, it is difficult to see why the Romans should want to meddle in the sexual relationships between peregrine or Latin women with slaves.

So both the *lex Minicia* and the *lex Aelia Sentia* look more promising. The exception from *ius gentium* to the detriment of the children of free women who cohabited with slaves worked exactly in the same way as the provision of the Minician law concerning the children of Roman women who cohabited with peregrines. The former could almost pass as a copy of the latter. In terms of content, the *lex Aelia Sentia* gives an even better fit: it contained a series of regulations regarding slaves, such as restrictions on manumission, as well as on the status of slaves

25/1975, p. 778, ventures a hypothesis that it could have been passed as late as in the reign of Octavian Augustus. D. CHERRY, *The Minician Law: Marriage and the Roman Citizenship*, «Phoenix» 44.3/1990, p. 249-250, suggests that the *lex Minicia* might have been proposed by M. Minucius Rufus, who was a tribune in 128 BC.

⁵ B. BÖCKING, *Gaii Institutionum Commentarii Quattuor*, Leipzig 1855, followed by P.R.C. WEAVER, *The status of children in mixed marriages*, [in:] *The Family in Ancient Rome. New Perspectives*, ed. B. RAWSON, Ithaca 1987, p. 149.

⁶ E. HUSCHKE, *Gaii Institutionum Commentarii Quattuor*, [in:] *Iurisprudentiae Antiiustinianae quae supersunt*, ed. E. HUSCHKE, Lipsiae 1879. W.W. BUCKLAND, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge 1970, p. 398-399, accepts Huschke's hypothesis.

⁷ E. SECKEL, B. KÜBLER, *Gai Institutionum Commentarii Quattuor*, Lipsiae 1907.

freed in contravention of these restrictions, including their right to marry.⁸ An even more interesting term of comparison is provided by the *senatusconsulta* on consequences of marriage-like relationships entered into by Roman citizens with peregrines or with Latins (G. 1,67-68), and by Latins with peregrines (G. 1,69-70) unaware of their partner's true status. If a Roman citizen married a Latin or a peregrine woman, believing she was a Roman, he could obtain citizenship both for the woman and for their children if he proved he had been unaware of her true status.⁹ The same applied to a Roman woman who married a peregrine, taking him for a Roman: under the *lex Minicia* the children were born as peregrines, but they and their father could obtain Roman citizenship if their mother proved she had been unaware of his status as peregrine.¹⁰ The Senate issued an analogous provision for the benefit of a Roman or Latin woman who married a peregrine whom she mistook

⁸ For a discussion of the individual provisions of the *Lex Aelia Sentia* and its possible reasons, see K.M.T. ATKINSON, *The purpose of the manumission laws of Augustus*, «Irish Jurist» 1.2/1966, p. 356-374, who questions the opinion based on Suetonius' testimony and prevailing in the literature to date, according to which the aim of the Augustan legislation was to protect the population of citizens from contamination with 'foreign or servile blood' (Suet., *Aug.*, 40,3: *Magni praetera existimans sincerum atque ab omni colluvione peregrine ac servilis sanguinis incorruptum servare populum, et civitates parcissime dedit et manumittendi modum terminavit*). She suggests the contrary, that Augustus's aim was to promote demographic growth, also with the help of freed persons, in order to increase numbers in the Roman army. Hence the benefit of Roman citizenship for freed persons of Latin status, if they married and had children. (*Ibidem*, p. 357-562).

⁹ G. 1,67: *Item si civis Romanus Latinam aut peregrinam uxorem duxerit per ignorantiam, cum eam civem Romanam esse crederet, et filium procreaverit, hic non est in potestate eius, quia ne quidem civis Romanus est, sed aut Latinus aut peregrinus, id est eius conditionis, cuius et mater fuerit, quia non aliter quisque ad patris conditionem accedit, quam si inter patrem et matrem conubium sit; sed ex senatus consulto permittitur causam erroris probare, et ita uxor quoque et filius ad civitatem Romanam perveniunt, et ex eo tempore incipit filius in potestatem patris esse. Idem iuris est, si eam per ignorantiam uxorem duxerit, quae dediticiorum numero est, nisi quod uxor non fit civis Romana.*

¹⁰ G. 1,68: *Item si civis Romana per errorem nupta sit peregrino tamquam civi Romano, permittitur ei causam erroris probare; et ita filius quoque eius et maritus ad civitatem Romanam perveniunt, et aquae simul incipit filius in potestate patris esse.*

for a Latin:¹¹ under the *Lex Aelia Sentia*, not only could a Roman woman marry a Latin man, but he could obtain Roman citizenship on the grounds of his marriage if the couple had a child. The same applied to marriages in which both spouses were Latins – both could obtain Roman citizenship if they had a child. If the man turned out to be a peregrine, the woman could still claim Roman citizenship on the grounds of the *lex Aelia Sentia* both for him and, if she was a Latin herself, for herself and their child,¹² provided that she proved her error as to her spouse's status. The second *senatusconsultum* is obviously later than the *lex Aelia Sentia*, while the first could well have predated it. However, they are probably not very distant in time from each other, since they deal with analogous social problems and adopt identical solutions. The provision of the mysterious *lex* we are discussing, which granted freeborn status to sons born to a Roman citizen by a slave woman, also took his ignorance of the woman's status as the decisive criterion. The similarity to the Senate's

Idem iuris est, si peregrino tamquam Latino ex lege Aelia Sentia nupta sit; nam et hoc specialiter senatus consulto cavetur.

¹¹ G.1,69: *Item si Latina peregrino, cum eum Latinum esse crederet, nupserit, potest ex senatusconsulto filio nato causam erroris probare; et ita omnes fiunt cives Romani et filius in potestate patris esse incipit.* 70: *Idem constitutum est, si Latinus per errorem peregrinam quasi Latinam aut civem Romanam e lege Aelia Sentia uxorem duxerit.*

¹² Roman jurists were in two minds about the status of a child born to a Roman woman married to a Latin in accordance with the *lex Aelia Sentia*. Some of them regarded this type of liaison as marriage and consequently held that the children inherited their father's status and were Latins. Others ruled out the existence of a *matrimonium* in such a case, and hence considered that the children were born as Roman citizens, following their mother's status, under *ius gentium*. Hadrian adopted the latter solution. Cf. G. 1,80: *Eadem ratione ex contrario ex Latino et cive Romana, sive ex lege Aelia Sentia, sive aliter contractum fuerit matrimonium, civis Romanus nascitur. Fuerunt tamen, qui putaverunt ex lege Aelia Sentia contracto matrimonio Latinum nasci, quia videtur eo casu per legem Aeliam Sentiam et Iuniam conubium inter eos dari (et semper conubium efficit, ut qui nascitur, patris conditioni accedat), aliter vero contracto matrimonio eum, qui nascitur, iure gentium matris condicionem sequi et ob id esse civem Romanum. Sed hoc iure utimur ex senatus consulto, quo auctore divo Hadriano significatur, ut quoquomodo ex Latino et cive Romana natus civis Romanus nascatur.* However, there are several arguments in favor of the hypothesis that the *lex Aelia Sentia* instituted *conubium* between Romans and Iunian Latins, cf. K.M.T. ATKINSON, *op. cit.*, p. 361; A. KACPRZAK, 'Pactio ex senatusconsulto claudiano', «Index» 47/2019, p. 56-57.

resolutions described above is striking enough to allow for a hypothesis that all three regulations were issued more or less in the same period of time, i.e. around the time of the *lex Aelia Sentia*. We cannot say whether the *senatusconsulta* preceded the provisions which Gaius ascribes to the enigmatic *lex* or vice versa. However, it is not very likely that these provisions were part of the *lex Aelia Sentia* itself; the Aelian law did not take into consideration the ignorance of the partner's status, as shown by the fact that the Senate had to issue a special resolution concerning such cases. I would rather venture a hypothesis that it was a separate *lex*, probably passed not very long after the *lex Aelia Sentia*.

3. RESPECTIVE AIMS OF THE TWO REGULATIONS

What was the social problem the *lex* in G. 1,85-86 sought to remedy? The first point it regulated was the situation in which a free Roman cohabited with a slave women, but was unaware of her status. The female slaves in question must have been relatively autonomous persons, living outside of their master's household, and their masters had little or no control of them. It is tempting to assume that at least some of them could have been fugitives pretending to be free persons (*servae fugitivae pro liberae se gerentes*) – otherwise it would be difficult to mistake them for free.¹³ Presumably the same applied to the male slaves who cohabited with free women: the provision under which their children would be born slaves if the woman knew her partner's status, must have served as an incentive to break up as soon as she got to know: when she found out she would probably not have wanted to keep her partner from his master in order to continue in the relationship at the cost of her children's freedom.

