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THE COLONATE IN AFRICA

A LEGAL & ECONOMIC HISTORY OF *COLONI* IN LATE ANTIQUE AFRICA

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The Colonnade in Africa

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Abstract

Roman Africa was a grouping of eminently wealthy and populous provinces. Across Africa wealthy and middling landowners turned over their land to *coloni* – tenant farmers. These *coloni*, in conjunction with the regular freeholding *plebeii* farmers, generated immense agricultural wealth. Africa, Rome, and the empire prospered on the back of this wealth. In Late Antiquity the enigmatic and hotly debated colonate appeared. The colonate has been an integral aspect of Late Antique Roman historiography for centuries. Fundamentally, the different theories describe a variety of processes wherein legislative, fiscal, and seigneurial pressures gradually reduced the status of *coloni* from free citizens to something resembling slaves or medieval serfs. Far from assigning *coloni* to a proto-feudal status, the colonate in Africa appears pragmatic and conservative. This thesis contributes to the ongoing reconsideration of the colonate as a historiographical concept by providing a sustained legal analysis focusing on the region of Roman Africa. Chiefly, the legal analysis accounts for fundamental flaws with colonate models that exaggerate the universalism of Late Roman law and the ability of the imperial state to enforce said law. Moreover, the traditional colonate model does not consider regional circumstances, which are crucial. At an empire-wide level *coloni* were subject to general, but not inflexible, rules regarding compulsory and hereditary professions. In Africa, imperial legal interventions were primarily directed at alleviating fiscal and administrative impediments to *coloni* cultivation and generally safeguarding an ancient and successful system.

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Notes on the Maps & Translations

All in-text translations in this study are the author's own.

The maps used throughout this study were drafted specifically for this thesis and combine data from a variety of authorities and datasets. Topographic data is adapted from the U.S. Geological Survey's *Global Multi-Resolution Terrain Elevation Data* (GMTED), and ancient shoreline and bathymetric data are courtesy of the Ancient World Mapping Center. The locations and names of ancient places are sourced from the *Pleiades* project's open access database, which itself amalgamates data from a number of sources and authorities. Specific data sources for individual maps are cited in a note appended to said map.

Ancient Weights & Measures

<i>Mille</i>	=	8 <i>Stadia</i>	=	1,000 <i>Passus</i>	=	5,000 <i>Pedes</i>	=	1.48km
		<i>Stadium</i>	=	125 <i>Passus</i>	=	625 <i>Pedes</i>	=	184.81m
				<i>Passus</i>	=	5 <i>Pedes</i>	=	1.47m
						<i>Pes</i>	=	29.6cm
		<i>Culleus</i>	=	20 <i>Amphorae</i>	=	960 <i>Sextarii</i>	=	517.1L
				<i>Amphora</i>	=	48 <i>Sextarii</i>	=	25.85L
					=	<i>Sextarius</i>	=	538.6mL
		<i>Saltus</i>	=	4 <i>Centuriae</i>	=	800 <i>Iugera</i>	=	2.014km ²
				<i>Centuria</i>	=	200 <i>Iugera</i>	=	503,645m ²
					=	<i>Iugerum</i>	=	2,518m ²
<i>Medimnos</i>	=	~4 <i>Modii</i>	=	~6 <i>Modii</i>	=	96 <i>Sextarii</i>	=	51.7L
		<i>Castrenses</i>		<i>Italici</i>				
		<i>Modius</i>	=	1.5 <i>Modii</i>	=	24 <i>Sextarii</i>	=	19.93L
		<i>Castrensis</i>		<i>Italici</i>				
				<i>Modius</i>	=	16 <i>Sextarii</i>	=	8.618L
				<i>Italicus</i>				
						<i>Sextarius</i>	=	538.6mL

List of Abbreviations

ACD	<i>Appendix Constitutionum Dispersarum</i>
AE	<i>L'Année Épigraphique</i>
Brev.	Breviary of Alaric
CIL	<i>Corpus Inscriptionum Latinarum</i>
CJ	Code of Justinian
CLE	<i>Carmina Latina Epigraphica</i>
CTh	Code of Theodosius
Dig. Iust.	Digest of Justinian
EJ	Edicts of Justinian
Exp. Mund.	<i>Expositio Totius Mundi et Gentium</i>
ILTun	<i>Inscriptions Latines de la Tunisie</i>
Inst. Iust.	Institutes of Justinian
LSA	Last Statues of Antiquity
NJ	Novels of Justinian
NMaj	Novels of Majorian
Not. Afr.	<i>Notitia Provinciarum et Civitatum Africae</i>
Not. Dig. Occ.	<i>Notitia Dignitatum</i> (Western section)
Not. Dig. Or.	<i>Notitia Dignitatum</i> (Eastern section)
NTh	Novels of Theodosius
NVal	Novels of Valentinian III
PLRE	Prosopography of the Later Roman Empire
SHA	<i>Scriptores Historiae Augustae</i>
Sirm.	Sirmondian Constitutions
SIG	<i>Sylloge Inscriptionum Graecarum</i>
Tab. Alb.	Albertini Tablets

I

Introduction

The Colunate is among the most important and enduring concepts in Late Antique historiography. The colunate purports to explain the tendency of post-Diocletianic laws and economic conditions to subject *coloni* – tenant farmers – to serf-like conditions, which culminated in, perhaps, a formal quasi-caste like institution.¹ The colunate thus provides a theoretical framework for explaining the impacts and impetus of social, economic, and legal change for millions of peasant labourers and their landlords within the Late Empire, and a *longue durée* explanation connecting the social, economic, and legal conditions of agrarian life under the Principate through to the emergence of feudal serfdom in the early Middle Ages.² Within the general rubric of colunate scholarship there is a considerable diversity of thought and theory, with a history that dates to the sixteenth century.³ For a time in the early to mid-twentieth century was a general consensus, though not without its detractors, that the colunate was a Late Antique innovation that placed *coloni* in a quasi-caste institution, that the colunate was instituted primarily through law, and that it was buttressed by the empire's tax system and the willingness of landlords. By the late twentieth century this fragile consensus began to fracture, as did many long-held beliefs about the nature of the Late Roman state and the Late Antique era generally.⁴ Carriè struck a convincing intellectual blow in 1982 with his paper '*Le "colonat du Bas-Empire": un mythe historiographique?*', wherein he argued, as the title suggests, that the colunate and the scholarship underpinning it was a modern myth, one that was incompatible with the evidence and coloured by modern political sensibilities. In Carriè's view the colunate was purely a fiscal instrument designed to ensure the imperial treasury received taxes for land worked by *coloni*; it did not create

¹ A rich catalogue of relevant scholars and scholarship will be provided in the following section.

² Sarris 2006, 131–33; contemporary scholars are less likely to emphasise feudalisation in their arguments for the colunate, but it remains an important part of the colunate's intellectual history.

³ Clausing 1925 traces the intellectual history of the colunate from its origin to the early twentieth century.

⁴ P. Brown 1967 credits Jones' *The Later Roman Empire* as the catalyst for a revolution in thinking on Late Antique era, which Brown himself expounded on some years later in his own work.

anything like a novel social position or class. Since Carriè published his provocative paper new studies on the colonate have proliferated, aided by renewed scholarly interest in Late Antiquity. The tendency of recent scholarship has not been towards a unified model of the colonate, however. As Walter Scheidel describes it, scholarship on the colonate is “...more fragmented than ever.”⁵ The fate of millions of *coloni* under the Late Empire, namely their position within the empire’s complicated social, legal, and economic structures, and their relationship with landowners, has yet to be convincingly determined and described. Importantly, recent scholarship has argued for considerable regional variations in the colonate, rather than it being a monolithic institution that was enacted and enforced equally. Indeed, the few studies that have concentrated on examining the colonate in specific regions have found important variations in what was happening in the provinces compared to what the central imperial authorities intended or imagined.⁶

For a contemporary re-evaluation and reconsideration of the colonate there is no better place to start than Roman Africa. Africa was among the most populous, most productive, and most urbanised regions of the Roman Empire; within the Western Empire Africa was second only to Italy in these metrics.⁷ The fields of Africa produced an enormous crop, and from this crop landlords derived lucrative rents and the imperial state obtained crucial taxes and supply. A large part of this prodigious crop was produced by tenant *coloni*. *Coloni* were particularly numerous in Africa and perhaps more than anywhere else the *coloni* of Africa leased their land as sub-plots on *latifundia* – vast estates – that were owned by wealthy magnates or held as some form of public or semi-public property.⁸ The emperor and the imperial state conjointly were the largest landowners in Africa and, by extension, the largest landlord in Africa. Cities, temples, and later the church, all owned substantial tracts of lands, which they exploited and monetised by renting them to *emphyteuticarii* and/or *coloni*. Some middling landowners also joined the ranks of the African landlord class by leasing out a fraction of their lands to tenants. Estates were especially prolific in Africa however, and large

⁵ Scheidel 2000, 732.

⁶ Lenski 2017 demonstrates some instances where Africa does not conform to a centralised colonate model. Bagnall 1996, 115–16, 149 explains how he found little evidence to support the existence of the colonate in fourth century Egypt. Further examples will be explored in the following section.

⁷ D. Mattingly and Hitchner 1995, 204–11.

⁸ Lenski 2017, 118–20.

landholdings began forming soon after Rome established its first African province following her victory in the Third Punic War (149-146 BCE). Prior to Roman conquest the Punic aristocracy also possessed vast private landholdings, some of which survived into the Roman era.⁹ The (in)famous Hannibal owned vast olive plantations southeast of Carthage, and his predecessor Hanno the Great is alleged to have utilised the labour of twenty-thousand slaves to work his prodigious estates.¹⁰ The enclosure of land into *latifundia* continued under Roman governance and progressed so rapidly that Pliny the Elder remarked that under Nero six eminent Romans collectively owned half of the province Africa Proconsularis.¹¹ Centuries later, the imperial government needed to create a new high-ranking office to oversee the enormous estates that were confiscated from the erstwhile *magister militum* Gildo after his failed rebellion in 398. Agennius Urbicus' treatise on surveying gives some sense of the enormity of concentrated private landholdings in Africa, and how they competed in size and importance with formally organised civic governments:

Inter res p(ublica) et privatos non facile tales in Italia controversiae moventur; sed frequenter in provinciis, praeipue in Africa, ubi saltus non minores habent privati quam res p(ublicae) territoria; quin immo multi saltus longe maiores sunt territoriis: habent autem in saltibus privati[s] non exiguum populum plebeium et vicos circa villam in modum municipiorum.

Such disputes are not easily stirred among cities and private landholders in Italy, but they occur frequently in the provinces, especially in Africa, where private landholders hold estates (*saltus*) not smaller than the territories of cities. More so in fact, many estates are larger by far than (civic) territories. Moreover, they have in their private estates a not inconsiderable plebeian population, and villages surround the villa in the manner of a town.

Agennius Urbicus *On Land Disputes*¹²

Vast and middling estates proliferated across Africa, and they were peopled mostly with tenant *coloni*. *Coloni* were not restricted to inhabiting plots on the estates of the landed magnates

⁹ Eckstein 2006, 161–63.

¹⁰ On Hannibal cf. Livy *From the Founding of the City* 33.48.1, Pliny the Elder *Natural Histories* 17.93. For Hanno cf. Justin *Epitome of the Philippic Histories* 21.4.

¹¹ Pliny the Elder *Natural History* 18.7.35.

¹² Agennius' work is at times misattributed to Frontinus, who Agennius used as a source e.g. Kehoe 1988, 73–74; cf. Campbell 2000, xxxi–xxxiii, 42–43, 349–50.

though. Landowners, even those with only modest landholdings, could lease out small tracts of land to *coloni*, even as small as a tract of land containing a few fruit trees; the Albertini Tablets record several such micro-leases, the smallest containing just two olive trees, existing in the late fifth century. *Coloni* were not limited to a single lease either. A single *colonus* could potentially have numerous tenancies, there was no strict limit. Tenant *coloni* were fundamental to the social organisation of the rural workforce of Africa, and to the economy of Africa in general. What arable land was not held subdivided and leased out to tenant *coloni* was owned and worked by freeholding *plebii*, used as pasture, or was unoccupied.

The value of Africa as a site of study lies not just in the number of *coloni* who dwelled there, or their importance to Africa's economy, but also in Africa's importance to the empire. The western empire and the city of Rome were heavily invested in Africa, relying on her fecundity for fiscal stability and solvency as well as for Rome's civic food supply. A large portion of imperial rent and taxes in Africa went to supply the *annona civica* (hereafter simply *annona*) – the state supervised supply of foodstuffs to the city of Rome; this involved the annual shipment of thousands of tonnes of grain, olive oil, and other foodstuffs from Africa and elsewhere into central Italy. At its height Rome boasted a population of upwards of a million people, which far outstripped the productive capacity of central Italy.¹³ Rome was therefore entirely dependent on mass imports of foodstuffs via the *annona*, of which Africa provided the lion's share. After the foundation of Constantinople as the capital for the east the surplus grain from Egypt, which formerly supported the Roman *annona*, was permanently diverted to provide for the growing Constantinopolitan populace. Unexpected interruptions in the supply of the *annona* from Africa to Rome had dire results. In the early fifth century Rome was embargoed by the *comes Africae* Heraclian during Attalus Priscus' attempted usurpation in Italy and was blockaded during Alaric's siege of the city. During these two crises Rome suffered grave food supply shortfalls that resulted in famine.¹⁴ Besides keeping feeding the empire's eponymous city, Africa's monetary tax revenues were considerable. African tax revenue was critical in keeping the

¹³ Jongman 2006, 101; Hin 2013, 220–21; Lo Cascio 2009, 97–103. Italy was among the most heavily urbanised regions in the Roman Empire, meaning much of the surplus in Italic countryside was earmarked for local cities.

¹⁴ Philostorgius *Church History* 12.3; Sozomen *Ecclesiastical History*, 9.8; Olympiodorus *Fragments* 4, 10.

military and bureaucratic apparatuses of the western empire operational. Rome and the western empire's dependence on Africa is stated by Claudian, with some exaggeration, in his account of the war against Gildo:

*Frugiferas certare rates lateque videbam
Punica Niliacis concurrere carbasa velis.
Cum subiit par Roma mihi divisaque sumpsit
aequales Aurora togas, Aegyptia rura
in partem cessere novae. Spes unica nobis
restabat Libyae, quae vix aegreque fovebat.*

Everywhere I saw grain-ships competing, and the linen sails of the Carthaginians fought with the Egyptians. Then, when a new Rome arose in the East and, having broken away, took up the toga as equals, Egypt fell to the lot of that new empire. Now our one remaining hope is Africa, which scarcely supplies us.

Claudian *The War Against Gildo* 1.58-63

Imperial authorities in the west were keenly aware of their dependence on Africa, though Africa was not nearing exhaustion as Claudian would have his audience believe. Gildo's attempt to incorporate Africa under Constantinopolitan rule did precipitate a crisis and a regional civil war that led to his downfall and Rome's retention of Africa. A century earlier Constantius II, fearing subterfuge by his junior co-emperor Julian, sent emissaries to Africa to ensure the provinces remained loyal to him; in the same passage Ammianus remarks on Africa's strategic value.¹⁵ Imperial authority jealously guarded their African possessions.

Ultimately, the empire would lose its grasp on Africa. In 429 the Vandals made their crossing from Spain into Mauretania and then proceeded eastwards into the heartlands of Roman Africa. The beleaguered Romans secured peace with the victorious Vandals in 435, ceding to them a strip of coastal Numidia and Mauretania Sitifensis. Only four years later, while the Romans were preoccupied with a crisis in Gallia, the Vandals quickly seized control of Carthage and large parts of the rich African heartland.¹⁶ The loss of Africa would eventually prove to be crippling for the western empire,

¹⁵ Ammianus Marcellinus *Histories* 21.7.2.

¹⁶ Merrills and Miles 2009, 60–61.

but it was not immediately catastrophic. In 442 the Romans and Vandals concluded a treaty that confirmed Vandal possession of Proconsularis, Byzacium, Tripolitania, and eastern Numidia and in return the Vandals would pay the Romans what Procopius termed δασμός, which is typically interpreted as grain shipments.¹⁷ The Vandals only paid the δασμός for a limited period, ending with renewed conflict in 455. During the early years of Vandal rule in Africa mercantile exchange between Carthage and Rome was limited, meaning little grain was sold to the Romans for a profit.¹⁸ While still receiving limited shipments from the Vandals imperial authorities simultaneously adapted by increasing their dependence on Italian and Sicilian grain to supply Rome, though these sources alone could only provide for around 400,000 people.¹⁹ The ten year gap between the arrival of the Vandals in Africa and their eventual capture of Carthage gave the Roman authorities time to come up with a contingency plan. Nonetheless, the *annona* could not be fully replaced. Without the *annona* Rome's population went into terminal decline – dropping 80% or more over the next century. Besides the *annona* the empire also lost crucial, and substantial, monetary tax revenues. Whereas the empire could find alternate supply for Rome it could not replace the monetary taxes it received from Africa. The western empire was already imperilled by numerous military incursions and crises in Italy, Spain, and Gallia, and the empire could ill-afford to lose revenues it needed to pay the army, maintain the operation of the state, and furnish tribute to foreign powers. The loss of Africa hastened the destabilisation of the remainder of the empire.²⁰ Despite the dangers the western empire was facing in Europe the Romans prioritised the reconquest of Africa. The last and greatest attempt was launched in conjunction with the eastern empire in 468. The logistical and fiscal outlay of this endeavour was immense,²¹ and the western empire's desperation to reclaim Africa even as its other borders were rapidly shrinking is a clear demonstration of Africa's inestimable economic and strategic value.²²

¹⁷ Procopius *On the Wars* 3.4.13, Linn 2012, 299–300.

¹⁸ Banaji 2001, 81–83; Jones 1964, 445 show that relatively few Roman coins reached Carthage in the early Vandal years, indicating limited direct commerce.

¹⁹ Linn 2012, 316–17.

²⁰ Wickham 2010, 78–79.

²¹ Theophanes *Chronicle* 5961 states that a fantastic 100,000 ships were involved in the campaign. John the Lydian *On the Magistracies of the Roman Republic* gives a slightly more realistic, but still exaggerated, figure of 10,000 ships.

²² Merrills and Miles 2009, 121–22.

If any of the theories and models of the colonate that posit that central imperial authority deliberately restructured the relationships between *coloni*, landlords, and the state are to be believed they need to account for the empire's economic dependence on Africa. Africa was not a marginal region where the empire could afford to blithely experiment with reforms or tolerate rebellion. Africa can and should be used as a test case to examine both the willingness and the limits of the imperial authorities to amend social, economic, and legal relations.

