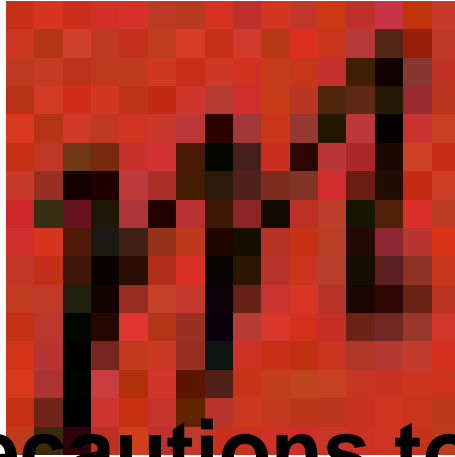


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# XV.15 Precautions to take in a moderated government

- The Spirit of Law - Book XV. How the laws of civil slavery relate to the nature of the climate -

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## XV.15 Precautions to take in a moderated government

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The humanity shown to slaves can in a moderated state prevent dangers that might be feared from their excessive number. Men get used to everything, and even to servitude, provided the master is not harsher than servitude. The Athenians treated their slaves with great kindness ; we do not find that they perturbed the state in Athens, as they shook the one in Lacedæmon.

We do not find that the early Romans were worried about their slaves. It was when they had lost all feelings of humanity for them that civil wars arose that have been compared to the Punic Wars. [1]

Simple nations, ones which attach themselves to work, ordinarily have more kindness for their slaves than those which have given it up. The early Romans lived, worked, and ate with their slaves ; they had much kindness and equity for them ; the greatest punishment they inflicted on them was to make them pass in front of their neighbors with a forked piece of wood [2] on their backs. Habit sufficed to maintain the fidelity of the slaves ; no law was required.

But when the Romans had expanded, and their slaves were no longer the companions of their work but the instruments of their luxury and their pride, since there were no habits, they required laws. It even took fearsome ones to secure the safety of these cruel masters, who lived among their slaves as among their enemies.

They made the Silianian *senatus consultum* and other laws which decreed that if a master was killed, all the slaves who were under the same roof, or in a place close enough to the house to hear a man's voice, would without distinction be sentenced to death. [3] Those who in this case sheltered a slave in order to save him were punished as murderers [4] ; even one whose master had ordered him to kill him, and who obeyed him, would have been guilty [5] ; one who had not prevented him from killing himself would have been punished. [6] If a master had been killed during a journey, those who had remained with him and those who had fled were put to death. [[Law 1, §31 following *ibid.*] All these laws applied even to those whose innocence was proven, their purpose was to give slaves prodigious respect for their master. They were dependent not on the civil government, but on a flaw or imperfection of the civil government. They did not derive from the equity of the civil laws, since they were contrary to the principles of civil laws. They were properly based on the principle of war, with the exception that the enemies were within the state. The Silianian *senatus consultum* derived from the law of nations, which would have a society, even an imperfect one, preserve itself.

It is the government's misfortune when the magistracy finds itself forced to make cruel laws in this way ; it is because obedience has been made difficult that one is obliged to increase the punishment for disobedience or to suspect loyalty. A prudent legislator anticipates the misfortune of becoming a ferocious legislator. It is because the slaves among the Romans could have no confidence in the law that the law could have no confidence in them.

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[1] "Sicily," says Florus, was "more cruelly devastated by the slave war than by the Punic war" (book III).

[2] [*Bois fourchu* = *carcan*, yoke or stocks, collar of ignominy.]

[3] See all of the article *De senatus consultus Silianiano* and following.

[4] Law 1, §22 following *De Senatus consultus Silianiano*.

[5] Law 1, §22 following *De Senatus consultus Silianiano*.

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[6] Law 1, §22 following *De Senatus consultus Silianano*.