The *SC Claudianum* addresses a different situation:

G. 1,84: *Ecce enim ex senatus consulto Claudiano poterat civis Romana, quae alieno servo volente domino eius coiiit, ipsa ex pactione*

¹³ For fugitive slaves, see G. KLINGENBERG, *Der servus fugitivus pro libero se gerens*, [in:] *Sklaverei und Freilassung im römischen Recht*, ed. T. FINKENAUER, Berlin-Heidelberg 2006, p. 109-130.

libera permanere, sed servum procreare: nam quod inter eam et dominum istius servi convenerit, ex senatus consulto ratum esse iubetur. Sed postea divus Hadrianus iniquitate rei et inelegantia iuris motus restituit iuris gentium regulam, ut cum ipsa mulier libera permaneat, liberum pariat.

The *Senatusconsultum* informs the woman what she should do if she wanted to cohabit with a slave belonging to someone else: she had to obtain his master's permission. This clearly presupposes that she knew both that her partner was a slave and who his master was. If she cohabited with a slave without his master's consent she risked losing her own freedom, so to a certain extent her situation would be worse than under the *lex*, insofar as her own status, not only that of her children, would be affected. A permission from her partner's master would safeguard her own freedom, but not that of her children: they would still be slaves, just as under the previous *lex*.

The question arises what would happen if the slave's master neither permitted nor prohibited her from cohabiting with his slave. Suppose the slave was a fugitive and she knew of this. Presumably, the woman would not lose her freedom, since the *lex* mentioned in G. 1,86 did not contain a provision to that effect, whereas the SC. *Claudianum* seems to have required the master's explicit prohibition in order to enslave her (however, see my discussion below).¹⁴

The status of the children born in such a situation would be even more problematic. According to the *lex*, it would be enough for the master of the slave to prove the woman knew of his status to claim the ownership of her children on these grounds. But under the SC. *Claudianum* the children would be born slaves on the grounds of the *pactio* made by the woman with her partner's master.¹⁵ The implication seems to be

¹⁴ According to C. MASI DORIA, (*La 'denuntiatio' nel 'senatusconsultum Claudianum'. I legittimati e la struttura del processo, [in:] Parti e giudici nel processo. Dai diritti antichi all'attualità*, ed. C. CASCIONE, Napoli 2006, p. 147), if a woman terminated her relations with the slave after the first prohibition (*denuntiatio*) from the slave's master, she was not enslaved (cf. below, § 4).

¹⁵ H. R. HOETINK, *Autour du Sénatus-Consulte Claudien*, [in:] *Mélanges Levy-Bruhl*, Paris 1959, p. 159-160 and P.R.C. WEAVER, *G.1.84 and S.C. Claudianum*, «The

that as long as there was no *pactio*, the children would be born free, in accordance with *ius gentium*. However, the question remains whether the slave's master could still claim them on the grounds of the *lex*, considering that it had neither been abolished, nor required any *pactio*.

4. PROVISIONS CONCERNING CHILDREN: A COMPARISON

In order to explain the relationship between the two provisions, it may be helpful to consider some procedural questions.

One of the harsh rules which the *SC. Claudianum* introduced was that a woman who continued relation with a slave against his master's explicit will was to forfeit her freedom. However, as C. Masi Doria has convincingly shown, her degradation did not follow immediately on the master's prohibition, but depended on a court verdict issued either after litigation (if she engaged in it), or without it if she neither appeared in court on being summoned three times, nor withdrew from the relationship (see below). Masi Doria is right to point out that it would be unthinkable for such a degradation to ensue automatically without giving the woman a chance to defend herself, e.g. by denying her partner's slave status, or that she had had sexual relations with him.¹⁶

Exactly the same reasoning could be applied to the *lex* in G. 1,85 and its provision concerning children: it would be unthinkable for a free woman's children, who should have been born free on the grounds of *ius*

Classical Review» 14.2/1964, p. 138, writes that the slave status of the children depended on the *pactio* between the woman and her partner's master. See also my arguments in favor of this hypothesis: A. KACPRZAK, 'Pactio'..., p. 51-53 and 55. A. STORCHI MARINO, *Restaurazione dei mores e controllo sociale della mobilità sociale a Roma nel I sec. D.C. Il 'Senatusconsultum Claudianum de poena feminarum quae servis coniungeretur'*, [in:] *Femmes-Esclaves. Modèles d'interprétation anthropologique, économique, juridique*, ed. F. REDUZZI MEROLA, Napoli 1999, suggests the opposite, that the *SC Claudianum* must have contained a separate provision determining the slave status of the children. On the other hand C. CASTELLO, *La condizione...*, p. 240; 249 holds that the status of the children depended directly on the *lex* of G. 1,86, whereas the *senatusconsultum* itself did not contain any provision whatsoever concerning children.

¹⁶ C. MASI DORIA, *La 'denuntiatio'...*, p. 143-144.

gentium, to become slaves merely on the claim lodged by the master of their putative father. In fact the exception to *ius gentium* introduced by the *lex* was very narrow, since it applied only to the children of a woman who was aware of her partner's slave status. Therefore she must have been given a chance to defend the freeborn status of her children on the grounds of her ignorance, or alternatively by challenging the slave's alleged paternity (she could deny ever having had intercourse with him, or at least not at the time when the children were conceived). Hence, presumably the slave's master could challenge the children's freeborn status and claim their ownership only in court proceedings.

By way of contrast, Gaius' description of the SC. *Claudianum* implies that children born to a free woman who made a *pactio* with her slave-partner's master automatically became the latter's slaves. Hence, the master needed no proceedings to achieve that effect. Quite obviously, it would be impossible for the woman to deny either her knowledge of her partner's status, or the cohabitation: the *pactio* made their relationship transparent, visible *pro foro externo*. Neither could she challenge the children's descent from their slave father, given that they were born in a stable, marriage-like relationship, i.e. a *contubernium*. We can even conjecture that the *pactio* involved her a priori recognition and acceptance of the slave status of her prospective children, which would make it impossible for her to deny it afterwards. That is one possible implication of Gaius' remark, *quod inter eam et dominum istius servi convenerit, ratum esse iubet* (the *Senatusconsultum Claudianum* orders the woman and the slave's master to abide by their agreement). Purportedly a woman who entered such a *pactio* deprived herself of the right to defend the freeborn status of her prospective children before a court.

If this interpretation were to hold, we could perhaps explain the apparent contradiction between Gaius' statement, that SC. *Claudianum* introduced a departure from *ius gentium*, making the free woman's children slaves, and his claim that they could become slaves already on the grounds of the previous *lex*. Actually, it was only the SC. *Claudianum* that made them slaves automatically, without any further procedure (i.e. on the grounds of the *pactio* alone), whereas the previous *lex* only gave

the master a chance to claim ownership of his slave's progeny. Needless to say, the procedure must have required a series of proofs concerning both the children's descent from their mother's slave partner, and her knowledge of his status, so that its effect was practically foregone. In this sense, as far as the interest of the slave's master is concerned, the SC. *Claudianum* made an important step forward, granting him the ownership of children born to the couple on the grounds of the *pactio* alone.

Yet Gaius' formulation allows for a further-reaching hypothesis – 'whatever the woman has settled with the slave's master is to be observed.' In fact it is not unthinkable for the master to agree to his slave's *contubernium* with a free woman without claiming ownership of their prospective children,¹⁷ for example as a reward for exceptionally good service, in particular if the master did not want to, or could not manumit him immediately. We know from the epigraphical material that imperial slaves, especially those who held important positions in the court administration, received their freedom later than after the typical lapse of time.¹⁸ Imperial slaves tended to marry freeborn women (according to Weaver's estimate 83 percent of their 'wives' were freeborn).¹⁹ Allowing them not only to marry a freeborn woman, but also to have freeborn children by her would certainly have been a significant reward. If such were the content of the *pactio* or settlement the woman made with the master of her slave-partner, it would have been valid on the grounds of the *Senatusconsultum* in the same way as the converse arrangement (i.e. the one making the couple's children slaves). Hence, it should have prevented the slave's master from claiming ownership of the children on the grounds of the *lex*.

To sum up, by requiring the free woman who intended to cohabit with a slave to enter into an agreement (*pactio*) with the slave's master, the SC. *Claudianum* granted the master the ownership of children born to the couple without recourse to any further procedures. Thus, it simplified

¹⁷ I am indebted to Jakub Urbanik for this illuminating suggestion.

¹⁸ P.R.C. WEAVER, 'Familia Caesaris'. *A Social Study of the Emperor's Freedmen and Slaves*, Cambridge 1972, p.104.