A study into the *coloni* of Africa and the colonate in Africa is facilitated by the survival of a broad set of useful evidence. There is the corpus of law and jurisprudence, which contains material generally applicable across the empire and specific laws and responses issued directly to African office holders and petitioners. There is substantial epigraphic and documentary evidence for a comprehensive suite of tenancy regulations, known as *Mancian tenure*, that was employed across Proconsularis, Byzacium, and parts of Numidia at a minimum. For literary evidence there are a diversity of sources, primarily found in Augustine's letters and sermons, but also supplemented by scattered texts such as the Letter to Salvius and excerpts from Optatus' anti-Donatist polemic, and so forth. Archaeological evidence, while it can only reveal so much about socio-legal organisation, is illustrative of the material conditions of *coloni*, along with their numbers and where they lived. As with any scholarly endeavour into the ancient past the evidence is regrettably lacunose. Nonetheless, the extant evidence does permit a thorough inquiry into the social and legal status of African *coloni* in Late Antiquity and how this status changed over time. In total, there is evidence for centuries of provincial historical development that deserves study on its own merits and should not simply be subsumed into a general study of a purportedly pan-imperial phenomenon. This study will offer a concerted analysis of the legal and economic condition of *coloni* within the Roman Empire from the beginnings of Late Antiquity until the fall of Roman Africa in 455 CE.

Historiography of the Colonate

Since the sixteenth century scholars have attempted to understand why, and explain how, a free segment of the Roman populace – the *coloni* – were bound to their land by Late Roman law. The

colunate is an enigmatic feature of the Late Empire. There was no law that introduced the colunate, nor a law that defined it after the fact. The dozens of laws that seemingly pertain to the colunate address specific issues and concerns, and do not define the general position of the *colonus*. Even who was considered a *colonus* per the colunate is not clear.²³ Already tenant *coloni* have been discussed at length because of their prominence in Africa and Africa's economy, but also because they feature heavily as the foundational class in most twentieth century scholarship. The other candidates for inclusion will be discussed herein. This section will explore the major intellectual moments and publications in the history of the colunate. Major, novel propositions and scholarly trends will be identified here to contextualise the modern debate on the colunate, and to identify salient points for discussion throughout the remainder of this study.

Prior to the nineteenth century, only two scholars made noteworthy contributions to what would eventually become known as the colunate. Jacques Cujas, a French jurist, took up the subject in 1566. In his view the colunate was a historical continuation, or perhaps derivation, from Republican-era *operarii*. *Operarii* were a class of agricultural labourers in Italy who owed specific duties to their landlord. In Cujas' view, over time, the *operarii*, together with rustic *inquilini*, became bound to their estates with their children in perpetuity, and this persisted into Late Antiquity and found its recognition in imperial law. Nearly a century later Jacques Godefroy, a Genevan jurist, also considered the subject; his views were published posthumously as comments in his edition of the Theodosian Code. Godefroy also believed that there was a precedent for the bound *coloni* of the Late Empire, though he saw precedent in the forcible settlement of *dedittii* – barbarian prisoners of war. Godefroy cited examples of barbarian prisoners settled in the empire and the conditions of their settlement and concluded that the Late Antique bound *coloni* were a continuation of this practice.²⁴ Both scholars considered that the condition of *coloni* in Late Antiquity was nothing especially new, rather it was a Late Antique iteration of older phenomena. Furthermore, the bound *coloni* described in

²³ Clausen 1925, 17.

²⁴ Godefroy 1665, 455.

the laws referred only to the descendants of *operarii* or settled barbarian captives – it was not a universal condition.

Cujas and Godefroy were working in a time when evidence for the colonate was scarce. Their corpus of evidence largely comprised incomplete editions of the Theodosian and Justinianic Codes, and a handful of Late Antique literary works. In the nineteenth century the study of the colonate was facilitated by regular discoveries of new evidence and a growing scholarly milieu. New fragments of the law codes, new works of Late Antique literature, and new inscriptions were discovered, all of which provided crucial new insights into the seemingly peculiar fate of the empire's *coloni*.

A seminal moment in the historiography of the colonate came in 1822 when Friedrich von Savigny published his ground-breaking paper, *Über dem Römischen Colonat*. This was the first of three major works von Savigny wrote on the colonate. In this paper von Savigny pioneered the very concept of the colonate itself by positing that Late Roman *coloni* were collectively bound by a common set of conditions that could be gleaned from the law codes.²⁵ He also coined the term colonate itself (*der Colonat/Kolonat* in German). After describing the legal status of *coloni* within the Late Roman law codes von Savigny discussed the various ways the colonate may have arisen.²⁶ He rejected both Cujas and Godefroy's explanations of continuity from *operarii/dedititii* as untenable, arguing that there was no evidence whatsoever to permit conflation or continuity between these designations and the *coloni* of the law codes, and he further argued that *operarius* was not a hereditary condition in any case. He saw greater resemblance in the ancient Roman system of patronage and in the Germanic system of tenant-slaves as described by Tacitus but found no compelling historical connections between either of these institutions and Late Roman *coloni*.²⁷ In the end von Savigny found no firm antecedent or explanation for the colonate. In his view the colonate originated from impoverished *coloni* (semi)-voluntarily agreeing to be bound to a powerful landlord, or from the partial manumission of slaves. He was not convinced of either view, and the only literary evidence available to support either view was Salvian's polemic against haughty landlords in *On the*

²⁵ von Savigny 1822; Clausen 1925, 32.

²⁶ von Savigny 1822, 20–26.

²⁷ Tacitus *Germania* 25; von Savigny 1822, 22, 25.

Government of God.²⁸ Von Savigny was unwilling to pen a definitive conclusion without definitive evidence.

In 1824 the *Constitutio de Scyris*, a rescript of Theodosius II in which he outlines the terms and conditions of the settlement of the captured Scyri tribe, was discovered.²⁹ Karl Wenck incorporated the constitution into his edition of the Theodosian Code with the annotation that the law effectively proves the barbarian settler origin of the colonate as asserted by Godefroy.³⁰ Von Savigny responded to the discovery of this constitution by publishing a new paper of the colonate in 1828 wherein he conceded that barbarian settlement was likely a contributor to the development of the colonate, but remained convinced that barbarian settlement was not the foundation of the colonate. In the same paper he also addressed a paper by Adolf Rudorff on a similarly recently discovered piece of evidence – a decree by Tiberius Julius Alexander, a governor of Egypt in the first century CE. The edict addresses a class of γεωργοί who Rudorff contended were a class of state peasants similar to the Italian *operarii*, and these peasants were the foundation of the colonate.³¹ Von Savigny did not outright reject Rudorff's thesis, but he did not consider it conclusive. In his view further evidence was still needed to create a compelling historical connection between Republican and early Principate phenomena and the colonate of the law codes.

Von Savigny's published his third and final piece on the colonate in 1850. In this work von Savigny considered the discoveries and publications that had been made in the intervening two decades and revised his opinion again. In particular, von Savigny came to agree with the arguments put forth by Zumpt in 1845. Zumpt argued that there was no evidence to suggest that the colonate originated from within the empire, rather it was a foreign custom, imported from without the empire that gradually spread into mainstream Roman society and law from the late third century. Zumpt argued that the colonate originated in the socio-economic customs of Gallo-Germanic society, which

²⁸ von Savigny 1822, 23.

²⁹ Now standardised within the Theodosian Code as CTh 5.6.3 [Theodosius II & Honorius – 12/4/409]; cf. Clausen 1925, 34–35.

³⁰ Wenck 1825, 284–89; Wenck's ordering of the Code does not follow the modern editorial standard, he inserted the *Constitutio de Scyris* at 5.4.3.

³¹ Rudorff 1828.

was imported into the empire repeatedly through organised barbarian settlements.³² The exigencies of the late third century onwards led the imperial state to make it increasingly possible for freeborn Roman citizens to be enrolled in what was once exclusively a foreign custom. Once the colonate had become an imperial institution it grew to encompass ever broader swathes of the free Roman populace, and worsening poverty in the provinces and indebtedness of rustic provincials compelled more of them to enter the colonate.³³ Von Savigny's drastic revaluation of his opinion on the colonate is emblematic of the tumultuous historiography of the nineteenth century. Newfound evidence and critical revaluations of existing evidence occasioned new theories, and either cast existing scholarship to the wayside or reinvigorated existing theories that were perhaps falling out of fashion.

Now, while von Savigny was satisfied with Zumpt's arguments on the Germanic origin of the colonate other scholars at the time, and scholars today, were less convinced. Around the time von Savigny was considering and drafting his final colonate paper the fiscal theory of the origins of the colonate was beginning to take shape.³⁴ The central argument of the fiscal theory, which would be developed independently by a cohort of scholars, is that the colonate was deliberately instituted by the Diocletianic Tetrarchy and/or the Constantinian dynasty to facilitate the reformed tax system and guarantee a steady flow of tax revenues. *Coloni* were permanently assigned to their fields to facilitate tax assessment and collection. Hegel, son of the eminent philosopher, was an early proponent of the fiscal origins of the colonate. Hegel saw the colonate as evidence of the Late Empire's inherent despotism and its desire to strictly regiment society. In this regard the colonate was not unique, rather it was just a single component in a larger stratification of socio-economic roles.³⁵ Other systems of social control, also found in the Roman law codes, imposed similar restrictions on urban artisans, and even the local aristocracies of provincial cities. By fixing people in place the imperial state gained a hitherto unattainable ability to forecast revenues and guarantee their payment.³⁶

³² Zumpt 1845, 16–37.

³³ Zumpt 1845, 54.

³⁴ Clausen 1925, 53–55.

³⁵ Hegel 1847, 84–88.

³⁶ Hegel 1847, 86–87.

Hegel was not the only scholar to discover fiscal explanations for the colonate. Around the same time Wallon published his work on the subject. Wallon rejected specific regional/cultural origins of the colonate, such as in Gallic or Germanic custom, as unconvincing as it did not explain how a system of social organisation spread from clusters of Gallo-Germanic settlers to the furthest reaches of the empire. His view is fittingly summarised in the following quotation:

L'universalité de cette coutume réclame évidemment une cause générale, qui ait agi uniformément partout.

The universality of the custom obviously calls for a general cause which acted everywhere uniformly.³⁷

In his view the colonate originated from the imperial administration alone. The state instituted the colonate to guarantee regular and predictable taxes, as Hegel also argued, but Wallon added that the colonate worked to safeguard *coloni* from excessive exactions from their landlords and from tax collectors.³⁸ This safety came at the cost of their freedoms. The colonate imposed conditions comparable to slavery, though remaining legally distinct. Tying *coloni* to their estates and enumerating a nominal legal freedom protected impoverished *coloni* from being subjected to unadulterated slavery. To Wallon this was the only common cause that could reasonably explain the colonate.

The fiscal theory found an early and concerted opponent in Fustel de Coulanges. Fustel de Coulanges did not only question the validity of the fiscal theory, but practically all scholarship that had been published to that point. He proposed that the colonate of Late Antiquity was simple continuity from the tenancy leaseholds of the preceding eras. Fustel de Coulanges identified three ways *coloni* became bound to the land: arrears owing to the landlord, *coloni* accepting perpetual settlement, or by *coloni* who had traditionally lived on the land without a formal contract.³⁹ The Mancian *coloni* of the Bagradas valley estates were cited as an example of the third category. These three factors were perpetuated across generations, resulting in a class of *coloni* who were *de facto*

³⁷ Wallon 1849, 3:280–82.

³⁸ Wallon 1849, 3:298–301.

³⁹ Fustel de Coulanges 1885, 98–117.

attached to their land. With the implementation of the Diocletianic Tetrarchy's fiscal reforms these *coloni* found themselves inscribed on the tax rolls as individual listees, and thus began the empire's interest in legislating on matter relating to them. Had the empire's fiscal or judicial authorities been interested in tenant *coloni* earlier then a body of law would have developed then.⁴⁰ Tenant *coloni* were at the forefront of Fustel de Coulanges' historical exposition, just as they were in the budding fiscal theory. The empire did not create a new system *ex novo*, but rather the colonate was a legal consolidation of a series of practices that had existed for centuries, with some adaptations to account for changes in administration and taxation. Fustel de Coulanges also argued against a monolithic colonate. The only *coloni* that became bound irrevocably to their land in Late Antiquity were the descendants of the three groups he enumerated, or *coloni* who found themselves in a comparable situation.⁴¹ There were still *coloni* in Late Antiquity who enjoyed the same freedom and the general conditions of existence that their Principate era ancestors did.

Despite Fustel de Coulanges' attempts to counter the fiscal theory it became increasingly prevalent as scholarship developed into the twentieth century. With the fiscal theory came a greater emphasis on the despotic role of the Late Roman state. Purser's study of the *coloni* in Gallia exemplifies the state-centric fiscal explanation for the origins of the colonate. He strongly considered the foreign origin arguments put forth by his predecessors and argued that they were untenable. Firstly, there were not enough Germanic settlers in the empire, even in neighbouring Gallia, to have such a considerable impact on social organisation across the entire empire. Secondly, Germanic settlers were ordinarily settled as free *peregrini*.⁴² They were scarcely distinguishable from ordinary provincials. Lastly, the conditions of the colonate closely resembled the institution of slavery within Germanic cultures. The settlers would hardly consent to terms of settlement that settled them as what they would consider to be slaves.⁴³ The origin of the colonate was internal, not external. The colonate was therefore an *ex novo* invention of the imperial state, and a predictable invention based on the

⁴⁰ Fustel de Coulanges 1885, 75, 88; Mirković 1997, 6–7.

⁴¹ Fustel de Coulanges 1885, 75–77.

⁴² Purser 1883, 374–75.

⁴³ Purser 1883, 373–76, 378, 383, 388–89; Tacitus *Germania* 25.

historical trajectory of the Late Roman state – towards militaristic despotism.⁴⁴ The colonate was a dictatorial and rigid institution imposed to secure finances in an ailing state, so Purser argued.

As the fiscal theory matured and became more prevalent it became necessary to account for the institutions and phenomena cited by other scholars are antecedents for the colonate. Rostovtzeff, like Fustel de Coulanges, identified several precursors and inspirations for the colonate. He noticed the ostensibly colonate-esque bound *coloni* on Africa's Bagradas Valley estates and argued that this was an imperial emulation of earlier Hellenistic practices, wherein kings possessed vast royal estates farmed by bound peasants.⁴⁵ He identified the ongoing presence of Hellenistic farm estate practices in Egypt which disallowed the tenants from leaving. The origins of the colonate was essentially in the Romans perpetuating or recreating the conditions that existed in the Seleucid and Ptolemaic kingdoms.⁴⁶ The colonate as a formal and universal system emerged from this Hellenistic model and was enforced through the Diocletian and Constantine's reformed tax system.⁴⁷ Marxist analysis was influential on Rostovtzeff, who framed much of his general study of Roman social and economic history in Marxist terms. In his view the imposition of the colonate was part of a grand strategy of disempowering the provincial bourgeoisie. The colonate, and other related measures, froze social mobility while a barrage of imperial law transformed the urban bourgeoisie into unpaid civil servants.⁴⁸ These measures stripped the bourgeoisie of their economic and political power and subjected rustic workers to a feudalising system. Rostovtzeff views the colonate as a transition institution between the ancient and feudal modes of production.

Jones took a more measured approach to harmonising the Late Roman colonate with the apparent Principate era predecessors. The colonate-esque institutions in Africa, or in Lydia, were a case of convergent evolution.⁴⁹ The colonate was devised, or implemented, by Constantine I for fiscal measures, and while the new colonate resembled these provincial systems it was not a direct

⁴⁴ Purser 1883, 387–90.

⁴⁵ Rostovtzeff 1910, 313–402.

⁴⁶ Rostovtzeff 1910.

⁴⁷ Rostovtzeff 1926, 516–20.

⁴⁸ Rostovtzeff 1926, 521–25.

⁴⁹ Jones 1958, 1–2.

continuation of them. In fact, regional tenancy systems persisted through Late Antiquity, argues Jones, as did Principate era leases. However, while Jones accepts that the colonate arose from binding tenant *coloni* to their fields and that non-colonate systems endured he gives little consideration to the ongoing relationship between tenant and landlord under the colonate.⁵⁰ Jones' goes on to argue that the colonate emerged for fiscal reasons, but by the fifth century these justifications gradually became eroded in public law. The colonate was retained after the abolition of the fiscal aspect for its general usefulness.⁵¹

Carriè did not take the same conciliatory approach as Jones or Rostovtzeff, he was a fiscal theory purist. Carriè rejected the idea that there was some *longue durée* development of the colonate. He also rejected the idea that there were predecessors to the institution. *Operarii, dedititii*, Gallo-Germanic customs, the Bagrahas Valley *coloni* and other purported precedents were more or less unimportant. Attempting to identify *longue durée* precedents for the colonate was a doomed endeavour and unhistorical. Instead, the legal institution of the colonate emerged from the fiscal reforms of the Diocletianic Tetrarchy and the Constantinian dynasty. He argued that *coloni* were legally bound to their estates solely for fiscal reasons. The binding of *coloni* to their estates was simply part of a larger fiscal programme of enforcing hereditary professions and enforcing socio-economic duties. Tying *coloni* to their estates was functionally identical to same as compelling hereditary *curiales* to serve their cities.⁵²

Since Carriè scholarship on the colonate has become increasingly diverse and incompatible. An important intellectual development, which is the motivating force behind this study, is the need to undertake concerted regional studies of the colonate.⁵³ In his extended study of estates in Byzantine Egypt Hardy remarked that "...the colonate was an accepted part of the social system of the sixth century."⁵⁴ If the colonate was an integral and uncontroversial aspect of sixth century provincial life then certainly it was at least an increasingly dominant socio-economic phenomenon in the preceding

⁵⁰ Mirković 1997, 10–11.

⁵¹ Jones 1958, 6, 10–11; 1964, 797–806.

⁵² Carriè 1983, 217–18.

⁵³ Lo Cascio 1997; Scheidel 2000, 731–33.

⁵⁴ Hardy 1931, 75.

two centuries. Bagnall however states unequivocally that he found no evidence for the colonate in Egypt in the fourth century.⁵⁵ Lenski's admirable but unfortunately brief chapter in *Late Antiquity in Contemporary Debate* considered many of the issues concerning African *coloni* and the purported colonate, but the study was too brief to consider the matter in appropriate detail.⁵⁶ Dossey's admirable work on the historical development of the church and the peasantry in Late Antique Africa avoids discussing the colonate. She deftly acknowledges that Late Roman law accorded more power to the landlords but avoids entering the debate or siding with any theory.⁵⁷ Instead she offers a reading list of what she considers the two main sides in the debate: the fiscal theorists, such as Carriè or Jones, and the continuity theorists, such as Sarris and Banaji.⁵⁸

Dossey's demarcation of colonate theory into two camps has its merits, and Sarris uses a similar division of scholarship in his summary of the debate.⁵⁹ Some of the work of the early theorists has been reintegrated in contemporary revaluations of the colonate. Fustel de Coulanges' rejection of fiscal explanations for the colonate have found belated successors in Dossey's latter group. Sirks rejects the old thinking regarding the colonate as an innovation of imperial fiscal planning and legislation, rather seeing it mostly as an artefact created by private law and contacts that was tempered by imperial legislation.⁶⁰ Banaji takes a similar approach. The colonate was a continuation of practices that existed before Late Antiquity.⁶¹ The colonate largely existed outside of imperial law and imperial control as it was mostly a case of landlords extending this personal jurisdiction over their dependants. Imperial legislation was an extension and acknowledgement of the real, pre-existing power landlords enjoyed over their *coloni*. Some scholars attempt to harmonise the two strands of thinking. Like Sirks and Banaji, Mirković identifies the origins of the colonate in debt bondage. *Coloni* who fell into arrears became increasingly dependent on their landlord, and as their indebtedness grew their freedom became increasingly circumscribed.⁶² In her view though it was imperial legislation in the fourth century that gave the

⁵⁵ Bagnall 1996, 115–16, 149.

