



## **Richard Alexander Bauman (1919–2006)**

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Everyone knows that Romans went in for law. But Roman historians brought up on the English language soon have to face a painful handicap. Our common-law tradition has dulled our sense of the strenuous doctrines of Roman law. But on the European side of the Channel the living Romanist tradition of law has set the framework and standards of ancient history itself. We have to take refuge in the cumulative comforts of our own way against the comprehensive coherence

that the Romanist legal culture has decreed for our discipline.

The paradox of RA Bauman's career is that, reared and trained in professional law on the Romanist side and then migrating into English-language Roman history, he has very successfully provoked both traditions. The easy-going uncertainties of the Anglo-Saxon Roman historians have been made to face a stiff legalistic precision. The Romanist legal historians of Europe have been made to face the uncertainties of the law as it functioned (or failed to) in the most tumultuous epoch of Roman politics.

Chronology is the key to this paradox. As a classicist Bauman was at home with Cicero and Tacitus. His huge scholarly output, for all its range, was clearly centred on their two centuries. So he tackled the historical questions familiar to all Roman historians, but from the sharp perspective of a lawyer. Cicero and Tacitus were advocates but not jurists. Historical reviewers of Bauman sometimes thought he might have allowed more for their rhetoric. But the juristic reviewers regretted that he had not carried the historical analysis of how the legal profession arose from Roman politics forward into its culmination in the grand codifications of Roman law.

Born in Johannesburg (2 September 1919), Dick Bauman married Sheila in 1948 and their son Adrian was born in 1957 (now an epidemiologist holding a Chair in Public Health in the University of Sydney). The very closely bonded family trio is not unconnected, surely, with the remarkable stability, productivity and intellectual independence of RA Bauman.

Educated on a bursary at Marist Brothers College, Bauman in the Depression gave up his hope of an engineering degree to become an articled clerk to a legal firm, enrolling as an external student for the BA LLB of the University of South Africa. This was interrupted by his volunteering in 1940 as a private in the South African Army. He served three years on the North African front. The

commanding officer discovered he could type and kept him in the office. His natural logistic talents, it is said, soon made him indispensable as a tactician, until he was discharged in 1943, now second lieutenant. The BA was duly completed with honours in Classics and the LLB *cum laude*. He rewrote the lecture material circulated to him and sold it back to the university which still used it decades later, it is claimed.

The sixty years of professional life which followed fall neatly into three vicennial phases. During the first (1945–64) he rose to be a partner in the law firm, specialising in company law. But legal practice was not enough. He completed the necessary prerequisites for PhD candidature at the University of Witwatersrand, still a novelty in the humanities and successfully wrote the thesis on the early history of the Roman law of treason which in 1967 was published by the University as *The Crimen Maiestatis*. No reference is made in the book to supervisor or examiners, nor is that done in the review of the thesis published in *Acta Classica* (1964). Since the book is only ‘slightly revised’, its highly distinctive conventions and methodology, along with its vast multilingual bibliography, leave one in no doubt that it was an essentially independent enterprise. Sheila believes the topic arose from their anxiety over human rights and that for the same reason Dick applied at once for the lectureship in Classics at the University of Queensland which was drawn to his attention. But Sheila says his heart remained forever in the high veld.

The second career-phase (1965–1984) saw Bauman transfer after one year in Queensland Classics to the department of History at Sydney. His first three articles appeared in 1966 and the flow of work was to continue for forty more years. In 1969 he was promoted to Reader. Ancient History at Sydney was slowly working its way up the curriculum ladder, opening the possibility of specialised lecture units and seminars. By 1984, ‘Lawyers and Politics’ was on offer as a specialist unit. Bauman had not sought to create a personal school or following. He remained pleasantly surprised that he should be able to spend his time doing exactly what he wanted and be paid for it. But what he wanted was no whim. The pattern is clear.

*The Crimen Maiestatis* was a rare event: a major work in English on Roman criminal law. Though published in South Africa, it was extensively reviewed, mostly in European journals (as with all Bauman’s books). Everyone recognised its novel and provocative character. The erudition was inescapable, as was the tenacity with which the author used his appetite for precision to tease fresh proposals from slender evidence. In the journal of the Savigny- Stiftung, the ultimate guardian of Romanist rectitude, Wolfgang Waldstein saw that when Bauman claimed there had been no comprehensive law of treason, he was overturning Mommsen’s model, in part by responding to Kunkel’s challenge to test the sources that had not been explained by it.