¹⁹ *Ibidem*, p.114.

the way for him to obtain the profit the *lex* had already promised him. Yet presumably he could also waive his right if that was what he agreed to in the *pactio*, relinquishing the chance to claim the ownership of the couple's children. Such an arrangement could work to his advantage, e.g. as a means to secure the loyalty of a particularly good slave whom he did not want to, or could not manumit immediately. The average age of 'marriage' for male slaves was about 10 years before the minimum age of 30 required for manumission.²⁰

Given such a background, we have at least two ways to explain Gaius' remark that Hadrian restored *ius gentium* by overruling the provision of the SC. *Claudianum*, even though the provision of the *lex* to the same effect had never been overruled. First, we can surmise that Gaius qualified only the situation in which a free woman's children were born slaves automatically, without any further procedures, as a departure from *ius gentium*. In this sense, the SC. *Claudianum* (or more precisely, the *pactio ex Senatusconsulto Claudiano*), departed from *ius gentium*, but the *lex* referred to in G. 1,86 did not, even if it were still in force. Second, we may assume that the SC. *Claudianum* had rendered the previous *lex*, which must have been much more complicated to apply in practice, obsolete. Hence, the abrogation of the provision in the *Senatusconsultum* would have restored *ius gentium* to its full effect. It is worth stressing that the latter explanation does not exclude the former: they are fully compatible with each other.

5. POTENTIAL REASONS FOR A WOMAN TO CONCLUDE A PACTIO

Objections have been raised in the literature that the slave status of children could not depend on the *pactio* between the woman and her

²⁰ According to P.R.C. WEAVER, '*Familia*'..., p. 110, in the *familia Caesaris* male slaves 'married' on average 10 years before manumission. Their average age at their marriage was around 20 (20-22), *ibidem* p. 106. It has to be noted, however, that slaves holding the most important positions in the administration with the best chances for social advancement and for a career after manumission (e.g. *dispensatores*), were usually freed later than at the minimum age, i.e. around 40, *ibidem*, p. 226.

slave-partner's master, but must have been determined directly by the *Senatusconsultum*.²¹ Otherwise, women would not have wanted to make *pactiones* with slavemasters, but instead would have tried to secure their informal consent. This argumentation presupposes both that they had such a choice, and that the lack of a *pactio* guaranteed their children's freedom. Both these assumptions are dubious, as we shall see.

The fact that no *pactio* was concluded did not deprive the slave's master of the right to claim ownership of his slave's children by a free woman, on the grounds of the *lex* (although he would have needed to go to court, unlike in the situation, in which they would have made a *pactio*). On the contrary, a *pactio* could well have safeguarded the freeborn status of children, if the slave's master accepted an arrangement to that effect, and the woman could at least make an attempt to persuade him.

Those who question the idea that women could be willing to conclude a *pactio* with their partner's master assume that they had another choice, i.e. to cohabit with the slave with just his master's informal consent. Such an arrangement would have deprived the woman of her freeborn status – she would have become the freedwoman of her partner's master – but their children would have been born free.²² The adherents of this view resort to the testimony of Tacitus, who writes neither of a *pactio* nor of the children being enslaved, but only holds that a woman who cohabited with a slave with his master's consent would become the master's freedwoman.²³

²¹ A. STORCHI MARINO, *op. cit.*, p. 418. On the other hand, C. CASTELLO maintains that the slave status of the children depended directly – and only – on the *lex* of G. 1,86, cfr. *La condizione...*, p. 240; 249. However, this is not a good solution, since it does not explain how the abrogation of the SC. *Claudianum* could restore *ius gentium*, according to which the children should inherit the free status of their mothers, although the *lex* which turned them into slaves was still in force. Cf. A. KACPRZAK, 'Pactio'..., p. 51.

²² H. R. HOETINK, *op. cit.*, p. 159-160.

²³ On these grounds P.R.C. WEAVER, *G.1.84...*, p. 138, goes as far as to maintain that the original version of the SC. *Claudianum* did not contain any provisions at all concerning children. The *pactio* which Gaius speaks of would have developed in the juridical practice, as a means to safeguard the woman's freeborn status.

Tac., *Ann.* 12,53: *Inter quae refert ad patres de poena feminarum quae servis coniugerentur; statuiturque ut ignaro domino ad id prolapsa in servitute, sin consensisset, pro liberta haberetur.*

In other words, they are saying she had a third choice: to safeguard the freedom of her prospective children at the cost of her own freeborn status.²⁴ On the other hand, a *pactio* would guarantee her freeborn status but turn her children into slaves. In fact, Gaius does not mention the woman's degradation to the status of a freedwoman, but only holds that if she made a *pactio* she would give birth to slave-children, although she herself would remain free.

However, a cogent argument has been put forward that the *pactio* which Gaius mentions was simply the way in which the master used to grant his consent, rather than an alternative arrangement: as a jurist, Gaius is more precise on this point than Tacitus the historian.²⁵ Gaius' text corroborates this reading: we are told that a woman who cohabits with a slave in accordance with his master's will (*domino volente*), remains free on the grounds of *pactio*. Hence, the master's consent was tantamount to her having made an agreement with him. Admittedly, unlike Tacitus, Gaius does not mention the woman's change of status to a freedwoman, but this apparent discrepancy is easy to explain if we consider the different contexts of the two accounts. Tacitus stresses the punitive effect of the *Senatusconsultum* for women. He passes over the problem of the children's status but is precise about the woman: she would incur a penalty (albeit a lesser one), even though she had the master's consent. On the contrary, Gaius is primarily concerned with the impact of the regulation on the status of the children, i.e. with the fact that it made them slaves in contravention of *ius gentium*: he stresses this discrepancy by contrasting the mother's freedom with the slave status of her children. Needless to say, the term *libera* which he uses is general enough to comprise both freeborn women and freedwomen.²⁶

²⁴ H.R. HOETINK, *op. cit.* p. 158.

²⁵ This opinion prevails in the literature on the subject, cf. C. CASTELLO, *La condizione...*, p. 240; A. STORCHI MARINO, *op. cit.*, p. 418; B. SIRKS, *op. cit.*, p. 140-141.

²⁶ A. STORCHI MARINO, *op. cit.*, p. 406.

It is also far more likely that the woman's status would be degraded to a freedwoman on the grounds of a bilateral agreement (*pactio*), rather than due to the unilateral, perhaps even tacit consent (tolerance) of the slave's master.²⁷

This reading inevitably leads to the question what would happen if the master knew his slave was cohabiting with a free woman, but did not react at all. Certainly, he should be taken to have given his tacit consent (even though there was no *pactio*), rather than to have objected to the cohabitation. Considering that all the juridical sources make the enslavement of the woman depend on the prohibition issued by her slave-partner's master, her own freedom should have been safe, at least as long as she was not explicitly required to break up the relationship. Moreover, since there was no *pactio*, the children would not be born as slaves. Yet, if my hypothesis holds, the master would still have the option to claim their ownership in court proceedings, availing himself of the earlier *lex*. However, his chances of success would have been small. We can infer from Hadrian's restoration of *ius gentium* that the *lex* running counter to *ius gentium* was no longer current by that time. Moreover, the reason for the abolition of the *Senatuconsultum* regulation was the view that it was unfair on the children. It is therefore unlikely that the earlier jurisprudence and legal practice would have applied the parallel provision of the *lex* extensively, i.e. to the detriment of children born within a union tacitly consented to (tolerated by) the slave-master. It is more likely that the opposite was the case.

Let us consider however a somewhat different situation, in which the master did not know his slave was cohabiting with a free woman, because they kept it secret from him. The master learned of it only after some time (e.g. the slave was a fugitive harbored by a free woman). According

²⁷ A. STORCHI MARINO, *op. cit.*, p. 417: "Secondo me si deve ritenere – in pieno accordo tra la sintassi cui si riferiscono David e Nelson e la logica – che in questo caso il consenso del *dominus* al *contubernium* abbia come effetto che la donna ingenua *pro liberta haberi* e che questo, la qualità della *liberta* della donna, i vincoli che riconosce e con cui si lega al padrone-patrono, sia l'oggetto della *pactio*".

to the juridical sources (from Gaius²⁸ to the *Pauli Sententiae*²⁹), in this case she would have been in no risk of enslavement, either, provided she withdrew from the relationship after the master's denunciation (according to the *Pauli Sententiae*³⁰ it was enough if she did so after the third denunciation).³¹ However, if we turn to Tacitus' testimony, things look somewhat different. Tacitus does not mention a prohibition at all, but claims that a woman would risk enslavement if she cohabited with a slave without his master's knowledge (*domino ignorante*).³² Only the master's consent could stop the punishment. A woman who cohabited with a slave, which his master did not know of and which she did not even inform him of, was obviously cohabiting with the slave *domino ignorante*, without his master's knowledge, let alone his consent, and

²⁸ G. 1,60: [...] *item feminae, quae ex senatusconsulto Claudiano ancillae fiunt eorum dominorum, quibus invitae et denuntiantibus cum servis eorum coierint*; G. 1,91: *Item si qua mulier civis Romana praegnans ex senatusconsulto Claudiano ancilla facta ob id, quod alieno servo invito et denuntiante domino eius (coierit), complures distinguunt et existimant, siquidem ex iustis nuptiis conceptus sit, civem Romanum ex ea nasci, si vero vulgo conceptus sit, servum nasci eius, cuius mater facta est ancilla.*

²⁹ P.S. 2,21a,1: *Si mulier ingenua civis Romana vel Latina alieno se servo coniunxerit, si quidem invito et denuntiante domino, in eodem contubernio perseveraverit, efficitur ancilla.* See also P.S. 2,21a,2-4. 6. 8: the phrase (*domino*) *denuntiante efficitur ancilla* appears in all of them.