⁵⁶ Lenski 2017.

⁵⁷ Dossey 2010, 103.

⁵⁸ Dossey 2010, 248.

⁵⁹ Sarris 2006, 136–48.

⁶⁰ Sirks 1993; 2008.

⁶¹ Banaji 2001.

⁶² Mirković 1997, 110–13.

colunate its real legal backing.⁶³ Prior to that it hinged on the informal power of landlords. Late Roman law gave legal strength to the impediments that contract law and private power had been foisting on *coloni* for centuries, and at the same time took advantage of the situation to increase the state's ability to exact taxes.⁶⁴

Recent scholarship has seen a revival of certain ideas, but not every idea survived the nineteenth century. The idea that the colonate arose from a sort of partial manumission largely did not survive the nineteenth century. Despite the effusive language likening *coloni* to slaves in certain constitutions the *coloni* of Late Antiquity remained free people; there was no law that classes them as, or confuses them as, either *servus* or *mancipium*.⁶⁵ Such a radical departure would surely have attracted the attention of the empire's jurists, who carefully categorised the legal procedures behind manumission, and meticulously analysed the law of persons. On this basis Zumpt, von Savigny, and others plausibly argued that partial manumission did not accord with Roman law. The complete absence of evidence to indicate that such a profound change to the law of persons took place is compelling. Zumpt and von Savigny's relied on numerous citations of the notoriously unreliable *Historia Augusta* to support his history of, and the underlying conditions of, Germanic settlements within the empire.⁶⁶ Wallon and Purser's objections to foreign origins proved convincing and enduring. Koptev briefly alluded to some laws selectively controlling the settlement of barbarians within the empire, but abandoned this line of thinking in his later work.⁶⁷

Scheidel's assertion that the current state of study on the colonate is more fragmented than it has ever been is perhaps an overstatement. For a time in the twentieth century the fiscal theory was leading the debate, but ironically Carriè, one of the theory's great advocates, undermined confidence in it. Today theories on the origins, purpose, and function of the colonate abound.

⁶³ Mirković 1997, 22–44.

⁶⁴ Mirković 1997, 44–53.

⁶⁵ Fustel de Coulanges 1885, 98–117.

⁶⁶ The idea that the *Historia Augusta* is riddled with historical inaccuracies and fabrications, and that purported clique of six authors who wrote it were a single forger, did not become commonplace until Dessau's critical studies, though uncertainties about the work abounded for centuries. Cf. Dessau 1889; Syme 1971.

⁶⁷ Koptev 2009, 264–70; 2012.

Purpose of this Study & Methodology

The purpose of this thesis is not to necessarily critique or disprove (or prove) any particular theory or theories of the colonate, or even argue for or against the idea of the colonate in general. Rather, this study will consider the evidence for the colonate in Africa on its own merits and against the backdrop of colonate scholarship that has developed over the past two centuries. Although the social and legal standing of *coloni* was never static the most profound changes occurred during Late Antiquity, wherein a shifting political, social, and economic climate along with novel legislation caused substantial and sustained change for *coloni*. Given the enormous *coloni* population in Africa any change to their socio-legal condition could have had wide-ranging effects on Africa's rural economy. By extension, economic or political changes in Africa arising from shifts in the status or conditions of Africa's *coloni* would naturally have important indirect effects for the rest of the western Roman state and its economy. An issue particular to this study is that the colonate is ordinarily studied holistically, that is, at an empire-wide level. The colonate, as an abstract description of an institution or historical process, provides little insight into the lived conditions and lived experiences of the *coloni* themselves. When concentrating on the colonate as a pan-imperial phenomenon the conditions of the *coloni* can only be described at a cursory level, and the important distinctions that exist between the provinces become blurred. Important regional differences are flattened, and temporal distances are downplayed to create a monolithic theory. This study will bring the African evidence and the African experience to the fore.

Furthermore, this study will consider all extant laws that reference or concern *coloni*, even if only tangentially. This is to properly gauge the empire's propensity to legislate on even seemingly minor issues and how willing the empire was to finely control the lives of *coloni*. Addressing only the major laws which constrained *coloni* in some way gives the false impression that the empire was only concerned with broad control over tenancies.

The primary focus of this study shall be Roman Africa under the Western Empire. Some consideration will be given to the Vandal, Byzantine, and early Islamic eras where necessary, or where the scant evidence permits. Throughout this study the emphasis will be on legal, literary, and

documentary evidence. Archaeology in this study, while still important, is a subsidiary form of evidence. The reason for this is aptly stated by Peter Garnsey: “The literary and epigraphical sources in general are sadly deficient, and it is fairly clear that archaeology cannot illuminate such matters as tenure systems, social order, and public policy.”⁶⁸

The remainder of this study will be laid out as follows:

Chapter two will examine Roman Africa as a political and geographic unit. This will involve a study of the African climate and terrain to assess the viability of cultivation and where estates and *coloni* would likely be clustered. A demographic survey will follow to determine the total population of Africa, and therefore how extensive cultivation would need to be in Africa, as calculating the rustic population of Africa. Finally, the previous analyses will be combined to assess how widespread tenanted estates were across Africa, and how prevalent *coloni* were in Africa.

Chapter three will examine the colonate as an implemented concept at a pan-imperial level. This will be prefaced by a study of Roman how and how despite its apparent universalism it was quite parochial in its implementation. This will be followed by two sections examining the jurisprudential underpinnings of *colonus* tenancies from the second and third centuries CE, as well as the first imperial rescripts governing such tenancies. The final section of the chapter will analyse the general imposition of heritable and inescapable tenancies through a discussion of the concepts of *condicio colonaria* and (*ius*) *colonatus*.

Chapter four will examine the Late Roman fiscal system and the position of *coloni* – as tenants and ordinary farmers – within it. This will consist firstly of a survey of the Late Roman taxation system and the position of *coloni* within it. A second survey of the various imperial sub-taxes and their potential fiscal impact will follow. Lastly the concept of *autopragia*, an enigmatic and important idea in the historiography of the colonate, will be examined.

Chapter five will consider the legal, documentary, and literary evidence as it directly pertains to Africa. This will involve a study of the enigmatic Mancian tenure and its enduring importance to

⁶⁸ Garnsey 2004, 113.

Late Antique Africa followed by thematic analyses of legislative developments alongside relevant literary extracts, considering the theoretical and real impacts of these laws. This chapter will conclude with a discussion on the economic opportunities and hardships facing African *coloni* and their ability to generate wealth for themselves, their landlord(s), and for the empire.

Chapter six will conclude the study by summarising the findings from the preceding chapters and assessing the viability of the concept of ‘colonate’ in the context of Late Antique Africa, and assess the impact Late Antique historical developments on Africa’s *coloni*.

Lastly, as an addendum the colonate as a concept is rather Eurocentric in its outlook. Theories of the colonate that align with the intent of the traditional model seek to explain the origins of feudal serfdom in some antecedents from Late Antiquity. The history and historiography of feudalism is functionally the history of rural labour relations in Europe, especially western Europe. North Africa is not only geographically separate from Europe, but its cultural and political evolution diverges substantially beginning in the seventh century. The Umayyad Caliphate conquered Africa from the Byzantine Empire piecemeal between 643-703, and thereafter the region remained mostly free of European dominance and acculturation until the nineteenth century. Culturally and politically the Latin (and Punic) characteristics of Africa gradually vanished in the face of Arabo-Islamic and Berber acculturation. North Africa therefore does not neatly fall within the historical continuum of Classical Antiquity > Late Antiquity > (European) Middle Ages, and thus the colonate model does not provide a clear explanation on what happened to *coloni* in Africa, nor does it provide any understanding concerning rural affairs in Africa during the early Middle Ages. Understanding how rural labour operated and evolved in Islamic *Ifriqya*, first under the Umayyads and beyond, would benefit from a more nuanced understanding of rural labour in the preceding era. This thesis does not presume to offer any historic investigation into the social, legal, and economic circumstances of agrarian labour in Islamic North Africa, merely demonstrate the value in studying the preceding era with a regional focus.

II

The Provinces & Demographics of Roman Africa

The seeds of Rome's vast African dominion were sown after Rome's victory in the Third Punic War in 146 BCE, when Rome seized the Punic littoral from the ruins of the Carthaginian state. Wars of conquest and political machinations saw Rome's African empire expand under the Late Republic and the Early Principate until its external boundaries effectively stabilised during the reigns of the Antonine emperors. The Diocletianic Tetrarchy and the Constantinian dynasty enacted sweeping reforms that drastically changed the shape of imperial governance, partitioned many of the Principate era provinces, and introduced a vastly expanded administrative hierarchy. *Roman Africa*, as far as this thesis is concerned, is delimited by the following six Late Roman provinces: Africa Proconsularis (also referred to as Zeugitana), Byzacium, Numidia, Tripolitania, Mauretania Sitifensis, and Mauretania Caesariensis.

This chapter will first examine the place of Roman Africa within the schema of Late Roman governance. A survey of Africa's climate and topography will follow to determine the extent and viability of cultivable land across the region. An examination of demographic estimates and broad demographic trends for Africa will follow, which shall determine the best estimate for Africa's population in Late Antiquity. Finally, the preceding data and analyses will be used to calculate the minimum scale of cultivation in Africa and estimate the distribution of cultivated land across Africa and amongst landed inhabited by *coloni*.

Africa & the Late Roman State

Roman Africa stretched from the border with the province Cyrenaïca in the east, demarcated by a line drawn southward from the *Arae Philaenorum*, to the Flumen Malva (modern Oued Moulouya) in the west, beyond which lay the province Mauretania Tingitana. Cyrenaïca and beyond belonged to the Eastern Roman Empire, and Mauretania Tingitana was a remote province that

politically and economically formed part of the Diocese of Hispania. The Mediterranean formed the natural northern edge of Roman Africa. The southern frontier is harder to define as Africa did not have a fixed frontier such as the Rhine or Danube rivers in Europe. There was no formal limit to the boundaries of Roman authority, rather there was a liminal frontier zone that separated the Roman provinces in the north from the independent Berber territories in the arid south. The northern, Roman fringe of the frontier zone was overseen by a series of *limites*, each commanded by a military *praepositus* under the general command of the various *duces* and the military *comes Africae*.¹ Scattered across the various *limes* were a number of forts and fortlets, and the individual sections of the *fossatum Africae* – a defensive wall and ditch structure. The *limites* served an obvious defensive purpose, but they did not exist purely to repel invasion. The *limites* were a political, economic, and military interface between the sedentary settled Roman provinces and the transhumance practicing Berbers to the south.² The *limites* allowed the Romans to oversee orderly movements in and out of the provinces, and to levy tariffs on agrarian and pastoral products; the tariff inscription from Zarái preserves a Severan era listing of products and their respective tariffs.³ In 409 Honorius dispatched a constitution to the peoples inhabiting the lands around the *limites* and *fossata*, exhorting them to maintain the various frontier defences or else their land would be forfeited to Berber farmers or, failing that, to veterans.⁴ The peoples and authorities of Roman Africa maintained close relations, if sometimes contentious, with the neighbouring Berber peoples until the ultimate collapse of imperial authority in Africa.⁵

¹ The organisation of the African *limites* within the *Notitia Dignitatum* is different to the other *limites* sectors in the Western Empire. African *limites* are listed as territorial commands under individual *praepositi*, whereas elsewhere individual forts and their respective regiments are listed. Cf. Rushworth 2015, 123; Isaac 1988, 139–46.

² Fentress 1979, 111–17; Whittaker 1978, 349–50.

³ CIL 8.4508. The Zarái tariff attests to a brisk tariffed trade of pastoral products and livestock into the empire, and Mediterranean foodstuffs, finished wares, and luxury goods out of the empire; MacKendrick 1980, 248–50.

⁴ CTh 7.15.1 [Honorius & Theodosius II – 29/4/409].

⁵ Relations with the Berber peoples, both within and without the empire, were not always peaceful. Besides the great revolts of the Romano-Berber commanders Firmus and Gildo there were also revolts and invasions undertaken by the Quinquegentiani and the Austuriani, and occasional raiding by various Berber groups. Augustine *Letters* 47.2, 220.7 refers to instances of Berber raiding in the provinces, and Synesius *Letters* 78, 105, 125, 130 describe annual raids against the fields, agricultural infrastructure, and towns in Cyrenaica and the inadequacy of imperial troops at countering this threat. Wilson 2004, 151–52 offers a succinct analysis on imperial neglect of Cyrenaica, attributing it to economic collapse of the province following the invasion of the Austuriani and the tsunami of 365.

In the schema of Late Roman governance, the African provinces together (except for Africa Proconsularis) comprised the Diocese of Africa, one of two subdivisions of the Praetorian Prefecture of Italy. The Italian Prefecture was itself one of two subdivisions of the western empire. The Prefect of Italy, who oversaw Africa, occupied an eminently powerful and prestigious office. The Prefect possessed broad powers over administration, taxation, and justice. The office of Praetorian Prefect descended from the Principate era office of the same name and while the Late Antique incarnation had no military jurisdiction the office remained formidable – the prefect was a direct imperial appointment, and the prefect had no superior besides the emperor. The prefect was key in securing revenue, the *annona*, and implementing/enforcing law; the prefect also had the authority to issue decrees, though regrettably few of these survive. Diocesan *vicarii* acted as the regional deputies of the prefects. They coordinated the activities of the provincial governors, overseeing the operation of the civic administration, especially regarding revenues, justice, and implementing laws. Although the *vicarii* were directly responsible to their prefect the control was not absolute. Prefects exercised appellate powers over their *vicarii* but could not arbitrarily overrule them. The prefect could not summarily dismiss a *vicarius* nor appoint a new one, this required the consent of the emperor. Conversely the *vicarii* could not overrule the orders of their prefect. Lastly, beneath the *vicarii* sat the provincial governors who, with their staff, served as general administrators and judges in the first instance.

Proconsularis sat outside the ordinary provincial governance hierarchy owing to its historical prestige and enduring importance to the empire. As its name indicates, Africa Proconsularis was a proconsular province. Proconsular status was rare, and Africa Proconsularis was the only province in the west with this status; whereas in the east there were two: Achaea and Asia.⁶ Provinces that were accorded proconsular status enjoyed imperial immediacy, that is they answered directly to the emperor and were not subject to the intermediate oversight of either the Diocesan *vicarius* or the

⁶ The promotion of Achaea to proconsular status was enacted under Constantine I but does not seem to have granted the proconsul independence from the Prefect of Illyricum, however. Not. Dig. Or. 3.5 lists Achaea as one of the six provinces within the Diocese of Macedonia and since this entry is under a diocesan heading Achaea was seemingly also subject to the *vicarius* as well as the prefect.

Praetorian Prefect. Constitutions issued with respect to either the African Diocese or the Prefecture of Italy were not immediately applicable to Proconsularis, though these constitutions could still be used as valid legal documents in judicial proceedings within the province. Thus, neither the *vicarius* nor the prefect had any authority to enforce laws issued to them within Proconsularis or otherwise intervene in internal matters in the province. The political and legal separation of Proconsularis from the rest of the Diocese and Prefecture will be an important point in later chapters. In practice the administrative autonomy of the proconsul was not absolute as the prefect and his staff exercised administrative duties within Proconsularis that were not directly related to the ordinary executive functions of a governor. The *Notitia* enumerates at least two senior members of the prefect's staff who oversaw fiscal and logistical functions within Proconsularis (and elsewhere in Africa): the *Praefectus Annonae Africae* and the *Praefectus Fundorum Patrimonialium*.⁷

Besides the hierarchy of provincial government other high imperial offices were involved in particular areas of administration and governance within the provinces. The *Comes Sacrarum Largitionum* and later the *Comes Rerum Privatarum* supervised the fiscal and logistical functioning of the empire's vast array of estates in Africa, which meant supervision over the tenant *coloni* that inhabited the estates.⁸ These offices, along with others such as the *Magistri Militiae*, received rescripts from the emperor that contained orders and regulations that affected the lives and livelihoods of *coloni*. For example, a *colonus*' eligibility for conscription, potential tax burden, and liability for criminal punishment was determined by these offices and the constitutions they received from the emperor.

The following table sets out the provinces of Roman Africa, the date of their formation, and their approximate land area. The land area is calculated by measuring the area bound by the best-known provincial borders and the approximate area in the south where formal Roman governance ended.⁹ For the most part the southern limits of the provinces were approximately coterminous with

⁷ Not. Dig. Occ. 2.38-39.

⁸ The governance of the imperial estates passed from the *comes sacrarum* to the *comes rerum privatarum*, after which the former office's supervisory capacity over *coloni* was mostly restricted to preventing and punishing financial crimes such as counterfeiting. Cf. Jones 1964, 369–70, 412, 427–38.

⁹ The following sections of this chapter will go into greater detail about what this entails.

either the line of defensive fortifications that form the *limites* or the 400mm rainfall isohyet (this will be explained in greater detail in the following section).

Table 1: African provinces and land area

Province	Total Land Area	Date of Formation
Proconsularis	~36,000km ²	formed 40-39 BCE; union of the Republican-era provinces <i>Africa Vetus</i> , the briefly retitled iteration of <i>Africa Proconsularis</i> , and <i>Africa Nova</i> ¹⁰
Byzacium	~58,000km ²	detached from Proconsularis before 305 ¹¹
Numidia (Cirtensis)	~63,300km ²	detached from Proconsularis c. 200
Numidia Militiana	n/a	detached from Numidia c. 303-5; dissolved in c. 314 and its territory reincorporated into Numidia ¹²
Mauretania Sitifensis	~49,900km ²	detached from Caesariensis c. 293 ¹³
Mauretania Caesariensis	~96,000km ²	formed c. 44; the eastern half of the annexed Kingdom of Mauretania ¹⁴
Mauretania Tingitana	n/a	formed c. 44; the western half of the annexed Kingdom of Mauretania
Tripolitania	~215,000km ²	detached from Proconsularis before 305 ¹⁵
Total	~518,200km ²	

Until the collapse of Roman governance in Africa in the mid-fifth century the organisation of the African provinces remained stable. The only reorganisation of note was the short-lived bifurcation of Numidia into the northern Numidia Cirtensis and the southern Numidia Militiana. The division of Numidia is often depicted on modern maps of the Late Empire as the province is enumerated on the *Laterculus Veronensis*, a key source for the Diocletianic/Constantinian provincial reorganisation.¹⁶ The division of Numidia had no discernible lasting impact on the province and left little material record except for a few inscriptions. Nonetheless, imperial officials determined at one point that there

¹⁰ The former *communis opinio* asserted that Proconsularis was formed c. 27 BCE, but this view has been convincingly overturned by Fishwick 1993; 1994; 1996; 2013.

¹¹ Barnes 1982, 212.

¹² Barnes 1982, 222.

¹³ Barnes 1982, 220–21.

¹⁴ Pliny the Elder *Natural Histories* 5.1; Cassius Dio *Roman History* 60.9.

¹⁵ Barnes 1982, 212; D. Mattingly 1994b, 93–95.