By 1972 Bauman had ready for publication the historic sequel to *Crimen*, namely *Impietas in Principem*. With similar sangfroid he explained how even the abolition of the law of treason only opened the way to an alternative offence, that of infringing the sanctity of the now divinised Caesars. He took it to Munich (at my suggestion), for consideration by Kunkel for his series on Papyrology and the History of Law. Bauman was nervous on the day, given the language barrier, but he laughed that evening over how Afrikaans helped sort out the German. *Impietas* appeared in 1974, with three other titles to follow in the same series. His warm relation with Kunkel was one of the few close scholarly links he formed. Bauman had already (in 1969) published a monograph on the *duumviri* in the *Historia* series, again explicitly challenging Mommsen's position (and Kunkel's). Waldstein had been stimulated by our author's outstanding gift in making connections others had not seen. It was risky, he said, but could not be bypassed. Bauman was a forensic historian, wanting to contest and test opinions to breaking point. He disliked the unctuous evasion of those who would only say 'not convinced' without saying why. Courteous dissembling would not yield progress in knowledge.

Already by 1974 Bauman had submitted his next monograph for publication in *Aufstieg und Niedergang der römischen Welt* (where it did not appear until 1980, in II.13). In 130 pages it treated 'The *leges iudiciorum publicorum* and their interpretation in the Republic, Principate and Later Empire', as a critical review of recent work across the whole span of Roman criminal jurisdiction, half a millennium. Particular attention was given to the meaning and effect of *humanitas* as an ideal of justice in the later period. In 1983 the first volume of Bauman's trilogy on the development of a legal profession at Rome appeared in Munich, *Lawyers in Roman Republican Politics*. In contrast with Kunkel's pioneering work of social history on the prosopography of the jurists, Bauman sought to discover the political methods by which their influence was brought to bear. In particular he was searching for the origin of the supposed juristic schools of later times and of their political recognition.

The third career-phase (1985–2005) was opened up by Bauman's mandatory retirement at the set age from the University of Sydney. He was invited of course to continue the link as an Honorary Fellow but found a very different working base in the Law School of the University of New South Wales, where his appointment as Visiting Professor of Law was cut short only by his death. From twenty years of exposing history students to Roman law, he was now to teach that to the lawyers, with ancient history into the bargain. It was a very congenial 'retirement' and stimulated his publishing career in an entirely new mode. (During much of this time he was also an Honorary Fellow at Macquarie University, where he gave topical lectures on an occasional basis.)

For *Lawyers in Roman Transitional Politics* (Munich 1985) and *Lawyers and Politics in the Early Roman Empire* (Munich 1989) the work will largely have been done before going over to the University of New South Wales. But there now followed a five-volume sequence of thematic essays. They all draw of course on his rich fund of technical knowledge of Roman legal history. The earlier seven titles had all been driven by the dialectic of academic research. There was no explicit hint of the contemporary interests that lay behind them. Martin Stone adds:

To reveal this was indeed contrary to his scientific purpose, yet it was there and he wished it to be noticed. He had lived through Stalinism and Nazism and was present at the invention of Apartheid in South Africa, in all of which the laws of treason and sedition concentrated the divining powers of his mind.

But now the new titles openly reach back from the modern world. A furious reviewer of one of them denounced the work as too dangerous to be shown to students. She had proved this by showing it to them and none of them even noticed the epistemological problem!

The first four were all published by Routledge in London, the outcome of Dick Bauman's warm link with their commissioning editor, Richard Stoneman. They are *Political Trials in Ancient Greece* (1990) (or: Did the Greeks also have treason?); *Women and Politics in Ancient Rome* (1992); *Crime and Punishment in Ancient Rome* (1996); and *Human Rights in Ancient Rome* (2000). The fifth work, tentatively entitled *Law Reform and Ideology in Ancient Rome* was left ready for publication. These retrospective studies late in life reveal the passionate interest Dick Bauman had always pursued in the large issues of social justice and the law in our day. The family shared fully in this and each of his Australian universities enjoyed his critique of political society in seminar and common-room dialogue.

The seven technical works and the stream of academic articles, represent a coherent and major research achievement. It actively confronts the established understanding of the history of Roman law. It probes the evidence with Tacitean acuteness. And above all it throws up the questions, hitherto unnoticed, that others must face. But the five long essays in 'retirement' illuminate his own classic humanity. Well may the long-loved land of his birth, along with his happy land of promise, unite with his devoted family in blessing every memory of him.

*E A Judge*