³⁰ P.S. 2,21a,17: *Tribus denuntiationibus conventa etsi senatusconsulto facta videtur ancilla, domino tamen adiudicata citra auctoritatem interpositi per praesidem decreti non videtur: ipse enim debet auferre qui dare potest libertatem.* This source is very important because it shows that even after the third denunciation a court verdict was still necessary to make the woman a slave. Cf. C. MASI DORIA, *La 'denuntiatio'...*, p. 143-144, who surmises that according to the original version of the S.C. *Claudianum*, after the third denunciation the woman could have become a slave automatically, i.e. without a court verdict (*ibidem*, p. 144).

³¹ C. MASI DORIA, *La 'denuntiatio'...*, p. 147.

³² H.R. HOETINC, *op. cit.*, p. 157, rightly observes that strictly speaking a master who did not know his slave was cohabiting with a free woman (*dominus ignorans*), could not be regarded either as *consentiens* (consenting), or as *invitae et denuntians* (against the union), since both implied his knowledge of the fact. For Tacitus the lack of consent rather than the prohibition led to the enslavement of the woman: hence, if the master did not issue his consent in any form whatsoever, she risked enslavement, even though no explicit prohibition had been issued.

thus would qualify for enslavement, according to Tacitus. In order to escape this risk she had to obtain the consent of the slave's master.³³

To dismiss Tacitus' testimony as unreliable is not a satisfactory answer. As Storchi Marino has pointed out, his description exactly reflects the typical order of the debate in the Senate, starting with the Emperor's address (*oratio principis*), followed by the discussion. Moreover, Tacitus is the only source to report that Claudius promoted the freedman Pallas to the rank of praetor to reward him for having drafted a resolution. This suggests that Tacitus may have seen the original text of the *Senatusconsultum*.³⁴

We now have to compare and match up his testimony with the juridical sources, according to which the prerequisite for the woman's enslavement was the master's denunciation (or even three denunciations, according to *Pauli Sententiae*).³⁵ Such a requirement seems to prejudice the master's chances to turn her into a slave, unless he had expressly prohibited them from cohabiting, which he obviously could not do, as long as he knew nothing about it.

The solution to the problem seems to lay in the nature of the *denunciatio*. C. Masi Doria interprets it convincingly as a summons for the woman to appear in court, served on her privately but in the presence of witnesses, hence something more than just a simple prohibition.³⁶ If she did not react, i.e. did not appear in court despite being summoned three times, the judge could declare her a slave even in her absence,

³³ H.R. HOETINC, *op. cit.*, p. 158, even suggests that according to the original version of the SC. *Claudianum* a woman who had not obtained the master's permission would become a slave automatically, without the need for proceedings. For convincing arguments against this claim see C. MASI DORIA, *La 'denuntiatio'...*, p. 147-148.

³⁴ A. STORCHI MARINO, *Restaurazione...*, p. 399-400.

³⁵ However, some scholars hold that this requirement was a product of the juristic interpretation in the woman's favor. According to W.W. BUCKLAND, *op. cit.*, p. 412-413, the *Senatusconsultum* probably referred to *perseveratio* as a prerequisite for the woman's enslavement, which jurists interpreted as the requirement of one *denuntiatio*, and finally of three *denuntiationes*.

³⁶ C. MASI DORIA, *La 'denuntiatio'...*, p. 141; 144.

i.e. without litigation.³⁷ This would explain the requirement of three *denunciatio*es, which we see in some sources. On the other hand, if she engaged in litigation after the first *denunciatio*, she could be declared a slave depending on the outcome of the proceedings: in such a case no further *denunciatio* was required. This is in line with the sources (such as Gaius' *Institutiones*) which mention only one *denunciatio*.³⁸ On this interpretation, it is indeed possible that she could be declared a slave if she lost the case because the master proved that she was cohabiting with his slave clandestinely, i.e. without his knowledge, let alone his permission. This would agree with Tacitus' observation. If she did not appear in court, the master could summon her two more times; hence, she could be adjudicated as his slave in her absence, i.e. without litigation.³⁹

³⁷ C. DORIA, *La 'denunciatio'...*, p. 144, interprets this as an 'atypical *adiudicatio*', on the grounds of the judge's verdict, following M. KASER, '*Adiudicare*' bei der '*actio finium regundorum*' und bei den *Vindicationen*, [in:] *Symbolae iuridicae et historicae M. David dedicatae*, II, ed. H. ANKUM, E. FEENSTRA, W.F. LEEMANS, Leiden 1985, p. 105. Kaser points out that *adiudicatio* was the technical term describing the sentence in the *actio finium regundorum*, on the grounds of which a person could obtain a proprietary right which he or she did not have before. Hence, it had a constitutive, not a declaratory effect. Consequently, he calls any usage of the term outside this context 'atypical'. In other words, 'atypical' *adiudicationes* were ones which were either not constitutive or did not concern proprietary rights. Yet it is worth pointing out that the sentence by which a free woman became a slave belonging to the plaintiff seems to be both constitutive and to concern proprietary rights. Every type of sentence – hence also the *adiudicatio*, no matter whether typical or not – could be pronounced in the absence of the defendant in the extraordinary procedure, i.e. without his or her appearance in court, provided that the proceedings against the defendant had been brought in the correct manner. Three summonses to appear in court, be it an *edictum* (official summons), or a private summons (*denunciatio* or *littera*), were the rule, but it was possible to issue a verdict after a first or a second summons already (Cf. A. BELLODI ANSALONI, *Ricerche sulla contumacia nelle 'cognitiones extra ordinem'*, I, Milano 1998, p. 79-85; 87).

³⁸ C. MASI DORIA, *La 'denunciatio'...*, p. 146.

³⁹ If the defendant did not appear in court, although the summons had been properly served on him, a sentence was passed after the summary examination of the available evidence. Even a sentence in favor of an absent defendant was possible (D. 40,12,27,2, Ulp. 2 *de off. proc.*: *Quod si quis, qui pro sua libertate litigat, desit, contradictor vero praesens sit, melius erit inaugeri eius sententiam proferri: si enim liquebit, contra*

If my hypothesis is right, then the penalty, that is the woman's enslavement as introduced by *SC. Claudianum*, could be explained as an additional means of pressure to make her clear up her situation with the master of her slave partner, rather than to keep the relationship a secret. Avoiding the risk of enslavement would be an important reason for her to inform her partner's master of their relationship and reach an appropriate settlement with him.

Yet we can think of other motives as well which could induce her to reach an agreement with her partner's master rather than cohabit clandestinely.

First, a *pactio* would grant the relationship a minimum of stability, *i.e.* it would eliminate the risk of the woman having to withdraw as soon the slave's master expressed his disapproval (Gaius' statement that their agreement was to be observed can be understood in this sense as well). This kind of stability could have been especially important in situations where the slave was better off financially than his free concubine – inscriptions founded by a male slave rather than his free concubine show that this was a common situation.⁴⁰

Second, she could probably count on a favorable arrangement regarding the children (see above).

Finally and importantly, even if her children were to be born slaves, it might not have been as bad for them as it might seem at first glance, at least in certain circumstances.

As Weaver's research has shown, imperial slaves had the best chance to enter stable, marital-like relationships with freeborn women: according to grave inscriptions, 83% of their 'wives' were freeborn.⁴¹ By comparison,

libertatem dabit: evenire autem potest ut etiam absens vincat: nam potest sententiam etiam secundum libertatem fieri; cf. A. BELLODI ANSALONI, op. cit., p. 116-117).

⁴⁰ Cf. S. TREGGIARI, 'Contubernales' in 'CIL6', «Phoenix» 35.1/1981, p. 42-69. Out of 35 inscriptions commemorating *contubernia*, in which the male partner was definitely a slave but his *contubernalis* was free, 25 show the slave partner as the funder of the memorial. This clearly shows that they were better off than their free concubines, as the author rightly observes (*ibidem*, p. 50). The memorial inscriptions erected by 'husbands' are also predominant for couples of presumable slaves and free women.