¹⁶ For example, the *Barrington Atlas* depicts the division of Numidia in its Late Antique provincial map.

were qualitative differences between the north and south of the province that justified a split in provincial government. The south of the province, as the name suggests, had military and frontier characteristics (as it formed a substantial section of the fortified sub-desert frontier zone), while the north retained the civil quality of the old province. The differences in topography and settlement patterns will be seen in the coming two sections. Nonetheless, the perceived advantages of having a separate frontier province were seemingly not realised, hence the reunification of the Numidias. Other than this the empire's political organisation for Africa remained constant until the Vandal incursion began.

The breakdown of Roman governance in Africa began in 429 when the Vandals committed to a full-scale invasion of Africa. Over the next twenty-six years the Vandals would seize increasingly large tracts of Africa from the increasingly hapless empire. In 455 the Vandal conquest of Africa was complete and the last vestiges of imperial rule in Africa were extinguished. The Vandals never managed to capture and rule the entirety of what was Roman Africa, however. Berber petty kingdoms ruled the remainder of former Roman Africa, along with some territory that was never direct Roman control.¹⁷ The Berber kingdoms syncretised Roman and Moorish (Berber) identities, but did not define the boundaries of their demesnes on the basis of the former Roman provinces.¹⁸ What the Vandals retained of the provincial system and other facets of imperial government is largely unknown owing to a lack of evidence about the internal organisation of the Vandal state. Vandal rule depended heavily on existing networks of power in Africa, much like the Gothic kingdoms in Spain and Italy.¹⁹ The office of proconsul was retained, as were civic governments, along with a system of social stratification that was derived, in part at least, from Roman law. Whether the Vandals respected the boundaries of the Roman provinces they captured is less clear. Victor of Vita relates that in the Roman-Vandal treaty of 442 awarded the Vandals Proconsularis, Byzacium, eastern Numidia,

¹⁷ Barreveld 2020, 154; Merrills and Miles 2009, 65–66, 124–29. For an approximate map of known Berber kingdoms see Courtois 1955, 334.

¹⁸ Masuna, a Berber king who ruled most of western Caesariensis, was titled as *Rex Maurorum et Romanorum*, cf. CIL 8.9835. A certain Masties served as *dux* under the Romans and Vandals in the central Aurès, and later broke with them and declared himself an independent *imperator*, cf. AE 1945.57, 1955.239, 1988.1126.

¹⁹ Merrills and Miles 2009, 79–81.

Gaetulia, and Abaritana; Quodvultdeus also refers to Abaritana.²⁰ The latter two were never Roman provinces, and their precise location within Africa is not certain. Merrills and Miles speculated that the two regions lay to the north and south of the Aurès massif in Numidia respectively, possibly indicating the Vandals instituted a tripartite division of their portion of Numidia. Because of intermittent warring with neighbouring Berber kingdoms the boundaries of the Vandal state grew and shrank. How this affected any internal provincial organisation is unrecorded.

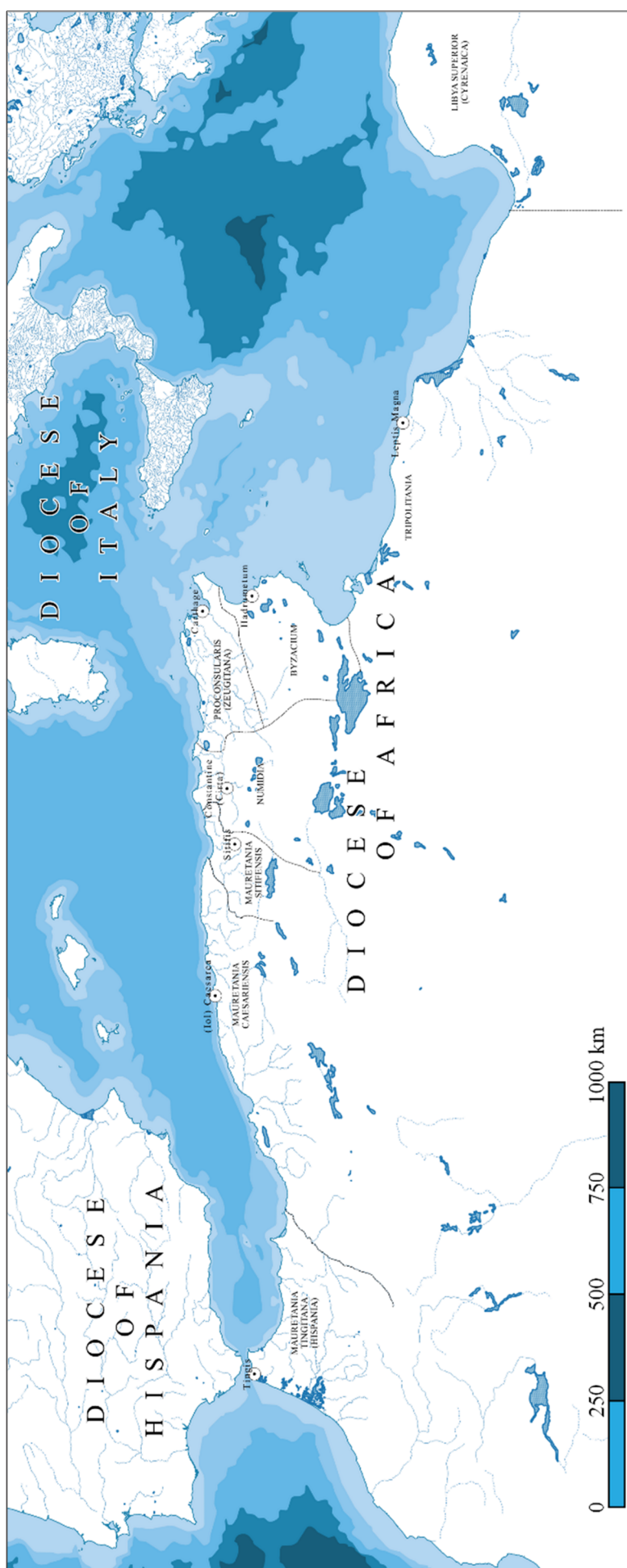
Following the Byzantine reconquest Roman provincial government was reinstituted in Africa; the twenty-seventh title of the first book of Justinian's Code details the organisation of civil and military offices in Africa. A new Praetorian Prefecture was created in place of the former Diocese; under the emperor Maurice the office of Prefect was supplanted by the office of Exarch, which possessed both civil and military authority.²¹ Within this prefecture the following provinces were created: Zeugi Carthago, Byzacium, Numidia, Tripolitania, the two Mauretaniae, and Sardinia. Zeugi Carthago was the reformed and retitled Proconsularis province, albeit stripped of its ancient status and prestige as a proconsular province. The constitution that formed the government of Byzantine Africa does not specify the exact names for the Mauretanian province, though they would eventually be titled Mauretania Prima and Secunda.²² Mauretania Prima was equivalent to Sitifensis, whereas Secunda was what little the Byzantines had reclaimed of both Caesariensis and Tingitana; the city of Septem was the most notable Byzantine possession in former Tingitana. Sardinia (which included Corsica also) was included in the African prefecture out of necessity. Sardinia and Corsica were part of the Vandal kingdom, and at the time the Byzantine empire had no Italian possessions to attach these islands to, hence they became part of Africa. This remained the *de jure* organisation of Byzantine Africa until the Umayyads completed their piecemeal conquest in 698.²³

²⁰ Victor of Vita *History of the Vandal Persecution* 1.13, Quodvultdeus *Book of Promises and Predictions of God* 3.38.45.

²¹ Kaegi 2015, 198.

²² CJ 1.27.1.12 [Justinian – 13/4/534] refers to the two Mauretanian provinces collectively as *Mauritaniae*.

²³ Seventh century exarchs regularly rebelled against Constantinopolitan authority.



Map 1: Roman Africa in Late Antiquity (c. 314 – 435)

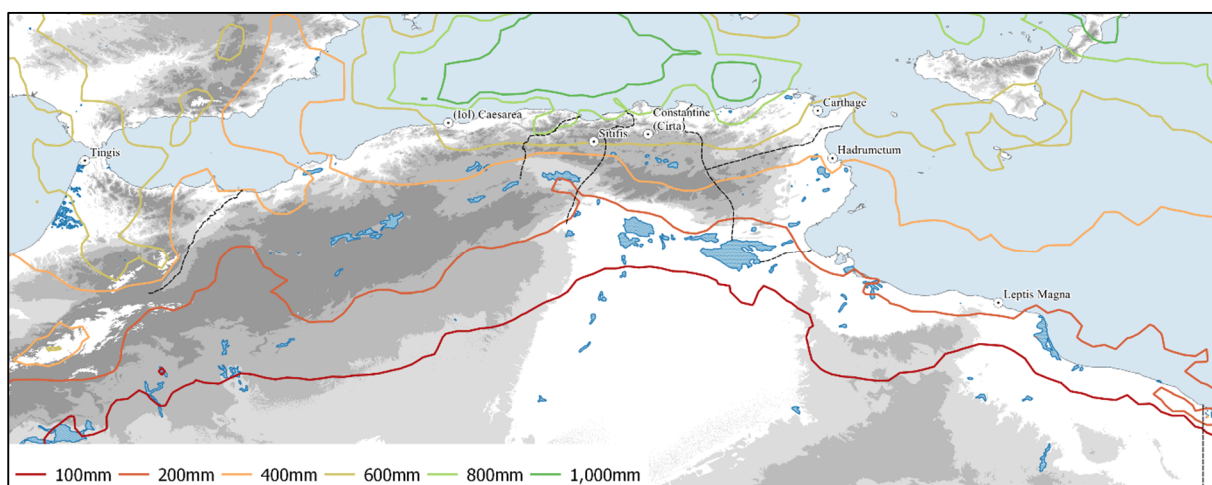
The Topography & Climate of Africa

Roman Africa sits on the northern fringe of the Sahara, the world's largest hot desert and the predominant geographical feature of North Africa. The Romans, and the Phoenicians before them, conquered and settled the fertile band that lies within a few hundred kilometres of the Mediterranean shore. The vastness of the Sahara imposed a permanent stop on Roman expansion, and few Roman expeditions ventured into the great desert. Agriculture in Roman Africa was almost entirely dependant on rainfall and careful irrigation. This is in contrast with Egypt on the eastern end of the continent, which was almost entirely reliant on the Nile and the rainfall and snowmelt that fed it far upstream. Africa has few permanent major rivers of note. Rather, the landscape of Africa is marked by wadis – ephemeral riverbeds that fill and flow only after rainfall. Roman urban society and large scale settled agriculture was restricted to land with ample rainfall and the ability to adequately utilise it. Rainfall in Africa is highly variable. Generally, rainfall peaks in spring and in the autumn, with a dry period lasting throughout the summer. This contrasts with Cyrenaica and Egypt, where the majority of the rain falling between December and March. The African rainfall pattern facilitates the cultivation of perennial plants, such as olives, fruit trees, and vines, even in regions with low annual rainfall. The prodigious olive crops of Byzacium and Tripolitania are largely due to this phenomenon.

The rugged topography of Africa had a profound effect on its climate and annual rainfall. Generally, average temperature and average rainfall are a function of latitude – the further south the hotter and drier it gets. The mountainous terrain provokes rainfall on the windward side of the mountains, namely the coast-facing side, and creates a rain shadow on the interior, leeward side of the mountains. The topography of much of North Africa is dominated by the Atlas Mountains system, a chain of mountain ranges that rise in southwestern Morocco and stretch around 2,500km into the heartlands of Tunisia. Thus, the Atlas Mountains span the entirety of Mauretania Tingitana, Caesariensis, and Sitifensis, Numidia, and the western portions of Proconsularis and Byzacium. The Atlas Mountains are comprised of several distinct named ranges (which are themselves subdivided). Mauretania Tingitana is defined by the northern tip of the Middle Atlas range, as well as the geologically separate Rif mountains, which are an extension of the Baetic Mountains of southern

Spain. Mauretaniae Caesariensis are bisected by the Tell Atlas. The Aurès continues westwards from the Tell, bisecting Numidia and the western half of Proconsularis and Byzacium. The Saharan Atlas lies south of the Roman frontier and, as the name suggests, demarcates the northern edge of the Sahara Desert proper. A series of large chotts – salt lakes, punctuate the landscape south of the Aurès and in the lowlands between the Tell and Saharan Atlas ranges. Tripolitania is far less mountainous than the remainder of the African provinces. In western Tripolitania, the Nafusa Mountains encircle the Mediterranean coastal plain, which encompassed the cities of Sabratha and Oea. Further east ranges of lesser hills, at some distance from the coast, separate the coastal lowlands from the desert interior. Though the maximum elevation of the Tripolitanian highlands is modest compared to the Atlas ranges they nonetheless contribute to the aridity of the terrain further inland.

The effect the rugged African landscape had on rainfall is readily apparent by plotting isohyets – contour lines that delimit points of equal rainfall within a given period of time, which is shown on the below map. The map depicts the *Precipitation Rate* dataset from NASA's *Giovanni* platform, plotted on a time averaged map covering the years 1998-2019.



Map 2: Isohyets of North Africa

The rain shadow effect of Africa's topography is immediately apparent. Across most of the northern littoral regions and the windward side of the Tell Atlas and the Aurès rainfall is typically above 600mm a year, and in some regions it can reach as high as 800-1,000mm. In the intermountain plains and the highlands of the same mountain ranges rainfall tends to average between 400-600mm. On the leeward side of these mountains, and across the Saharan Atlas, rainfall drops off considerably,

averaging only 200-400mm annually. The vast pre-desert steppe lies immediately south of the Atlas ranges and, as the name suggests, conditions across the steppe become increasingly arid. Average rainfall is between 100-200mm, except along the northern fringes where rainfall might reach ~300mm in a good year. South of the steppe lies the Sahara proper, where rainfall never exceeds 100mm a year, and some regions might only see a few millimetres per year. Tripolitania, however, does not conform to this schema. Aridity was, and still is, the defining characteristic of the region. Only the littoral region in the western half of the province received more than 200mm of rain annually. This same region contained the province's three eponymous cities. Rainfall drops sharply east of Leptis Magna, the easternmost city in the province, resulting in a desert climate across all eastern Tripolitania, even up to the coast.

North Africa experiences a seasonal change in prevailing wind. The prevailing winds in the dry summer months are easterly, whereas they change to westerly/north-westerly in the winter. This phenomenon is responsible for the seasonal differences in rainfall, as the westerly and northerly winds are responsible for increased precipitation. Tripolitania's location downwind of the westerly winter winds placed it in a rain shadow which, along with its more southerly latitude, is responsible for its low annual rainfall. Most of Byzacium also lay in the westerly wind rain shadow cast by the Aurès, though its more northerly latitude mitigated this effect somewhat. Besides moderating rainfall, the Atlas Mountains also act as a wind break from harsh southerly winds. The mountains mitigate the risks of damaging gale-force winds and sandstorms, particularly from sirocco storm events. Egypt and Libya are particularly vulnerable due to their low-lying topography, which means sirocco events can bring vast amounts of dust, storm-force winds, and drastically increase the temperature in only a few hours.

Rainfall across North Africa is highly variable, and while the isohyets are generally accurate, they are not absolute.²⁴ If the isohyets plotted on Map 2 were replotted using annual data, rather than the 1998-2019 average, there would be noticeable movement year-on-year. Of particular note are the regular drought events that North Africa experiences. The United Nations' *Development Programme*

²⁴ D. Mattingly 1994b, 14–16.

and *Food and Agriculture Organisation* collated data on the frequency and duration of drought events in North Africa; a drought was defined as a 30% deficit from average annual rainfall. In Algeria and Tunisia, between the years 1456-2008 a drought occurred once every 5.4 years, with some of the drought events lasting for multiple years.²⁵ Data for Libya is less comprehensive. Nonetheless, the data for the western and central coastal regions of Libya, which corresponds approximately with Roman Tripolitania, collected between 1945-2010 shows droughts occurring once every 5.7 years on average, comparable with Algeria and Tunisia.²⁶ Droughts, especially prolonged droughts, present considerable risks to sedentary societies, including crop failure or underperformance, soil erosion, livestock starvation or dehydration, and increased risk of wildfires. Droughts obviously place additional pressure on wells, aquifers, and stored water reserves. The effects of drought still pose problems for modern agriculture as, for example, in 2007 nearly a third of all irrigated land in Algeria was irrigated solely due to drought.²⁷ While across Africa drought was more common than deluge, abnormally high rainfall posed problems of its own. Excessive rain can cause substandard crops in terms of quality and yield or destroy plants and trees entirely. Flash flooding remains a potent danger across North Africa and the Middle East as abnormally high rainfall quickly saturates the soil and overcomes the ability of shallow wadi channels and other drainage features to adequately drain the flood waters.²⁸

Besides rainfall, the temperature is also determined in large part by Africa's topography. The prevailing climate of Roman Africa is one of warm-hot summers and mostly mild winters. Naturally, temperature increases in latitudes closer to the equator, with the elevation exerting a moderating effect on mean and maximum temperatures. The mountain slopes and high plains experienced a milder, cooler climate compared to adjacent coast and steppe lands. The warm Mediterranean Sea keeps the littoral plains warm even throughout winter; adjacent inland plains tend to experience slightly cooler

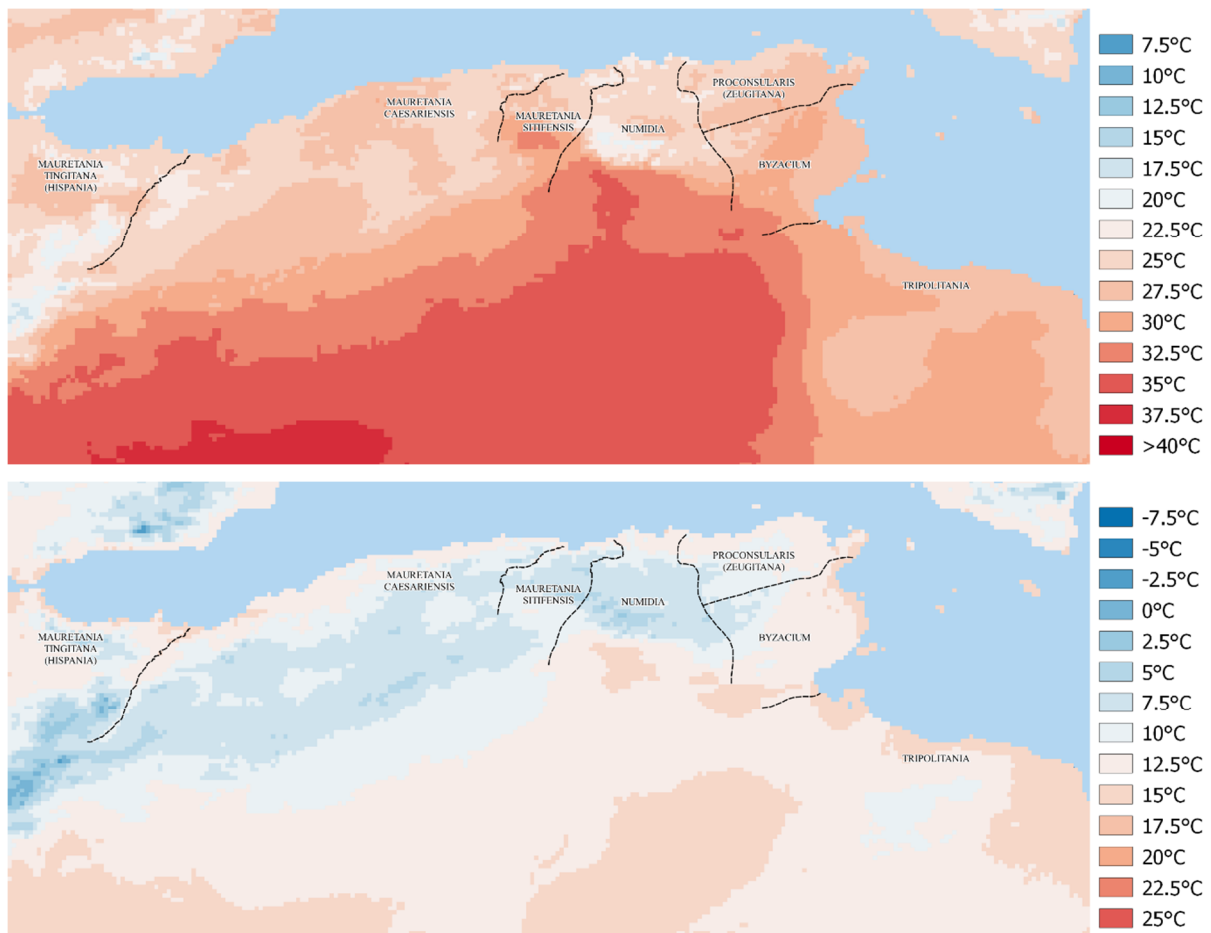
²⁵ Bazza et al. 2018, 24–26.