⁴¹ P.R.C. WEAVER, 'Familia'..., p. 114.

less than 10% of the 'wives' of slaves not belonging to the *familia Caesaris* were freeborn, and most probably the figure was even lower, around 5%.⁴² It has to be noted, moreover, that the percentage of freeborn 'wives' of imperial slaves varied over time, rising from Claudius until the early third century AD.⁴³ As Weaver rightly observes, this had a lot to do with the social prestige of imperial slaves, which rose with the expansion of the imperial administrative service, in which imperial slaves and freedmen held important positions.⁴⁴ Not only senior clerks, such as *dispensatores* responsible for financial affairs in various departments of the imperial administration,⁴⁵ but also lower-rank staff, such as *adiutores* employed in numerous imperial offices, had good career prospects after manumission, and their financial situation was secure both during the slavery (thanks to the assets given at their disposal – *peculia*), and after manumission.⁴⁶ We know that candidates for these positions were

⁴² As P.R.C. WEAVER has shown (*Familia'*..., p. 188), 81% of the female partners of slaves from outside the *familia Caesaris*, were slaves or freedwomen, as confirmed in first-century AD to mid-second-century AD inscriptions. Those with the same *nomen* as their partner's master should be crossed off the list of the remaining 19 %, since they were almost certainly the freedwomen of these masters, but had been freed earlier than their partner. Thus, we are left with a maximum 10 % of women with an uncertain status (either freeborn or freed). Half of these had a different *nomen* than their partner, which suggests that they were freeborn (at any rate, not freedwomen of the same master, yet they might have been the freedwomen of another master). If we exclude the rest with no hint whatsoever as to their freeborn status, we are left with only 5 % of the women out of the whole group who may be classified as probably freeborn. The situation is somewhat, yet not dramatically, different with the freedmen from outside the *familia Caesaris*: around 15% of their wives were freeborn (*ibidem*, p. 190).

⁴³ Cf. P.R.C. WEAVER, *Familia'*..., p. 133 'Marriages with freeborn women, including daughters and granddaughters of successful imperial freedmen or of influential provincial or Italian municipal families, increase markedly and continue to increase till the early third century.'

⁴⁴ *Ibidem*.

⁴⁵ Cf. *Ibidem*, p. 250. They were freed relatively late, at the age of 35-40, but had the best chance for prestigious appointments as *procuratores* afterwards (*ibidem*, p. 269).

⁴⁶ For the position of various groups of assistants, *adiutores*, (*a rationibus, ab epistulis, etc.*, on the one hand, and *tabulariorum, a commentariis* on the other), cf. P.R.C. WEAVER, *Familia'*..., p. 238-240. All of them were junior clerks, usually still slaves: they started their career in their 20-ies, i.e. 10 years before the minimum age

recruited mainly from the house-born slaves,⁴⁷ and at least some of them were sons of slaves already employed in similar appointments.⁴⁸

Interestingly enough, as far as we can judge from the percentage of freeborn wives, the social standing of slaves in the emperor's domestic service was the same as for the clerks in the imperial administration. Indeed, at least those who served the emperor personally might have been very influential. They also had a good chance of manumission and prospects of financial stability afterwards. Their children could succeed to their fathers' appointments,⁴⁹ or even be promoted to service in the imperial administration,⁵⁰ which was even more promising as a starting

required for manumission. They could expect manumission in their 30-ies and soon afterwards promotion to *tabularius* (accountant) or a *commentariis* (archivist), usually held by freedmen (out of the 145 of those attested in the inscriptions only 16 were, or might still have been slaves, *ibidem*. p. 241). They could be promoted to *proximus* (*tabulariorum* or *commentariorum*) in their 40-ies, or to the most prestigious office of *procurator* between 40-45 (*ibidem*, p. 243).

⁴⁷ On the high ratio of *vernae*, house-born slaves, in the imperial administration, especially as junior clerks in *tabularia*, accounting offices, see E. HERMANN-OTTO, 'Ex ancilla natus'. *Untersuchungen zu den "Hausgeborenen" Sklaven und Sklavinnen im Westen des römischen Kaiserreiches*, Stuttgart 1994, p. 359-362.

⁴⁸ The first-century AD inscription founded by Himer, an imperial slave and *dispensator* (administrator) of Moesia, to commemorate his father, Lochus, also an imperial slave and *dispensator* of Dalmatia, offers a good illustration (CIL III 01994 = 08507: *Loch(o) Aug(usti) disp(ensatori) D<al = el>matiae, Himer Aug(usti) disp(ensator) Moesiae patri piissimo*). Another interesting example is given by Menander, a *proximus tabulariorum* (middle-rank clerk), and his son Menander, an *adiutor tabulariorum*, hence still at an earlier stage in his career, both of them imperial freedmen (CIL VI 8544), cf. P.R.C WEAVER, 'Familia'..., p. 242.

⁴⁹ E.g. Eutyches, the 'adopted' son of an imperial freedman Helladus, also already freed, was a *cubicularius* like his father (CILVI 8773, cf. E. HERMANN-OTTO, *op. cit.*, p. 349-350).

⁵⁰ E.g. Titus Aelius Aelianus, Antoninus Pius' freedman, in the Emperor's private service as his *cubicularius*, commemorates his wife Folia Chresime, (with whom he spent 20 years without a single quarrel!), as well as their two sons, Chresimus, assistant to an archivist (*adiutor a commentariis*), already a freedman; and Aphrodisius, an assistant in a financial office (*adiutor tabulariorum*), who was still a slave. Titus Aelius had 5 freedmen of his own, and his wife had 3 freedmen, which shows that they were definitely better off than the average financial standing (CIL VI 8518); cf. E. HERMANN-OTTO,

point for a future career. In fact, we see significant numbers of them among the *adiutores tabulariorum*, assistant financial accountants.⁵¹ They could expect relatively early manumission (in their thirties) and fairly prompt promotion to *tabularius* (accountant). The most successful of them would end up as *procuratores*, administrators in various sections of the imperial administration, in their forties.⁵²

It may seem surprising that the SC. *Claudianum* does not appear to have a negative impact on this phenomenon; apparently, it did not bring down the number of freeborn women willing to live in stable relationships with imperial slaves. On the contrary, Claudius' reign was the time when their numbers started to rise. Hadrian's abolition of the provision which made their children slaves does not seem to have constituted a turning point, either. This seems to corroborate the hypothesis that women prepared to 'marry' imperial slaves did not regard the slave status of their children as a big disadvantage. Again, this must have depended on the relatively good social and financial status of those imperial slaves with whom freeborn women decided to share their lives. Apparently, for these women the rise in the social standing of imperial slaves and freedmen which started under Claudius turned out to be a bigger incentive than the supposed disadvantage of giving birth to children who would not be freeborn, but imperial slaves like their fathers. The inscriptions tell us that the overwhelming majority of the freeborn wives of slaves were themselves daughters or granddaughters of imperial freedmen, so they might not have considered it humiliating for their children to be born slaves, yet with good prospects of becoming imperial freedmen as well.

We observe an interesting usage in the grave inscriptions which corroborates the high prestige of imperial freedmen: they were practically the only ones to describe themselves as freedmen, imperial freedmen. That means that they did not perceive their status as shameful at all, but, on the contrary, as something worth commemorating. To sum up, there

op. cit., p. 349-350. For *tabularii* (accountants) and *a commentariis* (archivists), who were usually imperial freedmen, see P.R.C WEAVER, 'Familia'..., p. 241-242.

⁵¹ E. HERMANN-OTTO, *op. cit.*, p. 359-363.

⁵² Cfr. P.R.C WEAVER, 'Familia'..., p. 240-243; 449.

are good reasons to believe that the concubines of imperial slaves might not have thought it particularly disadvantageous for their children to be born as imperial slaves too.

As I have pointed out, only seldom do we encounter freeborn women who were the life companions of slaves not belonging to the *familia Caesaris*, but there were a few: in fact, they made up about 5% – 10% of them. The rest of them were of slave origin (either still slaves or already freed). Considering the number of slaves not belonging to the *familia Caesaris* in the Roman Empire, it was certainly not a negligible phenomenon. A similar trend is to be expected as for the wives of imperial slaves – i.e. daughters and granddaughters from freedmen's families, 'marrying' well-off slaves with good prospects of promotion. S. Treggiari has identified some couples of this kind in the household of the important Volusii Saturnini senatorial family.⁵³ A good example is provided by Marcialis, a slave who commemorated his wife Julia Mansueta, and their son Graecinus, describing his own, 'very superior, though servile' [sic!] position of 'vicarius of Abascantius, the slave of C. Nymphidius Sabinus, praetorian prefect'.⁵⁴ The lack of a *nomen* for their son Graecinus suggests that he was a slave, hence probably born subject to the SC. *Claudianum*, which apparently did not prevent Julia Mansueta from 'marrying' a slave.⁵⁵ The structure of the Volusii Saturnini household

⁵³ Their masters were L. Volusius Saturninus, consul in 3 AD, and his two sons, Lucius, and Quintus (consul in 56 AD), and Quintus' wife Torquata, cf. S. TREGGIARI, *Family life among the staff of the Volusii*, «TRAPA» 105/1975, p. 393.