²⁶ Bazza et al. 2018, 43–44.

²⁷ Bazza et al. 2018, 26.

²⁸ Negm 2020, 86–87.

winters. The following maps depicts the average temperature in both the summer and winter months across Africa.



Map 3: Average summer & winter temperatures in North Africa²⁹

Temperature and rainfall were the primary determiners of whether agriculture was viable in any area. There were other factors of course. Inhospitable terrain, soil quality, forestation, and more affected the ability of Romano-African farmers to work the provincial land. Some of these problems could be overcome, such as by terracing the land or felling trees, but with incompatible climatic conditions these measures were pointless. Different plants have different temperature and water requirements and tolerances. The basic climatic requirements for wheat, olives, and grapes – the three quintessential Roman staples – shall be considered. These three crops were cited by Pliny the Elder in a telling passage about their importance and prevalence within the African agrarian economy.

²⁹ The map uses WorldClim version 2.1 climate data, which is a collation of temperature averages for 1970-2000; cf. Fick and Hijmans 2017.

Cereri id totum natura concessit, oleum ac vinum non invidit tantum satisque gloriae in messibus fecit.

Nature has conceded [in Africa] everything to Ceres [i.e. to cereal cultivation], but she does not begrudge oil and wine, producing enough for glory in its harvests.

Pliny the Elder *Natural Histories* 15.8

Unsurprisingly, Africa's vast grain crop, the sustenance of Africa and Rome alike, is at the forefront. Though Pliny downplays the importance of oleiculture and viticulture in Africa, he acknowledges that there were substantial harvests of oil and wine. He is perhaps too pessimistic about the prospects of oleiculture in Africa, as there were substantial groves and exports prior to the Roman conquest; G. Julius Caesar imposed a punitive annual tribute of 3,000,000lbs of oil on Leptis Magna in the first century BCE.³⁰ Each of these three crops continued to grow in size, export volume, and international prominence as the centuries progressed. The *Expositio Totius Mundi*, a fourth century CE document, enumerated grain as a leading product of Africa (meaning Proconsularis, Byzacium, and Tripolitania), Numidia, and Mauretania, listed olive oil as a chief export of Africa, and miscellaneous non-cereal crops as leading exports of Africa and Numidia.³¹ An easterner, possibly a Syrian or Palestinian, authored the *Expositio* and he was aware of Africa's voluminous and varied agricultural export even though most African exports were destined for the western provinces.³²

Cereals were the mainstay of the ancient diet, and wheat was the definitive cereal of the ancient Mediterranean; the ability to grow cereal crops was essentially a precondition for Roman settlement. Wheat, along with several other cereals such as barley and oats, provided upwards of three quarters of the calories in an average diet.³³ While each cereal crop had different climatic requirements, seed requirements, yields, and nutritional properties they are not incomparable, and wheat shall stand in as *pars pro toto* for the various cereal crops.

³⁰ Caesar *African War* 97; D. Mattingly 1994b, 89.

³¹ Exp. Mund. 60-1.

³² Grüll 2014.

³³ The composition of ancient Roman diets is difficult to determine, however it has been found that a majority cereal diet, supplemented with olives, wine, and occasional meats, fruits, *garum*, and other common foodstuffs is sufficient to meet an individual's daily nutritional needs. Cf. M. Brown 2011, 14–19; Frits 2019, 112–14.

Wheat tolerates a broad range of temperatures, and with wheat the soil temperature is more important than atmospheric temperature. In hot, dry environments the top few centimetres of the topsoil can up to 10°C hotter than the surrounding atmospheric temperature. Germination can occur between 4°C-37°C, with the optimum range between 12°C-25°C. As temperatures rise above ~30°C fewer plants germinate and establish; temperatures over 40°C result in only about one-quarter as many established plants compared to 20°C. The initial stages of plant growth thereafter favour lower soil temperatures, around 10-15°C. During the main stages of plant growth, from tillering to ripening, the 12°C-25°C average maximum soil temperature range is again optimal. Once the plant is established and substantial growth is underway the atmospheric temperature becomes important. Cultivars acclimated to warm temperatures, such as in Africa, suffer from heat stress as temperatures rise above 35°C, especially when the soil is dry, which negatively impacts the yield.³⁴ Regarding rainfall, wheat ordinarily requires only 300mm during the growing season, which in Africa was September-May, to produce a good crop; this averages to around 400mm of rainfall annually.³⁵ Irrigation was only strictly necessary in the more southerly regions, and across most of Tripolitania, and to proactively protect against the recurrent threat of drought or heatwaves. Drought was a constant threat for African farmers, as moderate shortfalls in rain cause a substandard crop and a smaller yield, and severe drought can cause the entire crop to fail.³⁶ Heavy downpours and/or poor drainage promote harmful fungal growth and can even cause the plant to rot; this can occur at any stage of the growth and harvesting cycle.³⁷ Flooding was especially damaging in the warmer seasons as it overwhelmed the plant's ability to recover.³⁸

Olive trees are a naturally semi-arid species and are well-suited to most of North Africa.

Olive trees thrive in warm climates, though sustained temperatures above 40°C will damage the plant.

³⁴ Acevedo, Silva, and Silva 2002.

³⁵ Mørch 1994, 108–9; Heather 2014, 273–75.

³⁶ Latiri et al. 2010; crops acutely affected by drought might be abandoned entirely and used as grazing fodder.

³⁷ Shaw 2013, 28–29. Pliny the Elder *Natural History* 18.78.341 relates an anecdote of how a certain Democritus warned his brother of an imminent storm, urging him to quickly collect his harvested sheaves. Per the story the sheaves were saved from the deluge, but the as yet unharvested ears of wheat were destroyed by the storm.

³⁸ Cato the Elder *On Agriculture* 43, 155 advised that land should be drained during the winter, perhaps in recognition of the greater threat that inundated land posed to wheat crops in warmer weather. The excess water impedes the plant's oxygen uptake, which the plants struggle to recover from; cf. Huang et al. 2018.

A mild-to-cool winter is required for fruiting, and temperatures below -5°C are damaging to the plant. Olive trees will produce a satisfactory yield in low rainfall areas (between 200-300mm annually) if the soil retains water and supplementary irrigation is used, and in high rainfall areas if the soil has adequate drainage. Sufficient and regular irrigation can produce sizeable yields even in locales with less than 200mm of annual rainfall.³⁹ Dry cultivation methods can yield a respectable crop in regions with only 150mm of rainfall, which was the case for much of Tripolitania's olive groves.⁴⁰ Dryland planting requires more space between trees to prevent both moisture and nutrient exhaustion, a fact acknowledged by Roman agronomists. Cato, Columella, Pliny, and Palladius all offer advice on the density of plantings, but only Pliny offers advice specifically for Africa.⁴¹ Pliny's advice accords with the actual density of plantings in the drier regions of colonial and modern Tunisia, as analysed by Mattingly.⁴² The hardiness of olive trees and their relatively low water requirements meant they were planted in large numbers in arid environs that were not well-suited to cereal cultivation, notably (but not exclusively) in the steppe lands of Byzacium and across Tripolitania.⁴³

Viticulture became increasingly widespread across Roman Africa during the imperial era, despite the challenges the African climate presented to successful viticulture. Grapevines are generally tolerant of warm and hot temperatures and intolerant of cold temperatures. Temperatures between ~25-30°C are optimal for grapevines, and the minimum temperature for growth and fruiting is 10°C. While cold temperatures impede regular growth, frosts are especially damaging to grapevines. Brief frosts can damage or kill new growth, while prolonged frosts can kill even long-established plants. Sustained high temperatures cause substandard fruit that ripens more slowly and would additional irrigation to offset evaporation.⁴⁴ The greatest impediment to grapevine cultivation in Africa though was the plant's high annual water requirements. In cool and temperate climates grapevines need around 500mm of annual rainfall., which can increase to 600-750mm in warm-hot

³⁹ Wiesman 2009, 95–97.

⁴⁰ D. Mattingly 1994b, 11–17.

⁴¹ Cato *On Agriculture* 6.1; Columella *On Trees* 17.3, *On Agriculture* 5.9; Pliny the Elder *Natural Histories* 17.93-94; Palladius *On Agriculture* 3.18.

⁴² D. Mattingly 1994a, 94; tree density in central and southern Tunisia is between 17-60 per hectare, in northern Tunisia the density is 100-200 per hectare.

⁴³ D. Mattingly 1988a, 35–38, 44–49.

⁴⁴ Greer and Weedon 2013, 1–2, 7.

climates, such as Africa.⁴⁵ Soil selection is important as the soil needs to have sufficient water-holding capacity but also sufficient drainage so that excessive rain does not cause waterlogging, which can promote undesirable plant growth and can cause fungal diseases.⁴⁶ Irrigation or judicious planting were necessary to ensure grapevines would not only survive the arid African environment but provide a fruitful and worthwhile crop. Punic settlers planted the first grapevines in Africa, but it was only under Roman influence that viticulture was spread beyond the well-watered north-facing slopes of the Aurès.⁴⁷ Romano-African viticulturists learned from their Punic predecessors, and Roman agronomists learned from Mago,⁴⁸ on managing solar irradiance, maximising water efficiency, and so forth in Africa; Columella stresses the importance of selecting a cultivar appropriate to the climate and terrain.⁴⁹ The expansion of viticulture under Romano-African influence is readily seen at Cillium, a town nestled in the foothills of the Aurès in central-western Byzacium, a certain T. Flavius Secundus eulogised his father's accomplishments in verse on a monumental tower tomb, boasting that he was the first to plant grapevines in the area in the early second century CE.⁵⁰ Secundus may have been the first to introduce viticulture to central Byzacium, but he was not the last. Viticulture continued to spread throughout Africa afterwards, facilitated by indigenous, Punic, and Italo-Roman irrigation techniques.⁵¹

Roman Africa's climatic conditions generally permitted cultivation of cereals, olives, and vines across the entire littoral region and several hundred kilometres inland. The African littoral and northern slopes of the Aurès and Tell Atlas were proverbially fruitful and could support a diverse range of plants beyond those already discussed; in the second century BCE, Cato the Elder is said to have presented fresh African fruits to the Senate as a cautionary demonstration of the country's wealth and proximity.⁵² Tripolitania was the most disadvantaged province owing to its poor annual rainfall,

⁴⁵ Robinson and Harding 2015, 596.

⁴⁶ Mullins, Bouquet, and Williams 1992, 189–91; Cato *On Agriculture* 6.33; Varro *On Agriculture* 1.41; Columella *On Agriculture* 4.1 discuss the optimal soil conditions for planting vines.

⁴⁷ Greene 2000, 314–15.

⁴⁸ Columella, for example, directly cites Mago on a recipe for raisin wine in *On Agriculture* 12.39.1–2.

⁴⁹ Columella *On Agriculture* 3.1.

⁵⁰ CIL 8.212–3; CLE 1552. Cf. Hobson 2015, 217–20.

⁵¹ Hitchner 1990, 231–60; 1994, 27–43.

⁵² Plutarch, *Life of Marcus Cato* 27.

but this did not prevent it from becoming a leading exporter of olive oil while remaining self-sufficient in terms of staple cereals. Tripolitania's conditions also meant that Roman occupation was limited to the coastal zone to a greater extent relative to the rest of Africa. In the upland areas of the Atlas ranges, the Aurès, and the highland plains the winter colds posed a problem to viticulture and oleiculture. Wheat cultivation in these areas was largely unaffected, as the average minimum rarely dropped below the minimum for germination and initial growth. South of the central ranges of the Aurès and Saharan Atlas both the temperature and aridity increased dramatically. Within a short distance of the southern foothills large scale cultivation of cereals was difficult, viticulture was practically impossible, and even oleiculture was difficult. Particularly hot summers in this region would stunt cereal crops and despite the hardiness of olive trees heatwaves and droughts would have damaged olive harvests or, in regions closer to the desert, killed trees outright. The southerly, pre-desert regions that experienced yearlong warm/hot temperatures of the pre-desert region also had higher soil temperatures. High soil temperatures reduce the chance of successful cereal germination, wasting seed in the process. Other plants would similarly struggle to take root and thrive in such conditions.

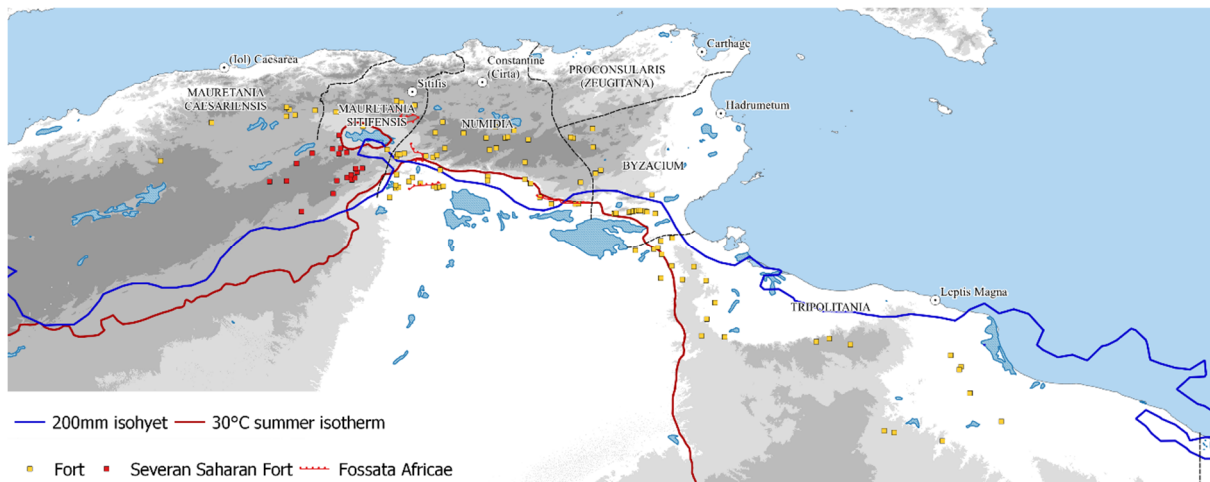
Unlike the continental European portion of the empire, where the frontiers were defined primarily by natural features, the frontier of Africa was defined by its climate. Large tracts of the African frontier were just open country, punctuated by occasional forts and sections of the *fossatum*.⁵³ The following map clearly shows that the outermost line of Roman defences closely follows both the 200mm annual rain isohyet and the 30°C summer average isotherm – a contour line that delimit points of equal temperature.⁵⁴ It is no coincidence that the Roman provinces in Africa terminated where climactic conditions make annual, profitable agricultural increasingly difficult. The forts marked as *Severan Saharan Forts* were part of a short-lived effort by the Severans to better monitor the

⁵³ The chotts of southern Byzacium, Numidia, and Sitifensis provided some natural defence, as did some of the more mountainous terrain, but in general the African provinces were exposed to the south; cf. Warmington 1954, 20–26.

⁵⁴ The correspondence between the *limites* and the 2000mm isohyet has been remarked on numerous times, the isotherm less so. Cf. Cherry 1998, 3–9; Hobson 2020, 307–11; Lenski 2017, 116–18; D. Mattingly 1994b, 11–12, 113, 224–25, etc.

movements of Berber peoples in and out of the Roman provinces, and better enforce border tariffs.⁵⁵

They did not enclose new zones for cultivation.



Map 4: the relationship between climatic conditions and the position of the *limites*

The *limites* were the endpoint of what the Romans considered to be worthwhile cultivable land. The region north of the *limites* was harder to work and offered meaner returns compared to the littoral and central zones of Africa, and as a result were less densely settled.

*sed qua se campis squalentibus Africa tendit,
serpentum largo coquitur fecunda veneno;
felix qua pingues mitis plaga temperat agros,
nec Cerere Henna Phario nec victa colono.*

But where Africa stretches across its dry plains the burnt land is fertile with the venom of large snakes, but where a mild tract tempers the fields it is fertile, and neither Henean Ceres [Sicily] nor Pharian farmers [Egypt] can surpass it.⁵⁶

Silius Italicus *Punica* 1.211-214

While the drier parts of Africa, which mostly lie south of the Roman *limites*, could and did support sedentary agriculture the risk of crop failure due to drought was high. Cereal farming in this region was better suited to supporting small settlements and the itinerant Berber pastoralists. It was not suited to supporting Romano-African settled urban society, or for profitable export. Irrigation was

⁵⁵ Cherry 1998, 52–53.

⁵⁶ *Henna* refers to the Sicilian town Henna (Ἐννα), which was a cult centre for Ceres and important location in the Ceres myths. *Pharia* refers to the Pharos lighthouse in Alexandria, and by extension Egypt as a whole. Cf. Wright 2011, 139–40.

a necessity, usually fed by extracted groundwater, and the effects of prolonged drought and heatwaves were more severe than in the Roman provinces to the north. The history of the Garamantes, a Berber kingdom immediately south of Roman Tripolitania, is illustrative. The Garamantes inhabited the desert proper, and maintained permanent agriculture and settled towns, including their capital Garama which boasted monumental architecture and a Roman-style bath,⁵⁷ by constructing a vast series of artificial aquifers and *foggaras* – subterranean irrigation channels.⁵⁸ Where such hydraulic technologies were not feasible the Garamantes relied on wells and natural accumulation of water in oases, which was far less effective and could support less cultivation and fewer people.⁵⁹ From perhaps the third century, and certainly during Late Antiquity, the groundwater table the Garamantes relied on gradually dropped. As older, shallower aquifers failed the Garamantes bored deeper channels, and where the water table could no longer and no alternative water source was available farmlands and settlements were quickly abandoned.⁶⁰ The Austuriani, a Berber tribal coalition who raided Romano-African settlements, might have been farmers or villagers displaced by exhaustion of water supplies.⁶¹ Other Berber raids in other parts of Africa may have been motivated, initially at least, by comparable water or food shortages.⁶² Recent geological studies suggest that the Libyan water table has been gradually and naturally dropping for millennia, perhaps hastened by a warming local climate and overexploitation.⁶³ For centuries the Garamantes managed to maintain diverse agriculture under harsh conditions, but the scale of their production and the density of their settlement paled in comparison with Roman Africa. The Garamantes had to be more circumspect regarding the siting of their settlements in a way Romano-Africans usually did not have to be. The Romans had little interest in direct governance of an area that could not sustain substantial agriculture.