⁵⁴ CIL. VI, 6621. Cf. S. TREGGIARI, *Family life...*, p. 399, n. 3. Marcialis was the *vicarius* of another slave, Abascantius (he belonged to Abascantius' *peculium*), who was a slave of the praetorian prefect C. Nymphidius Sabinus, (legally, C. Nymphidius was the master of both of them). Marcialis probably worked as Nymphidius' assistant, which would have given him a certain amount of prestige. The position of a *vicarius* (the slave of another slave) *per se* was not especially prestigious. Cf. E. HERRMANN-OTTO, *op. cit.*, p. 222, n. 44.

⁵⁵ Cf. E. HERRMANN-OTTO, *op. cit.*, p. 223, n. 49. It is not very likely that the son's *nomen* was omitted to save space (a possibility considered by S. TREGGIARI, *loc. cit. sup.*), considering that Marcialis was very careful to stress his own high status whenever he could, and having a freeborn child would certainly have contributed to that. Yet Julia Mansueta might have also been freed in the family of Julii after she married

is noteworthy. There were many slaves whose *peculia* included other slaves, so they must have been fairly well off. Moreover, a considerable number of freedmen continued to live in the household and work for their patrons after manumission. As Mouritsen has observed, their chance of finding an equally good job on the free labor market would probably have been negligible.⁵⁶ This suggests that marrying one of these slaves could well have been a perfectly rational decision for a free woman from a humble background, which even for their children could turn out beneficial, notwithstanding their slave status.

6. THE AIM OF THE SC. CLAUDIANUM RECONSIDERED

Tacitus' description of the SC. *Claudianum*, as concerning punishment of free women who cohabit with slaves (*Interque refert ad patres de poena feminarum quae servis coniugeretur*)⁵⁷ suggests that the aim of the regulation was to eliminate the phenomenon. If that were so, then we should be surprised to find that the resolution not only admitted such relations (though under strictly defined conditions), but even gave slave-masters who consented to them an advantage, granting them the ownership of children born to the couple. This provision certainly cannot be explained as a kind of compensation, since masters had no property rights to the children of their male slaves, but only to those born of their female slaves. Consequently, the situation for the slave's master was the same no matter whether his slave had children by a free woman, by a female slave belonging to somebody else, or no children at all.

So we may ask if it was really in the interest of slave-masters or of society at large to prevent such sexual relations, and if so, what kind of interest it might have been.

Marcialis. Hence, Marcialis would have 'married' not a freeborn, but a slave woman from another family, who was then manumitted.

⁵⁶ H. MOURITSEN, *Slavery and manumission in the Roman elite: a study of the columbaria of the Volusii Saturnini and the Statilii Tauri*, [in:] *Roman Slavery and Roman Material Culture*, ed. M. GEORGE, Toronto 2013, p. 56.

⁵⁷ Tac. *Ann.* 12,53.

Considering the fact that the overwhelming majority of *contubernia* (marriage-like relations between slaves) involved partners from the same household (as inscriptions attest), we might argue that a slave who chose to cohabit with a free woman instead of a fellow-slave (*conserva*) deprived his master of potential offspring. However, this was not necessarily so. Epigraphical research shows a remarkably low ratio of females to males in the Roman slave population. On the estates of wealthy families such as the Volusii, Statilii, or in Livia's household, it was 1: 2 at best, perhaps even less.⁵⁸ Hence, at best only one in two had a chance to have a concubine from his own household. In the *columbaria* burial places for slaves from these families we see numerous memorial inscriptions made by fellow-slaves, patrons, or even by funeral *collegia*, but not by their 'wives' or children, which corroborates the view that even in rich households with plenty of slaves, many of them were single and childless.⁵⁹

In these households we also encounter slaves who 'married' outside the *familia* of their masters.⁶⁰ Hence the owners must have been ready to allow their male slaves to cohabit with women not belonging to the household, notwithstanding the fact that children born to such couples would not be theirs.

In fact, masters seem to have wanted their slaves to 'settle down' and set up 'marital relations,' in the hope that it would have a good influence on their character. A slave who had a wife and children would be more responsible and want to give his family the best conditions he could by serving his master faithfully, and he would be less likely to run away. Giving a slave a 'wife' from the same household was obviously the best

⁵⁸ S.TREGGIARI, *Family life...*, p. 395, has calculated that there were 129 males to 75 females among the slaves of the Volusii and 440 males to 212 females in the household of Livia. In the house of the Statilii there were 192 male and 84 female slaves, as well as 100 freedmen and 62 freedwomen (cf. W.L.WASTERMANN, *The Slave System of Greek and Roman Antiquity*, Philadelphia 1955, p. 84).

⁵⁹ H. MOURTISEN, *op.cit.*, p. 53.

⁶⁰ H. MOURTISEN, *op. cit.*, p. 54, has calculated that 22 % of the 'wives' of slaves from the house of the Volusii belonged to other owners. According to P.R.C. WEAVER, *Familia'...*, p. 191, around 25 % of slaves' 'wives' belonged to other households.

way to ensure his loyalty; hence, both Varro⁶¹ and Columella⁶² advise masters to provide wives at least for their principal slaves – Varro even considers it a kind of reward. But it was not always possible, as we have seen. If there were not enough eligible female slaves in the household, allowing a male slave to 'marry' an *ancilla* from another household could have been the second best choice, especially if the two masters were friends who had no trouble in making all the arrangements for the couple to live together.

So we should now consider whether allowing slaves to cohabit with free women would have been more disadvantageous or riskier for their masters. The fact that such a couple's children would not belong to the slave's master does not appear to have been a stumbling-block, as we have seen, since the situation would be the same if the slave's concubine were an *ancilla* owned by somebody else. Could there have been anything distressful in the very idea of a free woman cohabiting with a slave? Yet it is worth keeping in mind that these women did not normally belong to the upper or middle class of society. As the epigraphic material shows, they were usually either freedwomen themselves, or second- or third-generation descendants of families of freed persons. It is doubtful whether it was really perceived as particularly humiliating for them

⁶¹ Varro, *De re rust.* 1,17,5: *Praefectos alacriores faciendum praemiis dandaque opera ut habeant peculium et coniunctas conservas, e quibus habeant filios. Eo enim fiunt firmiores ac coniunctiores fundo. Itaque propter has cognationes Epiroticae familiae sunt illustriores ac cariiores.* (The foremen are to be made more zealous by rewards, and care must be taken that they have a bit of property of their own, and mates from among their fellow-slaves to bear them children; for by this means they are made more steady and more attached to the place. Thus, it is on account of such relationships that slave families of Epirus have the best reputation and bring the highest prices. Transl. W.D. HOOPER and H.B. ASH, Loeb 1934).

⁶² Col., *De re rust.* 1,8,5: *Sed qualicumque villico contubernalis mulier assignanda est, quae contineat eum, et in quibusdam rebus tamen adiuvet. Eidemque actori praecipendum est, ne convictum cum domestico, multoque minus cum extero habeat.* (But be the overseer what he may, he should be given a woman companion to keep him within bounds and yet in certain matters to be a help to him; and this same overseer should be warned not to become intimate with a member of the household, and much less with an outsider. Transl. H.B. ASH, Loeb 1941).

to ‘marry’ a well-to-do slave with good prospects of manumission. The more so that cohabiting of freedmen with slaves is a well-attested phenomenon: many freedmen and freedwomen continued living in the households of their masters, in the company of slaves who were their partners or relatives, and sharing burial places with fellow-slaves.⁶³ Even if relations between freeborn women and slaves did provoke some disdain, the problem was resolved by degrading the woman to the status of a freedwoman. It made her situation fit in with the familiar and widely accepted pattern.

I would venture the hypothesis that the real social problem with relations of this kind was the exact opposite: rather than humiliate the woman, they would have raised the status of the slave, potentially making him insubordinate to his master and hence more difficult to control.⁶⁴ The risk could be especially high if he were to live at his free concubine’s place, or if he wanted to visit her too often, neglecting his duties in his master’s household. In fact, the effect of such a relationship would be the exact opposite of what the master should expect from his slave’s *contubernium* according to Varro’s and Columella’s advice – it could weaken rather than strengthen his loyalty.