⁵⁷ D. Mattingly and Sterry 2013; Fentress and Wilson 2016, 55–56.

⁵⁸ Wilson and Mattingly 2003, 235–78.

⁵⁹ D. Mattingly et al. 2020, 54–55.

⁶⁰ Drake et al. 2004; Fentress and Wilson 2016, 57–58.

⁶¹ Fentress and Wilson 2016, 58–59.

⁶² Victor of Vita *History of the Vandal Persecution* 1.35–37, 2.26–37 and Fulgentius of Ruspe wrote about Berber incursions coming from beyond the limits of the provinces; Synesius wrote of similar incursions in Cyrenaica. Cf. Fentress and Wilson 2016, 60–63.

⁶³ Fentress and Wilson 2016, 57–58.

The Population of Africa

Ancient economies were overwhelmingly agrarian and, for the most part, food was consumed near to where it was grown, if not on the farm itself then in a nearby town or village. Surplus foodstuffs were extracted as rent or taxes, or else were sold. The great and populous cities of antiquity such as Carthage or Antioch, which were home to several hundred thousand people, depended on the inflow of agricultural surplus from a vast hinterland, whether collected through market or state mechanisms. The farmers of Africa had an additional burden in the form of the *annona*, the vast and systematic procurement of foodstuffs for Rome. Hundreds, even thousands, of farms dotted across the African countryside were necessary to provide for the farmers' own needs, as well as hundreds of towns and cities, including the Roman megalopolis.

As detailed in Table 1, Roman Africa encompassed some ~500,000km², which was about 12% of the Roman Empire's total territory, and the equivalent to the land area of modern Spain. No more than a quarter of Roman Africa in total was suitable for permanent agriculture. Modern economic data provides limits on the extent of practicable cultivation in Africa. Between Algeria, Tunisia, and Libya there is approximately 163,700km² of arable land and permanent cropland, almost all of which is located within a few hundred kilometres of the Mediterranean and is thus within the boundaries of the ancient provinces.⁶⁴ The total cultivatable area of the African provinces must be somewhat below the modern figure considering ancient farmers lacked the benefits of modern irrigation, earth working, fertilisers, and mechanical harvesting.

Ancient demography is nothing if not a contested field. This study does not seek to innovate on demographic research or methods, but some comment will be made instead of simply selecting a demographic estimate. Furthermore, not only are demographic estimates difficult to calculate and justify, they are also rare for the Late Antique period; most estimates were calculated for the early-to-mid Principate era. Dennis Kehoe provided a survey of population estimates for Africa in *The Economics of Agriculture on Roman Imperial Estates in North Africa*, in which the estimated all

⁶⁴ Derived from the World Bank's 2014 data for Libya, Tunisia, and Algeria. Eastern Libya was part of the province of Cyrenaica, part of the Eastern Empire and outside the Diocese of Africa, but the total arable land is negligible and has little effect on these estimations.

fell between 4,000,000-8,000,000 people; all these estimates were calculated with reference to the first three centuries CE.⁶⁵ The average demographic calculation from those listed by Kehoe is ~5,700,000 people.

The highest estimate of 8,000,000 is from Duncan-Jones.⁶⁶ This estimate would be better described as a guestimate as he relies on the plausibility of comparisons and offers no substantive evidence. His first comparison is with the Maghreb at the time of his writing (1963), which had a population of around 26,000,000. Duncan-Jones asserts that agriculture and arboriculture were somewhat more widespread in the second and third centuries and that the means of agricultural production were largely unchanged. The second comparison is with Egypt, which had a population of ~7,500,000 in the first century CE. Both regions were mass exporters of grain and other staples to Rome, and both regions had similar climates and reliance of irrigation. The final comparison is with Asia Minor, which had similar levels of urbanisation with second century Africa but a population of some 13,000,000. Based on these three comparisons alone Duncan-Jones suggests that Africa would have had a mean total population of 8,000,000 between 98-244 CE. While Duncan-Jones is likely correct in asserting that ancient Africa could have supported a population that large, it does not follow that it necessarily had a population that large. Furthermore, he does not account for the depopulating effects of the Antonine Plague that struck in the mid-to-late second century. To Duncan-Jones' credit, his study concerned public gifts in Africa and the wealth of the donors, he was not attempting to undertake a thorough demographic inquiry. Regardless, Duncan-Jones proffered a bold, unorthodox estimate that is considerably higher than all other contemporary estimates without reference to any substantive evidence, and therefore can be disregarded.

The lowest estimate was given by Russell, who unusually also gave an estimate for the Late Antique period – which Kehoe does not mention in his survey. Russell's argued that Africa's population in Late Antiquity dwindled to only 2,700,000. Russell's abnormally low estimate for Late Antiquity depends on a poorly supported theory of grave population collapse from the second century

⁶⁵ Kehoe 1988, 17.

⁶⁶ Duncan-Jones 1963a, 170–71.

onwards, which also depends on his downwards revision of Beloch's estimate to 4,300,000 people in the second century.⁶⁷ The decisive evidence cited is CTh 11.28.13 [Honorius & Theodosius II – 20/2/422], which enumerates fallow and unused land on imperial estates in Proconsularis and Byzacium. Russell assumes the land referred to therein is long-abandoned *agri deserti*, and his inference is that the land was abandoned because of calamitous population decline.⁶⁸ Certainly, Africa's population did decline because of the Antonine and Cyprianic pandemics, but there is no substantive evidence to suggest a long-term demographic collapse in the region. Rather, there is ample evidence to suggest that Africa's population was growing throughout the fourth and fifth centuries. Agrarian and urban settlement along with extensive cultivation continued unabated until conflict between the Vandals, Berbers, Romano-Africans/Byzantines, and eventually Arabs led to invasions and sackings of Cillium, Thelepte, Diana Veteranorum, Sitifis, and elsewhere.⁶⁹ The purported *agri deserti* in the aforementioned constitution could simply be surplus agricultural land, or land left fallow. It does not follow that disused land must be due to population collapse. Furthermore, imperial authorities would prematurely or erroneously declare land abandoned, even if had been deliberately left fallow or was used as pasturage.⁷⁰ Russell's dismal estimations of population collapse in Africa cannot be substantiated.⁷¹

The remainder of the population estimates in Kehoe's list generally accord with Bruce Frier's calculations in the *Cambridge Ancient History*, which are generally esteemed as reliable.⁷² Frier provided two population figures for Africa: 3,500,000 in 14 CE, and 6,500,000 in 164 CE. Some extrapolation is necessary to adapt these numbers to Late Antiquity. Additionally, Frier used the

⁶⁷ Russell 1958, 5–13, 75.

⁶⁸ Russell 1958, 75–77.

⁶⁹ Hitchner 1990, 246–47 states that both estates and smallholdings continued to sprout and expand around Cillium and Thelepte, both in inland Byzacium, into the fifth century. Hitchner suggests it was only due to warfare or unrest caused by the Vandal and/or Byzantine conquests that these towns began to decline. Fentress 2015, 333–38 argues that Diana Veteranorum continued to prosper uninterrupted into the sixth century, where economic interruptions caused by Vandal rule, rebellion, and the aftereffects of the Byzantine reconquest caused lasting civic damage. Similarly, Fentress 1990, 122–24 concludes that Sitifis prospered until the fall of the Roman Empire in Africa, emphasising the economically debilitating economic effects caused by the disappearance of the Roman army and administration.

⁷⁰ Grey 2007b, 363–64, 372–74.

⁷¹ Duncan-Jones 1963b, 85 n. 5 dismisses Russell's work, describing it as “(containing) too many errors of fact and method to be considered seriously”.

⁷² Frier 2000; Frier's work expands on Beloch's 1886 work, which provided generally respected estimations.

heading *Maghreb* for his Africa population estimate, which includes Mauretania Tingitana, but does not include Cyrenaïca as that was counted as part of the ‘Greek East’ which was calculated separately. The net effect of including Tingitana in the general Africa figure is minimal however, considering the province was predominately rural and remote. Tingitana only had a few cities of note, some of which slipped from the empire’s control by the end of the third century. Perhaps 200,000 inhabited Tingitana, and these shall be subtracted. Thus, there were ~6,300,000 people inhabiting Roman Africa in 164 CE, just before the Antonine plague struck, shall provide a starting point for estimating figures for Late Antiquity. At 6,300,000 people Africa still had the capacity to support a larger population; there is no evidence that Africa ever fell into a Malthusian trap. It would scarcely have been possible to ship thousands of tonnes of foodstuffs for the Roman civic populace in the long-term while African peasants languished from want. There are no reports of African farms destitute from underproduction and excessive exactions, nor mass unrest and/or depopulation resulting from urban food shortages. In fact, there was land to spare in Africa, suggesting further population growth was possible without sacrificing standards of living. Mattingly and Hitchner concluded in a broad archaeological survey of Africa that agricultural output regularly outpaced demographic growth, even accounting for the *annona*.⁷³ Frier’s suggested second-century population was certainly not an absolute maximum on population in Africa.

Under normal circumstances (that is, when famine, disease, or war were not impacting factors) population growth in the Roman era was normally between 0-0.5% annually, with the average rate skewed towards the lower range. This range was derived by Bagnall and Frier in their work on demographic trends in Roman Egypt.⁷⁴ Egypt has the richest demographic dataset of anywhere in the Roman world owing to the survival of numerous fragments of census documents, though the dataset provided by the evidence is far from complete. The climate and the political/economic circumstances of Africa and Egypt are comparable: both regions are arid and warm, and both supported large-scale agriculture involving the export of foodstuffs *en masse*. Similarities notwithstanding, Bagnall and

⁷³ D. Mattingly and Hitchner 1995, 195–96.

⁷⁴ Bagnall and Frier 1995, 81–90; Frier 2001, 155–56.

Frier concluded their work by noting that none of their observations or modelling for Egypt are unique to that region, rather that they should be applicable to the Mediterranean generally.⁷⁵ Annual population growth rates of 0-0.5% for Africa are plausible. Assuming no constraints and a steady growth rate the population of Africa could have risen to 10,000,000 peoples or more the by the end of the fifth century. Such a large population is unlikely however and may have threatened or exceeded Africa's carrying capacity. Even without an extraordinary external force such as disease, famine, or warfare, ancient populations had personal and social methods for population control. Individual couples employed contraception, induced abortion, and prolonged breastfeeding to restrain fertility. Infanticide or exposure were contingencies in the case of an unwanted birth. Divorced, widowed, or otherwise separated women aged thirty or more tended not to remarry, and thus were less likely to have more children.⁷⁶ These measures restrained overall fertility which, along with the ordinarily high infant mortality rate, moderated population growth.⁷⁷

In any case, epidemiological crises in the second and third century, namely the Antonine Plague (c. 165-180) and the Plague of Cyprian (c. 251-270), caused a substantial drop in population. Measuring the mortality of a pre-modern pandemic is, like any demographic exercise, difficult. For the Antonine plague mortality estimates range from 10-25%.⁷⁸ The limited evidence available, and the scholarly investigations undertaken on it, seem to suggest that the Antonine plague took a lesser toll on Africa compared to other densely populated provinces, such as Italy or Egypt, but most of the African evidence comes from the interior rather than the more densely populated littoral zone.⁷⁹ Regions with a warm climate, dense population, and/or a low-lying coastal climate tend to experience

⁷⁵ Bagnall and Frier 1995, 170.

⁷⁶ Bagnall and Frier 1995, 147–55; these population control strategies were discussed in relation to Egypt, but none of these strategies were unique to Egypt and nothing precluded their practice in Africa or elsewhere.

⁷⁷ Infant mortality in the Roman era may have been as high as 30-40 deaths in the first year of life; Soren, Fenton, and Birkby 1999, 482–83.

⁷⁸ Harper, Kyle 2019, 306 for the general range of figures, and a general estimation of around 10%. Littman and Littman 1973, 252–55 suggest a general mortality rate of around 14-20%. Rathbone 1990, 114–19 suggests a mortality rate of 20-30% for Egypt. Recent work by Duncan-Jones 2019, 48–50 demonstrates a 27% increase in deaths in Lydia. Scheidel 2002, 99–100 states that the general mortality rate would have been about 25%.

⁷⁹ Duncan-Jones 1996, 127–29, 136 points to a lack of interruption in new building activity and publishing of dedicatory inscriptions in inland Africa relative to Italy as evidence that Africa was spared the worst of the disease. Potter and Mattingly 1999, 105–7 suggest that Africa's largely rugged coast discouraged mercantile contact and hence helped avoid the spread of disease into Africa, but do not defend this idea in any detail.

worse epidemiological outcomes, so there is a high chance the elevated mortality figures for Egypt are applicable to coastal Africa also.⁸⁰ Figures for the Plague of Cyprian are both harder to calculate and less common in scholarly literature.⁸¹ This pandemic struck Africa with particular ferocity; this pandemic is named for Cyprian, the bishop of Carthage who witnessed the outbreak unfold in that city. While the extant evidence for the pandemic does not lend itself to sound mortality estimates, the sources universally attest to the disease's high mortality. Harper has inferred a 62% drop in population in Alexandria based on Dionysius' report on deaths in that city, Dexippus (via Zosimus) described multiple outbreaks and mass depopulation in both cities and villages, and even the *Historia Augusta* described peak daily deaths of 5,000 in both Rome and in the major Greek cities.⁸² In Africa Cyprian described a drought and concomitant famine in Africa immediately prior to the outbreak of the disease. The resulting malnutrition and unusually high urban crowding from destitute farmers migrating to cities would have facilitated the spread of disease.

Figure 1 (below) charts a basic model of population growth and decline from 150-400 CE based on the factors listed above. Frier's figure of 6,500,000 people in Africa in 146 CE provides the basis for this model, less 200,000 people to account for Mauretania Tingitana, which is outside the consideration of this study. The typical annual fertility rate is set at between 0-0.5%, skewed towards the lower end of that range. The mortality rates for the Antonine and Cyprianic plagues are guesstimated at 20% and 15% respectively. This model does not attempt to depict either epidemiological phenomenon accurately on a year-to-year basis. To simplify the model mortality figures for both pandemics are depicted as a continuous linear drop. The mortality rate would have exhibited considerable variability year on year, however considering the difficulties in estimating even aggregate mortality figures for the duration of the pandemic estimating the death toll in

⁸⁰ Scheidel 2012, 12; the exact relationship between these conditions and health outcomes is difficult to measure though.

⁸¹ Scholarship has paid less attention to the Plague of Cyprian compared to the Antonine Plague. Corbier 2005, 397-99 briefly discusses the demographic and economic effects of both pandemics, but considers the Antonine plague in far greater detail, and describes the Plague of Cyprian as an African phenomenon rather than a proper pandemic. Cunha and Cunha 2008 attempt to provide a clinical diagnosis and description of the historical importance of what they call the "three great plagues of the ancient world": the Plague of Athens, the Antonine Plague, and the Justinianic Plague; no reference is made to the Plague of Cyprian at all.

⁸² Harper 2015, 227-28; Zosimus *New History* 1.26.2, 1.37.3; SHA *The Two Gallieni* 5.5.

individual years is an impossible task. In every regard the purpose of this chart and the underlying model is only to visualise overall demographic trends and arrive at an estimate of Africa's Late Antique population.⁸³

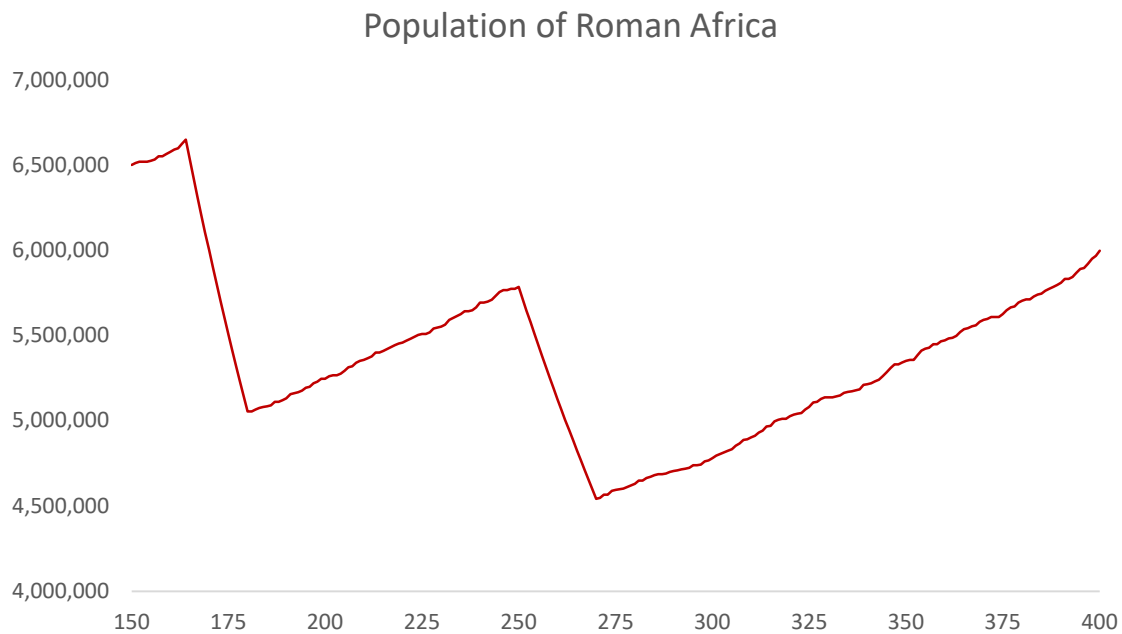


Figure 1: Demographic trends in Roman Africa (c. 150-400)

Population recovery to near pre-Antonine Plague levels was possible by around the end of the fourth century, or perhaps the early fifth century. An increase from around ~4,500,000 following the Plague of Cyprian to ~6,000,000 in 400 CE only requires an overall increase of 33% in 125 years, which is considerably less than the 85.7% increase from 14 to 164 CE suggested by Frier. Six million inhabitants across Roman Africa in 400 CE shall be the benchmark population estimate for all subsequent calculations and discussions.