Indeed, the first two provisions of the *SC. Claudianum* corroborate the view that this was one of the main problems which the Senate’s resolution attempted to resolve. What is significant in this context is the clear distinction between a woman ready to cohabit with a slave without his master’s consent, and one willing to do so with the master’s permission. The former would lose her freedom, whereas the second would become a freedwoman of her slave-partner’s master. The aim of the first provision was to punish women who did not comply with the conditions imposed by the Senate, that is women who did not make a settlement with their partners’ masters. The interpretation of the second provision is more problematic. To begin with, the women it applied to

⁶³ H. MOURTISEN, *op cit.*, p. 55. As he rightly points out, what was responsible for this phenomenon were on the one hand family bonds with relatives who were still slaves (above all life-companions and children), but on the other hand few opportunities to find comparably good jobs on the free labor market.

⁶⁴ I am grateful to Birgit Simschitz for this enlightening suggestion.

were those who complied with the *Senatusconsultum*, i.e. those who met the requirements necessary to establish authorised relations with a slave; hence the question why they might still deserve to be punished. Second, the provision affected only those who were not freedwomen already. Finally, it is difficult to say how hard such a change of status would be for a woman who, even though freeborn, came from a family of freedmen, which was the case for the overwhelming majority of these women. At any rate, the good financial and social standing of their prospective slave-partner, and sometimes even his prestige (e.g. if he was an imperial slave), could easily counterbalance this apparent disadvantage. So I would interpret this minor change in the woman's status neither as a penalty, nor as an attempt to dissuade her from entering relations with a slave, but rather as a means to provide the slave's master with an instrument to control the situation (i.e. both the slave and his free concubine). After all, if the master was willing to permit the liaison, he had no reason to punish the woman. Neither would he have had an interest in preventing it, considering the potential profit from gaining the ownership of the children born to the couple.

Moreover, turning the freeborn concubine of a slave into his master's freedwoman provided the master with the rights of patronage. He could then require *obsequium* (respect and obedience) as well as *operae* (services) of her. One of the duties *obsequium* implied was duty to live in his household, as C. Masi Doria has convincingly shown.⁶⁵ Consequently, the woman would come under the control of her partner's master. She would be in the same situation as his own freedmen and freedwomen, many of whom continued living with their partners in their patron's household after manumission.

The agreement (*pactio*), the woman was supposed to make with her partner's master must have contained a decision concerning where the couple was to live, and it is highly probable that it tended to be the slave's household, at least if the estate was big enough to allow for such an

⁶⁵ C. MASI DORIA, *In margine a P.S.2,21A11*, [in:] *Au delà des frontières. Mélanges de droit romain offerts à Witold Wolodkiewicz*, ed. M. ZABŁOCKA, J. KRZYNOWEK, J. URBANIK, Z. SŁUŻEWSKA, Varsovie 2000, p. 512-516, and the bibliography cited there.

arrangement.⁶⁶ This would guarantee that her relationship with the slave would not weaken his bond with his master's household. As C. Masi-Doria has rightly observed, a freedwoman cohabiting with her patron's slave in the patron's household was a regular aspect of the accepted social order.⁶⁷ There is no reason why this observation could not apply to originally freeborn women whose status changed to freedwomen in outcome of the *pactio ex Senatusconsulto Claudiano*.

To sum up, a slave's freeborn concubine who turned into the freedwoman of her partner's master became a member of the master's *familia servilis* composed of slaves and freed persons living in their master's household. This fitted her into a widespread and socially accepted schema.

However, this is still not enough to explain the reasons behind the third provision of the SC. *Claudianum*, i.e. the one which turned the children born to the couple into slaves.

We can hardly explain this provision either as a punishment or as a means of pressure to dissuade a woman from deciding to live with a slave. Surely it would be unreasonable to punish the children of an allegedly wayward woman who still kept her freedom. It might seem more plausible that the provision tended to discourage freeborn women from entering marital-like relations with slaves. Except that apparently it did not, at least as far as imperial slaves were concerned. Moreover, it is difficult to see why the social order should disapprove of such arrangements. Provided that they were kept under control, they were to the advantage of society at large, since they enabled masters to provide 'wives' for their male slaves if there was a shortage of female slaves.

⁶⁶ Archeological evidence shows that it was indeed a widespread custom for freed persons to live in their patrons' household; cf. A. WALLACE HADRILLA, *Houses and Society in Pompeii and Herculaneum*, Princeton 1994, p. 199; 223; 225; 226.

⁶⁷ C. MASI DORIA, *'Ancilla efficitur' ... 'In eo statu manebit' le conseguenze del sc. Claudianum per le donne di status libertino*. [in:] *'Mulier'*. *Algunas Historias e Instituciones de Derecho Romano*, ed. R. RODRIGO LOPEZ, M.J. BRAVO BOSCH, Madrid 2013 p. 174: "[...] la condizione di una liberta, coabitante con il manomissore, in più con il suo sostanziale (se non anche formale), consenso, in conturbernio con il suo schiavo – non turbava in modo determinante la 'normalità' dei rapporti sociali".

This advantage was independent of the ownership of children, which obviously constituted an additional and extraordinary profit for the masters. Last but not least, considering the widespread phenomenon of child exposure, the idea that giving birth to slave children would be an unacceptable solution for the woman, who might otherwise have found it difficult to keep her children at all, may sound somewhat anachronistic.

There is an obvious explanation, namely that the aim of the provision was to provide masters with a constant influx of invaluable house-born slaves (*vernae*), especially in a situation of want of female slaves to bear them. Two points are worth remembering. On the one hand, the fact that the S.C. *Claudianum* was drafted by Pallas, Claudius' imperial freedman and finance minister, and that the Emperor gave him a generous reward for it. On the other hand, the percentage of freeborn women among the 'wives' of imperial slaves amounted to 83 % (no more, and probably less than 10 % of other slaves had freeborn 'wives'). So it is quite plausible that an important aim of the provision was to enrich the imperial house with house-born slaves.

As I have argued above, the aim of the first two provisions of the *Senatusconsultum Claudianum*, the enslavement of women who cohabited with slaves without their masters' permission, and a change of status for a freeborn woman cohabiting with a slave with his master's consent, to the master's freedwoman, was to regulate the practice by putting it under the master's control, but not to stop it. The third provision gave masters an additional benefit, guaranteeing them the ownership of the children born to such couples. It is tempting to conjecture that this addition was Pallas' idea for the provision of an additional source of much-needed *vernae* for the imperial household. He expected, quite rightly, that this provision would not deter free women from 'marrying' imperial slaves, which in fact it did not: the ratio of freeborn wives of imperial slaves constantly rose from Claudius' reign until the third century A.D. It is impossible to judge on the basis of the available sources whether the provision had a deterring effect on potential concubines for slaves of private masters, or how much they actually profited from it.

Instead of searching for a single aim of the *Senatusconsultum Claudianum* as a whole, I have tried to consider the function of each

of its provisions separately. This approach seems fully justified if we consider that the first two provisions remained in force for around five centuries, until Justinian, while the third was overruled by Hadrian 80 years at the latest after its enactment. This shows that the first two proved useful independently of the provision on children. For all those centuries there were always free women ready to ‘marry’ slaves, and they were allowed to do so provided they had the permission of the masters and submitted to their control.

Going back to Tacitus’ description of the *Senatusconsultum Claudianum* as punishing women for cohabiting with slaves, we may ask which aspect of their conduct was to be punished. According to my hypothesis, it was not the fact itself, but having done so without the consent of the slave’s master and beyond his control. In other words, women ready to live with slaves were to be punished not for their ‘licentiousness,’ but for their ‘insubordination,’ that is for not respecting the rights of the slave’s master. Those who collaborated were not punished, although they had to submit to the authority of their partner’s master.

THE ‘SENATUSCONSULTUM CLAUDIANUM’ AND THE MYSTERIOUS
‘LEX’ CONCERNING THE STATUS OF CHILDREN BORN TO FREE WOMEN
COHABITING WITH SLAVES (G. 1,86)

Summary

The starting point of this article is the relation between the provision of the *SC. Claudianum* which turned the children born to a free woman by a slave into slaves, and the analogous regulation of the mysterious *lex* which Gaius mentions in § 86 of Book One of his *Institutiones*. The fact that almost the same provision appears in two different enactments has attracted the attention of many scholars. Some have concluded that the *lex* in question must have applied to Latins or peregrines, but not to Roman citizens. Others on the other hand ruled out the possibility of the *Senatusconsultum* containing a provision on children, since their status depended directly on the *lex*.

I claim that both of the regulations which Gaius describes are authentic and both applied to Roman citizens. Notwithstanding obvious analogies, they were not identical. Not only did they address different social problems, but they also laid down different procedures for the acknowledgement of the slave status of the children.

Once we have clarified the relation between these regulations, we are in a better position to understand both the way in which the SC. *Claudianum* functioned as a whole, and its presumable aim. I devote the last part of my article to the latter problem. I argue against with the claim that the aim of the *Senatusconsultum* was to punish the women and hence to stop them from cohabiting with slaves. On the contrary, such liaisons were a familiar phenomenon in Roman society, as the epigraphical material shows, and they were accepted, providing they observed well-defined conditions and were under the control of the slave's master. The main aim of the SC. *Claudianum* was to delineate the bounds within which the cohabitation of free women with slaves was admissible.

'SENATUSCONSULTUM CLAUDIANUM' I TAJEMNICZA USTAWA
O STATUSIE DZIECI URODZONYCH ZE ZWIĄZKÓW WOLNYCH KOBIET
Z NIEWOLNIKAMI (G. 1,86)

Streszczenie

Punktem wyjścia przedłożonego artykułu jest relacja pomiędzy postanowieniem SC. *Claudianum*, nadającym status niewolników dzieciom wolnej kobiety, urodzonym ze związku z niewolnikiem, a podobnie brzmiącym postanowieniem tajemniczej ustawy, wzmiankowanej przez Gajusa w § 86 pierwszej księgi Instytucji. Fakt powtórzenia niemal identycznego rozwiązania w dwóch różnych regulacjach wzbudził podejrzliwość badaczy. Część z nich uznała, że wspomniana przez Gajusa ustawa nie odnosiła się w ogóle do obywateli rzymskich, lecz do Latynów lub peregrynów. Inni z kolei wykluczyli, by wzmianka, dotycząca statusu dzieci, znajdowała się w *senatusconsultum*, skoro ich status wynikał wprost z ustawy.

W artykule bronię tezy, że obie opisane przez Gaiusa regulacje są autentyczne i obie dotyczyły obywateli rzymskich. Mimo oczywistych podobieństw, nie są one bynajmniej identyczne. Każda z nich reagowała na nieco inny problem społeczny, zaś najważniejsza różnica dotyczyła procedury uznania dzieci za niewolników.

Wyjaśnienie relacji pomiędzy dyskutowanymi regulacjami pozwala lepiej zrozumieć mechanizm funkcjonowania *senatusconsultum* jako całości, a także stawia w nowym świetle jego prawdopodobny cel. Temu ostatniemu zagadnieniu poświęcam ostatni paragraf moich rozważań. Polemizuję w nim z tezą, jakoby SC. *Claudianum* zmierzało do wyrugowania z porządku społecznego związków między wolno-urodzonymi kobietami a niewolnikami. Przeciwnie, związki takie miały w porządku społecznym swoje uznane miejsce, jak pokazuje materiał epigraficzny, a nawet były dla niego korzystne, pod warunkiem, że funkcjonowały w ściśle określonych ramach i pod kontrolą właścicieli niewolników. Stworzenie akceptowalnych ram dla quasi-mażeństw między wolnymi kobietami a niewolnikami było podstawowym celem SC. *Claudianum*.

Keywords: *sc. Claudianum*; *lex Minicia*; *lex Aelia Sentia*; mixed marriages; *status libertatis*; *pactio ex sc. Claudiano*; status of children; *capitis deminutio maxima*; *servus*; *liberta*.

Słowa kluczowe: *sc. Claudianum*; *lex Minicia*, *lex Aelia Sentia*; małżeństwa mieszane; *status libertatis*; *pactio ex sc. Claudiano*; status dzieci; *capitis deminutio maxima*; niewolnik; wyzwolenica.

Bibliografia

- ATKINSON, K.M.T., *The purpose of the manumission laws of Augustus*, «Irish Jurist» 1.2/1966, pp. 356-374.
- BELLODI ANSALONI, A., *Ricerche sulla contumacia nelle 'cognitiones extra ordinem'*, I, Milano 1998.
- BÖCKING, B., *Gaii Institutionum Commentarii Quattuor*, Leipzig 1855.
- BUCKLAND, W.W., *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge 1970.
- CASTELLO, C., *La condizione del concepito da libero e schiava e da libera e schiavo nel diritto romano*, [in:] *Studi Solazzi*, Napoli 1948, pp. 232-250.

- CASTELLO, C., *La data della legge Minicia*, [in:] *Studi in Onore di F. Arangio-Ruiz*, III, Napoli 1953, pp. 301-317.
- CHERRY, D., *The Minician Law: Marriage and the Roman Citizenship*, «Phoenix» 44.3/1990, pp. 234-266.
- HERMANN-OTTO, E., *'Ex ancilla natus'. Untersuchungen zu den "Hausgeboeren" Sklaven und Sklavinnen im Westen des römischen Kaiserreiches*, Stuttgart 1994.
- HOETINK, H.R., *Autour du Sénatus-Consulte Claudien*, [in:] *Mélanges Levy-Bruhl*, Paris 1959, pp. 153-162.
- HUSCHKE, E., *Gaii Institutionum Commentarii Quattuor*, [in:] *Iurisprudentiae Antiiustinianae quae supersunt*, ed. E. HUSCHKE, Lipsiae 187.
- KACPRZAK, A., *'Pactio ex senatusconsulto claudiano'*, «Index» 47/2019, pp. 47-60.
- KACPRZAK, A., *Servus ex libera natus – Überlegungen zum senatusconsultum Claudianum*, [in:] *Sexualität und Sklaverei*, ed. I. FISHER, D. FEICHTINGER, Münster 2018, pp. 63-82.
- KASER, M., *'Adiudicare' bei der actio 'finium regundorum' und bei den Vindicationen*, [in:] *Symbolae iuridicae et historicae M. David dedicatae*, II, ed. H. ANKUM, E. FEENSTRA, W.F. LEEMANS, Leiden 1985, pp. 85-110.
- KLINGENBERG, G., *Der servus fugitivus pro libero se gerens*, [in:] *Sklaverei und Freilassung im römischen Recht*, ed. T. FINKENAUER, Berlin-Heidelberg 2006, pp. 109-130.
- LURASCHI, G., *Sulla data e sui destinatarii della 'lex Minicia de liberis'*, «SDHI» 42/1976, p. 431-443.
- MASI DORIA, C., *'Ancilla efficitur' ... 'In eo statu manebit' le conseguenze del sc. Claudianum per le donne di status libertino*. [in:] *Mulier. Algunas Historias e Instituciones de Derecho Romano*, ed. R. RODRIGO LOPEZ, M.J. BRAVO BOSCH, Madrid 2013, pp. 157-178.
- MASI DORIA, C., *In margine a P.S.2,21A11*, [in:] *Au delà des frontières. Mélanges de droit romain offerts à Witold Wolodkiewicz*, ed. M. ZABŁOCKA, J. KRZYNOWEK, J. URBANIK, Z. SŁUŻEWSKA, Varsovie 2000, pp. 507-520.
- MASI DORIA, C., *La 'denuntiatio' nel 'senatusconsultum Claudianum'. I legittimati e la struttura del processo*, [in:] *Parti e giudici nel processo. Dai diritti antichi all'attualità*, ed. C. CASCIONE, Napoli 2006, pp. 125-156.
- MOURITSEN, H., *Slavery and manumission in the Roman elite: a study of the columbaria of the Volusii Saturnini and the Statilii Tauri*, [in:] *Roman Slavery and Roman Material Culture*, ed. M. GEORGE, Toronto 2013, pp. 43-68.
- SECKEL, E., KÜBLER, B., *Gai Institutionum Commentarii Quattuor*, Lipsiae 1907.

- SIRKS, B., *Der Zweck des ‚Senatus Consultum Claudianum‘ von 52 n. Chr.*, «ZSS» 122/2005, pp. 138-14.
- STORCHI MARINO, A., *Restaurazione dei mores e controllo sociale della mobilità sociale a Roma nel I sec. D.C. Il ‚Senatusconsultum Claudianum de poena feminarum quae servis coniungeretur‘*, [in:] *Femmes-Esclaves. Modèles d'interprétation anthropologique, économique, juridique*, ed. F. REDUZZI MEROLA, Napoli 1999, pp. 391-426.
- TREGGIARI, S., *‚Contubernales‘ in ‚CIL6‘*, «Phoenix» 35.1/1981, pp. 42-69.
- TREGGIARI, S., *Family life among the staff of the Volusii*, «TRAPA» 105/1975, pp. 393-401.
- VOLTERRA, E., *Matrimonio. Diritto Romano*, «ED» 25/1975, pp. 726-808.
- WALLACE HADRILL, A., *Houses and Society in Pompeii and Herculaneum*, Princeton 1994.
- WASTERMANN, W.L., *The Slave System of Greek and Roman Antiquity*, Philadelphia 1955.
- WEAVER, P.R.C., *‚Familia Caesaris‘. A Social Study of the Emperor's Freedmen and Slaves*, Cambridge 1972.
- WEAVER, P.R.C., *G.I.84 and S.C. Claudianum*, «The Classical Review» 14.2/1964, pp. 137-139.
- WEAVER, P.R.C., *The status of children in mixed marriages*, [in:] *The Family in Ancient Rome. New Perspectives*, ed. B. RAWSON, Ithaca 1987, pp. 145-169.