A sustained population recovery beyond the early-mid fifth century is unlikely given the course of events in Africa and the Mediterranean generally in the latter half of the Late Antique era. Roman Africa was never entirely peaceful, but warfare intensified after the fall of imperial authority in the mid-fifth century. The Vandals conquered Africa from the Western Empire between 429-455, the Byzantines then captured Vandal Africa between 533-534, and finally Byzantine Africa gradually

⁸³ Much greater study into regional and imperial demographic and epidemiological trends is necessary to refine these findings, which is beyond the scope of this study.

fell to the Rashidun, later Umayyad, caliphates between 647-709. Throughout this entire period, and afterwards also, the independent Berber kingdoms fought against the dominant powers, and amongst themselves, to retain their autonomy. The resulting warfare resulting in the sacking, abandonment, or outright destruction of numerous African cities, including Sufetula, Thamugadi, and Carthage, along with regular raiding of the countryside and smaller towns.⁸⁴ This violence compounded an ongoing trend of disruption of political and economic structures in the western Mediterranean, which led to a reduction in trade and overall economic complexity.⁸⁵ Reductions in economic interconnectedness reduced resilience to famine and reduced both incentive and opportunity to produce/market large agricultural surpluses. Beyond political and economic factors, the outbreak of the Plague of Justinian in 541 brought significant mortalities; it is generally agreed that the Plague of Justinian was an outbreak of *Yersinia Pestis*, the same bacterium that caused the Black Death.⁸⁶ Furthermore, unlike the previous two pandemics, which subsided after a few decades, new outbreaks of the Plague of Justinian occurred throughout the Mediterranean until the middle of the eighth century. Corippus witnessed the initial outbreak in Africa and described an immense death toll, urban depopulation, and widespread societal despair;⁸⁷ Procopius' recount of the plague's effects is comparable.⁸⁸ Pope Gregory's letters refer to another outbreak of plague in Africa in 599-60.⁸⁹ Localised epidemics recurred until the disease finally abated c. 750.⁹⁰ Religious intolerance, the fear of violence and instability, fear of conscription, and other concerns arising from political and social upheaval compelled some of the Christian Roman population to leave Africa.⁹¹ Emigration was to an extent

⁸⁴ Kaegi 2015, 116–44, 247–65; Parker 2010, 474.

⁸⁵ The onset and severity of Late Antique economic simplification remains contested. D. Mattingly and Hitchner 1995, 198–200 note that Roman era production trends continued into the Islamic era, but on a difficult to quantify reduced scale. Ward-Perkins 2006, 87–137 argues that diminution of production and a reduction in the sophistication of production were prevalent trends across the entire Mediterranean.

⁸⁶ Little 2007, 13–15; McCormick 2007.

⁸⁷ Corippus *Iohannis* 3.343-376.

⁸⁸ Procopius *On the Wars* 2.22-23.

⁸⁹ Gregory the Great *Letters* 9.32, 10.20.

⁹⁰ Little 2007, 14, 24–25, 32.

⁹¹ Kaegi 2015, 261–65; religious persecution and the fear of persecution led to exile and self-exile under the Vandals and Umayyads.

counterbalanced by immigration of Berbers from the south and west, and of Arabs and captive peoples from further east, such as a forced migration of Copts into Umayyad Ifrīqya in 698.⁹²

Together these factors put downward pressure on the population of Africa, although calculating population gains and losses beyond the fifth century is more difficult than the preceding centuries, verging on impossible. The evidence provides a broad outline of events and causes, but it is not quantitative. It is not impossible that despite these factors Africa's population stayed more or less stable, or perhaps even grew slightly. Surviving tax registration evidence from the early Islamic period in Egypt variously gives the population there at either five or six million people. Bagnall and Frier speculated that the population of Roman Egypt up until the third century fluctuated moderately, and recurrently reached highs of around five million.⁹³ Umayyad era evidence suggests either long-term population stability or, at most, a modest population increase of, at most, 20% over some four centuries.⁹⁴ Comparable evidence, slight as it is, is simply unavailable for Vandal or Byzantine Africa, or for Umayyad Ifrīqya. Furthermore, unlike Africa, which underwent violent fragmentation in the fifth century and remained in a state of political contention for centuries, Egypt remained a relatively untroubled and integral part of the Byzantine state until the Sassanian invasion in c. 618, which allowed Egypt to reap the benefits of political and economic stability. Considering the circumstances facing Africa maintaining population stability, let alone population growth, would have been far more challenging.

Of the approximately six million people in Africa c. 400 CE, the majority would have been *coloni* in the broadest sense, that is, they were farmers. The remainder of the population comprised city dwellers, soldiers, slaves, pastoralists, itinerant wage labourers, and other non-agrarian labourers. To obtain the best estimate for the free *colonus* population in Africa it is necessary to refine the population estimate to exclude the non-rustic and servile parts of the population.

⁹² Bramoullé 2007, 6.

⁹³ Bagnall and Frier 1995, 56; Frier 2000, 812–14.

⁹⁴ al-Qadi 2008, 349–50, 406; what area was included in the Umayyad tax declaration is uncertain, it might be more or less than the preceding Diocese of Egypt (which included Cyrenaica).

Like all parts of the ancient Mediterranean slavery was an endemic practice in Africa. Urban and rustic Romano-Africans owned slaves, and slave traders captured and sold Africans abroad. Some, perhaps many, *colonus* families owned one or more slaves, as selections of Roman case law amply demonstrates.⁹⁵ Slave traders trafficked indiscriminately by capturing and selling Roman citizens (illegally) and Berbers from beyond the frontier alike. The *Expositio Totius Mundi* lists slaves as one of the chief exports from Mauretania, and slaves as listed on the Zarái tariffs. The illegal trafficking of Roman citizens as slaves drew the attention of Augustine and the church, who tried to liberate and repatriate the hapless victims.⁹⁶ *En masse* agricultural chattel slavery never took hold in most of Africa like it did in Italy. Apuleius, in his self-defence against the charge of magic, even explains his personally small slaveholdings by explaining that in Africa it was common to use free labour to cultivate the land.⁹⁷ Pudentilla, Apuleius' wife, on the other hand had hundreds of slaves on her estate near Oea.⁹⁸ Augustine makes only a few remarks concerning rural slavery wherein it is clear that the slaves work alongside free *coloni*. Augustine was more concerned with the illicit trafficking in slaves. Other references to slavery in Africa, such as in Cyprian or Optatus, provide no meaningful way to discern if the authors are referring to agricultural slavery or not.⁹⁹ Slaves are more visible in the cities than in the country, and they are particularly visible when they filled administrative roles in civic and imperial governance. Mass chattel slavery was a phenomenon often borne of maritime imperialism. The parts of Africa with the highest concentration of slaves were the coastal regions, especially those connected with the Roman and Punic imperial heartlands around Carthage. Outside these regions, which Shaw describes as a slave axis running from Carthage through Sicily into Italy, agricultural slavery was not overly widespread.¹⁰⁰ Kehoe unreservedly calls tenant *coloni* the

⁹⁵ Dig. Iust. 9.2.27.11 [Ulpian *Edict* Book 18] and 19.2.30 [Alpenus *Digest*, *Epitomised by Paul* Book 3] argue that *coloni* are responsible for property damage caused by their slaves; Dig. Iust. 19.2.54 [Paul *Replies* Book 5] provides rules for assigning slaves to *coloniae*; Dig. Iust. 43.33.1 [Julian *Digest* Book 49] grants *coloni* the right to recover the children of female slaves they sold.

⁹⁶ Augustine *Letters* 199, 10*, 24*; Elm 2017; Mary 1954.

⁹⁷ Apuleius *Apology* 17.

⁹⁸ *Exp. Mund.* 61; CIL 8.1.4508.

⁹⁹ Lenski 2017, 130.

¹⁰⁰ Increasingly the predominance of slavery in the Roman economy is being doubted, and the role of slavery in agricultural production in Africa in particular is limited. Cf. Shaw 2017, 51–53; Banaji 2001, 27–28; Carlsen 1991; Gsell 1932, 402–8; Goffart 2009, 280; Lenski 2017, 125–26 etc.

backbone of agricultural labour in Africa. In his view slavery involved greater risk, greater expense, and fewer returns compared to *colonus* tenancies and African landowners recognised this fact.¹⁰¹

Slavery could and did operate in conjunction with *colonus* tenancies. The success and versatility of the tenant system resulted in some slaves being settled as *servus quasi colonus*, as discussed earlier.

While these slaves were still slaves, they occupied and ran a tenancy as if they were ordinary free farmers. Shaw estimates that slaves comprised only around 5% of the total population in Africa, or about 300,000 people. Late Antique Africa was not what Finley described as a *slave society*, nor was it subject to the Marxist *slave mode of production*.¹⁰²

Africa was among the more urbanised regions of the empire, especially in the context of the western empire. The foundations of urbanism in North Africa predated Roman occupation by centuries, and this long-standing history of urban life allowed African urbanism to withstand the political instability of the third century and the military conflicts of the fifth century largely unaffected.¹⁰³ Urbanism in Spain, Gallia, and Britain was to a large extent a Roman imposition and therefore it did not have the same social, cultural, and economic interconnectedness with the surrounding provinces that Africa had. Thus, whereas many cities in the western empire had shrunk in size and population by the fifth century African cities, on average, remained as sizeable and prosperous as they had been in the preceding era.¹⁰⁴ The foundations of urban life only began to be undermined in a meaningful way in the Byzantine era.

Ancient city populations are difficult to estimate, and there is no uniform means or method of population counts, density, or change over time; even categorising what is a ‘city’ and what is not is a contentious task.¹⁰⁵ Modern assessments of ancient city populations primarily rely on inferences on the density of surviving remains, size of the city’s *territorium*, capacity of the city’s water supply or other urban amenities, or on deductions based on the chance survival of some particularly informative evidence. The following discussion will consider three discrete studies of provincial city populations

¹⁰¹ Kehoe 1988, 20–27.

¹⁰² Lenski 2017; Whittaker 1978, 338–42; Finley 1998.

¹⁰³ Sears 2007, 117–18.

¹⁰⁴ Sears 2007, 126–28.

¹⁰⁵ Woolf 2020, 365.

in Africa, population estimates for Carthage, and Hobson's meta-analysis of African settlements. Together these sources and analyses will be used to estimate Africa's urban population. Further, while these population estimates were made with respect to the Principate era and with Principate era evidence, they remain useful because of the general continuity in urban trends into Late Antiquity.

The first city population estimate is Duncan-Jones' calculations for Siagu, a middling town on the coast of Proconsularis. The basis for Duncan-Jones calculations is a second-century inscription commemorating a posthumous gift to the citizens of Siagu.¹⁰⁶ The unknown benefactor gave 1,500 *denarii*, among other benefactions, 1,000 *denarii* to the city's citizens, at a rate of one *sestertius* per beneficiary. At four *sestertii* per *denarius* there were approximately four-thousand eligible citizens in Siagu; Duncan-Jones cites evidence from other similar benefactions to argue that the gift was given to adult male citizens only.¹⁰⁷ Using the best-known mortality patterns, he calculated that adult males constituted $\frac{1}{3.6}$ of the total population, giving a total citizen population of around 14,000. He then added a further 3,000 people to account for the city's slave population but did not add an estimate for *incolae* – non-citizen residents of the city. The estimated slave population is based on outdated scholarship and should be revised downwards. The town's servile population was likely no greater than 1,000, giving a total population of around 15,000 (at most). Duncan-Jones later came to doubt his original estimate, arguing that Siagu's *territorium* was too small to support such a population. He guessed that Siagu had between 60-70km² of fertile land, based on Siagu's distance from other towns in the area and the local topography, and considered that the resulting population density was unreasonably high. Based on this alone he concluded that Siagu could only have had a total population of no more than 7,000,¹⁰⁸ and makes no real attempt to reconcile the figure extrapolated from the epigraphic evidence with this new figure.¹⁰⁹ Duncan-Jones' original estimate has a better basis in evidence and is preferable. In his calculation Duncan-Jones consciously included the civic population who lived in the city's rural hinterland, as he considered it unhistorical to count only those

¹⁰⁶ CIL 8.967, 12448.

¹⁰⁷ Duncan-Jones 1963b.

¹⁰⁸ Duncan-Jones 1974, 264–65.

¹⁰⁹ McGing 2002, 98–99 expressed his frustration at Duncan-Jones' indecision.

who lived, in his words, *intra muros*.¹¹⁰ While his reasoning for doing so is sound, this discussion is concerned exclusively with those who lived *intra muros*. Duncan-Jones' estimation must be revised downwards to account for this. Urbanisation rates differ from region to region and are not known with any certainty, most scholars suggest rates between 10-20% plausible.¹¹¹ This gives a population range of 1,500-3,000 people living within the urban core of Siagu, with the remainder living in the rural hinterland. In a separate paper Duncan-Jones collated all known public gifts in Africa, and the average bequest was ~15,000 *denarii*.¹¹² The relatively small size of the Siagu benefactor's gift relative to the average is suggestive of a relatively modest urban population, as there is typically a positive correlation between population size and total wealth, and hence the wealth available to a benefactor. That is not to say that Siagu was inconsiderable. Siagu remained a place of local cultural and economic importance through Late Antiquity as both a fortified complex and a Christian basilica were built in the town.¹¹³

Wilson provides two analyses of population and population densities in African cities based on surveys of archaeological data. Unlike Duncan-Jones' calculations for Siagu, Wilson's estimations were made solely on the size and projected density of the urban centre. The first estimate is for Sabratha, one of the three eponymous cities of Tripolitania. Extensive excavation undertaken in the early twentieth century revealed 116 *insulae* concentrated in a 2.54ha area of the city, located north of the theatre. The sizes of the *insulae* varied – the smallest could have accommodated four people and the largest ten, meaning this part of the city housed between 182 and 457 people per hectare.¹¹⁴ Sabratha had a total urban area of approximately 34.6ha, of which 3.26ha is known to have been public space leaving 31.34ha of habitable space. Multiplying the habitable urban space by the lower and upper density ranges calculated for the excavated part of the city returns a population range of

¹¹⁰ Scheidel 2008, 35–36 discusses various approaches to distinguishing what should count as the nucleated urban settlement and its permanent population.

¹¹¹ Witcher 2011, 68 gives an urbanisation rate of c.12.5% for the Segermes Valley in Africa. Temin 2013, 251–53; Wilson 2011, 183–93 for the general range of rates across the empire. Scheidel 2008, 31–37 doubts whether urbanisation rates will ever be known with reliable certainty and argues against using urbanisation rates as an indicator of population sizes. The inverse, calculating urbanisation from population, is a more realistic prospect.

¹¹² Duncan-Jones 1963a, 174–75.

¹¹³ Leone 2007, 265; these structures may have been built or upgraded during the Byzantine period.

¹¹⁴ Wilson 2011, 172–73.

5,698-14,322 for Sabratha as a whole.¹¹⁵ Factoring in the public space the overall density range was between 165-415 inhabitants per hectare, and as a final thought Wilson suggests 200/ha was on the low side.

The second city Wilson calculates a population estimate for is Thamugadi, in Numidia. The city was originally a Trajanic foundation, an *ex novo* settlement for military veterans. The city was built on a regular grid pattern that imitated the design of Roman military camps. Within the boundaries of the original city there were 109 *insulae*, totalling 711 houses, within an area 9.96ha in size.¹¹⁶ The houses were generally smaller than those at Sabratha and could reasonably house 4-5 people. Thus, the original city housed between 2,844-3,555 people, or 286-357 per hectare. Between the second and fifth centuries the city slowly grew beyond the boundaries of the original Trajanic grid. Urban growth did not conform to the orthogonal grid of the original city, and new buildings were irregular in size and shape so as the city grew its overall density decreased. Density within the original Trajanic grid also decreased as properties were amalgamated or redeveloped into public amenities. At its maximum, the city encompassed some 47.5ha and accounting for change in settlement patterns the density of the city would likely have been 165-290, or around the low to middling range estimated for Sabratha.¹¹⁷ Therefore, at its peak Thamugadi had a population of between 7,900-13,800.

The three cities surveyed so far are middling to medium size cities. Carthage on the other hand was one of the empire's leading metropolises. Calculating Carthage's population remains an unresolved issue and has produced some wildly variable estimates. Most estimates of its population range between 70,000-300,000, weighted towards the higher end of this range.¹¹⁸ As an outlier, the demographic pessimist Russell supposed that Carthage only had a population of 38,000 in the third century based on the city's land area and attested *summa honoraria*.¹¹⁹ Russell notes that Ausonius rated the size and importance of Carthage with Constantinople, and below only Rome, suggesting a

¹¹⁵ Wilson 2011, 173–74.

¹¹⁶ Wilson 2011, 174–75.

¹¹⁷ Wilson 2011, 175–76.

¹¹⁸ Woolf 2020, 391–93.

¹¹⁹ Russell 1958, 77.

population far greater than he supposed.¹²⁰ The author seemingly resolves this discrepancy by dismissing Ausonius as an unreliable commentator, albeit with little justification. Ausonius was admittedly better travelled in the west than the east, but that alone is no reason to dismiss him as unreliable. Herodian stated that Carthage was the second most populous city in the empire, closely matched by Alexandria.¹²¹ Russell argued that fourth century Alexandria had a population of 122,000, three times higher than what he suggests for Carthage.¹²² Russell is wilfully ignoring the experiential record of contemporary observers, and therefore once again it is easy to dismiss his demographic estimates in this instance. On the opposite extreme of the demographic spectrum is Strabo's statement that at the commencement of the Third Punic War (149 BCE) Punic Carthage had a population of 700,000.¹²³ Strabo's figure must include a large number of Carthaginians who lived in the countryside or in peripheral towns and villages, as only half the stated population could reasonably have been accommodated within the city's walls. 350,000 people within the walls of Punic Carthage is not dissimilar to higher-range estimates for Roman Carthage. Wilson's survey of major cities across Africa and the empire lists a population of 300,000 for Carthage, this is supported by Duncan-Jones also.¹²⁴ Price's paper in the same volume suggests a population of 200,000 would be an appropriate estimate.¹²⁵ The difficulty in calculating a population estimate for Carthage lies in the enduring uncertainties regarding the size of the city and the density of the urban fabric. Hobson states that Carthage was 235ha, whereas Woolf gives an area of 340ha.¹²⁶ These differences obviously make a substantial difference in demographic calculations, but there is no clear means of deciding yet. For now, the conventional wisdom must suffice. For present purposes, Carthage is presumed to have a population of 250,000 in Late Antiquity.

The present survey of cities demonstrates a considerable range of populations but offers only limited insights into urbanisation across Africa generally. Recently, Hobson undertook a meta-

¹²⁰ Ausonius *Rank of Noble Cities* 1-3.

¹²¹ Herodian *History of the Empire* 7.6.

¹²² Russell 1958, 78–80.

¹²³ Strabo *Geography* 17.3.15.

¹²⁴ Wilson 2011, 183–84; Duncan-Jones 1974, 67, 260–61.

¹²⁵ Price 2011, 18.

¹²⁶ Hobson 2020, 306; Woolf 2020, 391–92.

analysis of urban settlements and their common features across Africa; Hobson's definition of Africa includes Mauretania Tingitana and Cyrenaïca. Hobson's study opens with a quotation from the closing remarks of a paper by Sherwin-White, who noted that Romano-African towns were diverse, ranging from towns with a purely mercantile and administrative function to bustling cities with a sizeable permanent population.¹²⁷ African cities can neither be collectively described nor analysed with a single formula. Hobson's study was based around this assertion, and to this end he created a classificatory system that divides settlements into eight classes (most of which had sub-classes) based on their land area, civic features, and political status. Class 1 cities include Carthage and other major African metropoleis such as Leptis Magna, Hadrumetum, and Iol Caesarea. On the other end of the scale are class 8 villages, which were small settlements, no greater than 5 hectares, with no discernible monuments or population centre. Within Hobson's classificatory schema Siagu rates as a Class 5A town, and Sabratha and Thamugadi as Class 2 cities.¹²⁸ Class 5A is defined by an urban area of <20ha, had minimal civic monuments, and evidence of self-government. Class 2 cities had an urban area between 50-100ha, possessed substantial civic monuments and amenities, and attained the status of *colonia* or *municipium*.¹²⁹ In total Hobson identified 1048 settlements across Africa, and more than half of them rank as class 6 or lower, meaning they were not home to a significant urban population. The smaller classes were more like 'agro towns', to borrow a phrase from Garnsey. They were either civic centres for administration and markets, or a site where farm workers commuted from their homes in the urban centre to work in the nearby countryside.¹³⁰ Using Hobson's classifications and counts as a guide and mapping the population estimates for the cities surveyed against their classes gives a plausible urban population estimate of ~1,000,000 people.¹³¹

¹²⁷ Sherwin-White 1944, 10.

¹²⁸ Hobson 2020, 314–15.

¹²⁹ Hobson 2020, 297–301.

¹³⁰ Garnsey 2004, 112.

¹³¹ Wilson 2011, 184 proposed similar figures. Class 1A consisted of Carthage only, whereas Classes 1B and 1C consisted of other major African cities (including some in Cyrenaïca). These cities must have had a population above what Class 2 cities, such as Sabratha and Thamugadi had, perhaps averaging 25,000 each. Class 2 cities would fit the range provided for Thamugadi and Sabratha. Class 5 cities are the smallest cities that still had a sizeable urban centre and would follow the projections for Siagu or below. Figures for the remainder of the classes must be extrapolated from the Class 2 and 5 ranges. This process is a heavily simplified version of Marzano 2011.

Two observations can be gleaned from Hobson's survey. Firstly, that population density and the clustering of cities increased with proximity to the coast, and decreased with proximity to the hotter, drier inland areas. This is unsurprising, given the increasingly inhospitable climate in the southerly regions, but it does give statistical backing to this observation. In Roman Africa there were no major cities near the frontier in contrast to other parts of the empire; Augusta Treverorum (modern Trier) was both an imperial and prefectural capital for a time and it was sited near the Rhine frontier.¹³² Secondly, urban clustering and the size of cities exhibits a radial pattern that emanates from Carthage. The greater the distance from Carthage the fewer the cities. The peripheral provinces of Caesariensis and Tripolitania have the fewest cities and therefore the least cultivation relative to their land area. This accords with observations about the climate and topography, and the gradual spread of Roman influence and settlement outwards from Carthage.

Lastly, the African soldiery shall be considered. Despite Africa's economic value and its importance in Rome's supply chain the military presence in Africa was modest, and thus the imperial military comprised only a small fraction of Africa's total population. The Roman military in Africa was exclusively land forces; no Roman navy was ever permanently stationed at any African harbour, and Africa's lack of a navigable river system, especially towards the frontier, meant there was no need for riparian forces either. The African army consisted of the field army, which itself was comprised of several different unit types, and the *limitanei* guarding the frontiers.¹³³ The *Notitia Dignitatum* describes the command structure of the western Roman army as it existed c. 410-425; during this period Africa was as yet unaffected by the unrest and frontier disintegration that troubled the remainder of the western empire, thus the listing of units for Africa is likely more indicative of the fourth-century norm. The field army consisted of varying numbers of *legiones palatinae*, *legiones comitatenses*, *auxiliae comitatenses*, and *vexillationes comitatenses*; each unit classification had

¹³² Halsall 2007, 209.

¹³³ The old notion that *limitanei* were farmers conscripted into serving as a part-time border militia has no basis in evidence. *Limitanei* appears as a distinction in the mid fourth century to distinguish the static troops of the frontier with the mobile field armies. The idea that *limitanei* were peasant militia comes from a mistaken reading of laws mandating provincials contribute to the upkeep of nearby border fortifications; cf. Isaac 1988, 139-46.

different nominal unit strengths.¹³⁴ The *Notitia*'s listings for *limitanei* are less instructive as the African sections only detail the commands and titles of the various *limes praepositi* – commanders – not the regiments they commanded nor how many forts and stations they occupied.¹³⁵ For Africa, an estimate on the size of the *limitanei* is more of a guess based on the number and size of the forts along the frontier line.

Table 2: Roman military strength in Africa

Unit Classification	Nominal Manpower per Unit	Number of Units	Total Nominal Manpower
<i>Legio Palatina</i> ¹³⁶	1,200	3	3,600
<i>Legio Comitatus</i> ¹³⁷	1,000	8	8,000
<i>Auxilia Comitatus</i>	500	1	500
<i>Vexillatio Comitatus</i> ¹³⁸	352	19	6,688

¹³⁴ The size of the Late Roman military at both an individual unit level and at an aggregate level remain contentious issues. Coello 1996 concludes his study on this issue without stating firm numbers for either measure.

¹³⁵ Elsewhere in the western section of the *Notitia* the individual regiments *limitanei* regiments are listed, just like for the field army; cf. Rushworth 2015, 123.

¹³⁶ Zosimus *New History* 5.45 states that five τάγματα, totalling six thousand infantry, were recalled from Dalmatia to Rome to defend against the ongoing Gothic threat. A τάγμα was a generic term for a military command, but since Zosimus refers to the units as élite they must be either *scholae palatinae*, or *legiones palatinae*. *Scholae* is unlikely as even if they were not guarding the emperor, there were only six regiments listed in the *Notitia*, so the idea that five-sixths of the empire's most senior infantry would be deployed outside Italy during an unprecedented military crisis is nonsensical.

¹³⁷ Sozomen *Ecclesiastical History* 9.8 Zosimus *New History* 6.8 describe Theodosius II sending reinforcements to aid Honorius at the height of the Gothic crisis. They both refer to six units totalling 4,000 troops. Evenly divided this comes to ~666 troops per unit, which is unusual. More likely is a division of two *legiones comitatenses* of 1,000 troops each, and four *auxiliae palatinae* of 500 troops each. 500 infantry per *auxilia* is corroborated by the size of that unit under the Principate (cf. Dixon and Southern 1992, 120–22), and by Libanius *Orations* 20.18, who refers to a single unit of five hundred soldiers who were engaged in engineering works at Seleucia.

¹³⁸ The only reference direct literary reference to the size of Late Roman *vexillationes*, a cavalry formation, is at Ammianus Marcellinus *Histories* 18.8.2, in which he refers to two *turmae* totalling around 700 cavalrymen. Ammianus was using the term *turma* generically (cf. MacMullen 1962, 396); in military terminology *turma* refers to a small military platoon of 32 troops (cf. Dixon and Southern 1992, 22–35). Eleven *turmae* within a larger organised unit (presumably a *vexillatio*) is corroborated by *ChLA* XVIII 660 (c. 326–329), which puts the total cavalrymen in the unit at 352. Julian's *Letter to the Athenians* 267 describes how Constantius II put him in command of 360 troops in Gallia; given his imperial dignity it is more likely the troops were cavalry rather than infantry, hence he was likely in command of a *vexillatio*.

<i>Limitanei</i>	~100 per fort ¹³⁹	~120 forts ¹⁴⁰	12,000
Total			30,788 ¹⁴¹

In summary, in Roman Africa there were approximately 300,000 slaves, 1,000,000 urban inhabitants, and just under 31,000 troops. Deducting this from the population total leaves 4,669,000 rustics in Africa, many of whom would have been tenant *coloni*. Rural freeholders, artisans, pastoralists, and wage labourers were also a large portion of the rural population also. Seasonal transhumance movements brought flocks with their shepherds in and out of Roman Africa proper.¹⁴² Shaw estimated that upwards of half a million men were involved in the African harvests, and perhaps a third of them were seasonal wage labourers, some of whom also migrated north from beyond the *limites*.¹⁴³ Finetuning the population estimate is difficult because of these seasonal migrations.

Cultivation, Estates, & *Coloni*

With a domestic population of six million in 400 CE, and the annual *annona* to fulfill, the people of Roman Africa needed to work a sizeable portion of Africa's arable land annually. Rome had a population of around 750,000 in Late Antiquity, and Africa's surplus provided upwards of two-thirds of the city's foodstuffs via the *annona*.¹⁴⁴ Growing enough food for six million African provincials and upwards of half a million Roman civic inhabitants was no easy task. An enormous amount of land needed to be worked annually to produce this food. This land was collectively farmed

¹³⁹ Romano-African forts were far from standardised, and some had fallen out of use. The Severan fort chain that wrapped around the Saharan Atlas was abandoned before the end of the third century. The main legionary forts used under the Principate were large, but by Late Antiquity their distance from the frontier meant their usefulness had waned. Some other forts in the interior were either manned at reduced capacity or not at all. Per Rushworth 2015, 127–31 outlines that new forts built beyond the *fossatum* tended to be larger, between 0.35–0.7ha in area, whereas those of the provincial side were typically only 0.3ha. The largest new fort on the Tripolitanian frontier was only 0.36ha (D. Mattingly 1994b, 191), the remainder were smaller. Based on the size and layout of the forts Rushworth 2015, 131–33 argues that the larger forts could house between 50–150 infantry, the smaller forts likely no more than 50. A rough estimate of the Late Roman constructions and the forts from the prior era suggests that each fort may have had a permanent garrison of around one hundred troops on average.

¹⁴⁰ Estimate based on Pleaides data, using the forts, fortlets, and towers item classifications.

¹⁴¹ Excluding *limitanei*, Cagnat 1892, 728–30 argued that 21,500 troops were stationed in Africa.

¹⁴² Whittaker 1978, 335–37.

¹⁴³ Shaw 2013, 18–23.

¹⁴⁴ Twine 1992, 135–37; 750,000 is the best average of numerous estimates.

by *coloni* – whether as tenants, ordinary farmers, or veteran settlers – supplemented by slave labour. At harvest time a vast army of wage labourers mobilised to undertake the onerous tasks of reaping, binding and sheaving, all of which were done during the hot Mediterranean summer.¹⁴⁵

Between the years 1961-1975 there was, on average, 157,446km² of arable land in the Maghreb (excluding Morocco).¹⁴⁶ A more or less comparable figure was available for exploitation by the African populace. Modern data does not provide a perfect analogue for ancient comparisons though. Firstly, the land use data includes substantial portions of the Maghrebi countries that were never part of the Roman provinces. Most of this land is either within the Sahara or the pre-desert steppe, although some land was readily cultivatable but outside the zone of Roman control. Secondly, the modern figures include land that was simply not arable in antiquity. Industrial advances in irrigation, fertilising, etc., modern deforestation, natural changes in climate and topography, and other factors have rendered land cultivatable that was previously inarable or marginal. The inverse effect also occurs. Land that was arable in antiquity may not be so any more due to changing conditions, especially when arable land is subsumed by urban growth or similar. However, considering the amount of arable land in the Maghreb has been trending upwards throughout the twentieth and twenty-first centuries any losses in arable land are typically offset by greater gains.¹⁴⁷ The land area cultivated by the Romano-African population could not have exceeded the already cited average of 157,446km².

To simplify the forthcoming calculations wheat shall again stand in as *pars pro toto* for the various cereal crops. Depending on age, sex, and occupation the average Roman provincial generally needed between three and five *modii* of wheat per month to meet their caloric requirements. Cato

¹⁴⁵ Shaw 2013, 11–15.

¹⁴⁶ Derived from UN Food & Agricultural Organisation's *Agricultural Area* dataset. The area per country is as follows: Algeria, 69,484km²; Tunisia, 67,819km²; Libya, 20,143km². The following data subsets were used to calculate this average: 'arable land', and 'land under permanent crops'. The subset 'land under permanent pasturage and meadows' was excluded because it includes land that is mostly, albeit not exclusively, unsuitable for prolonged cereal cultivation or arboriculture. The date range was restricted to between 1961 (the earliest date for which data was available) and 1975 to offset later twentieth century efforts by Maghrebi governments to artificially increase the amount of arable land available.

¹⁴⁷ The average cultivatable land in the region from 1961-2018 (the lower and upper limits on available data from the FAO) is 170,870km². In 2010 (selected to offset the effects of civil unrest following the Tunisian Revolution) there was 182,410 km² of cultivatable land in the region, a ~25,000 km² increase from the 1961-1975 average.

stated that agricultural slaves/workers ought to be provided with four *modii* of wheat in winter months, four and a half in the summer.¹⁴⁸ Seneca the Younger detailed a more generous ration of five *modii* for agricultural slaves in the first century CE.¹⁴⁹ Rations for soldiers varied, usually ranging between four and five *modii* per month.¹⁵⁰ Agricultural work, military duties, and other (predominately male) manual labour occupations such as construction, portage, etc. were energy intensive and thus demanded a high calorie diet. Women, children, and the elderly had lower caloric requirements than their adult male peers. Furthermore, farmers and other rural inhabitants had more opportunities to diversify their diet compared to a poor city-dweller or a soldier.¹⁵¹ The average wheat consumption per person would have been below four *modii* per person. Jones, Hopkins, Goldsmith, Maddison, et al. suggest the average Roman consumed three *modii* of wheat or equivalent grain per month; Erdkamp, Garnsey, Temin, et al. suggest figures of around two and half *modii*. The lower figures are consumption estimates for recipients of the Roman *annona*, who could presumably have subsisted on a leaner diet than their rustic peers. Three *modii* per person per annum is a reasonable estimate for the population of Africa and for Rome's *annona* recipients.

Ancient crop yields were variable and depended on a variety of factors, which included: soil quality, rainfall, average temperature, frost, and successful pest prevention. Under optimum conditions for growing wheat, namely regions with ~400mm of annual rainfall or more and a temperate climate, a single *iugerum* of wheat required between 4-5 *modii* of seed to sow.¹⁵² In such conditions in a normal year yields ranged between 4-5:1, meaning each *iugerum* produced between 20-25 *modii* of wheat.¹⁵³ These figures are based on the reports of the ancient agronomists as well as nineteenth century records from the Maghreb; ancient agricultural practices and returns are assumed to be generally comparable with the Maghrebi agriculture prior to French colonisation and the advent of industrialised agriculture. Varro and Pliny the Elder reported fantastic yields of 100:1 and 150:1 for

¹⁴⁸ Cato the Elder *On Agriculture* 56.

¹⁴⁹ Seneca the Younger *Moral Epistles* 80.7

¹⁵⁰ Rathbone 2013, 315.

¹⁵¹ Erdkamp 2009, 48–49.

¹⁵² Varro *On Agriculture* 1.44.1, Columella *On Agriculture* 2.9.1, 2.9.15, 11.2.75.

¹⁵³ Shaw 2013, 19; prior to French colonisation and the introduction of industrial agriculture the practice of agriculture in the Maghreb was generally comparable to antiquity.

grain fields in Byzacium, which have occasionally been accepted as genuine.¹⁵⁴ These reported yields are either an exaggeration based on hearsay of a particularly fruitful harvest or a botanical consequence of dryland wheat cultivation. Dryland farming requires sparser sowing, and the lower density of planting causes the plants to send out more tillers – side shoots – from near the base resulting in more heads of grain per seed.¹⁵⁵ As a result, the yield per seed sown comes at the cost of substantially greater land use and greater risk of crop failure in case of drought. Southern Byzacium, which is dominated by the Tunisian steppe, lies between the 200-400mm isohyets. This land, and other regions like it, relied on dryland farming techniques and supplemental irrigation. Yields may have been higher, but at the cost of sparser sowing. Moreover, southern Byzacium was used more for oleiculture and pastoralism than cereals, so these fantastic yields should not be accepted as indicative of African cereal cultivation generally.¹⁵⁶ A return of twenty *modii* of wheat per *iugerum* will be assumed as the average across Africa. Wheat production and land requirements to sustain Africa and Rome would therefore be:

$$\begin{aligned}
 \text{modii of wheat required} &= 6.5 \text{ million people} \times 3 \text{ modii per month} \times 12 \text{ months} \\
 &= 234,000,000 \text{ modii} \\
 \text{iugera needed for growing wheat} &= \frac{234,000,000 \text{ modii}}{20 \text{ modii (average yield)} - 5 \text{ modii (seed)}} \\
 &= 78,000 \text{ centuries (15,600,000 iugera)} \\
 &= 39,278 \text{ km}^2
 \end{aligned}$$

Figure 2: Land use estimates for growing African wheat¹⁵⁷

Nearly a full quarter of Africa's (modern) arable land would need to be worked annually in order to produce this enormous crop. Even then, wheat alone is insufficient to provide the caloric and nutritional requirements of the African populace, not to mention land required for olive cultivation and pasturage for animal-derived products. This estimate does not consider logistical inefficiencies,

¹⁵⁴ Varro *On Agriculture* 1.44.2; Pliny the Elder *Natural History* 5.3, 17.3.

¹⁵⁵ White 1963, 209.

¹⁵⁶ Hitchner 1990, 245; D. Mattingly and Hitchner 1995, 190.

¹⁵⁷ Shaw 2013, 21–22 suggests at least 15 million *iugera* were sown to cereal crops each year, which essentially matches the estimate here.

wastage or spoilage either, which would be inevitable when transporting perishable products to distant markets.¹⁵⁸

The amount of land in-use fluctuated, even within the span of a single year. The planting-growth-harvest cycle of cereals took nine months, leaving three months for cereal fields to be left fallow or used to grow a secondary crop. A sowing of legumes might follow a harvest of cereal crop. This was either a sowing of edible pulses such as beans, or a sowing of vetches or clover to provide livestock forage or act as a cover crop.¹⁵⁹ Cover crops were an essential component of field rotation, which was an essential aspect of pre-modern agriculture. Cover crops permitted the soil nutrients to regenerate, protected the soil from erosion, and prevented the spread of weeds.¹⁶⁰ Land occupied by vines, olive trees, and fruit trees was effectively under permanent cultivation, though an enterprising farmer could exploit the land further by planting limited amounts of annual crops in the space between the permanent plantings. Ultimately though there was no single field management regime that worked in every circumstance, nor were ancient farmers inclined to all follow the same practices.¹⁶¹

The arable land in Africa was divided amongst the estates of wealthy and powerful individuals and institutions and the private landholdings of middling to modest freeholders. Kehoe states that a *colonus* family of six would require somewhere around twenty *iugera* to be self-sufficient, including their share rent, seed crop, and allowing for fields to lay fallow.¹⁶² Rathbone suggests that all but the poorest Roman farming families (in Italy, not Africa) had around twenty *iugera* of arable land.¹⁶³ During the Republic, humble colonists (*pedites*) were typically allocated between 20-50 *iugera*; colonists from a superior military class received larger grants, up to 100 *iugera*.¹⁶⁴ The land reform of the Gracchi sought to distribute thirty *iugera* per eligible claimant in

¹⁵⁸ For a thorough and recent exploration of the business logistics involved in the *annona* system see James 2017.

¹⁵⁹ Cato *On Agriculture* 37; Irwin 2020, 89.

¹⁶⁰ Kehoe 1988, 44, 95, 124; White 1970, 135–37.

¹⁶¹ Grey 2007b, 365–67.

¹⁶² Kehoe 1988, 15–17, 229–34.

¹⁶³ Rathbone 2008, 317–18.

¹⁶⁴ Livy *From the Founding of the City* 35.9.7, 35.40.5, 37.57.8, 39.55.6; cf. Patterson 1993, 99–101.

Italy, and Tiberius Gracchus also sought to cap the individual possession of *ager publicus* at 500 *iugera*, giving an indication of what he considered a *latifundium*.¹⁶⁵ During the Gracchi's ill-fated attempt to refound Carthage generous land grants of up to 200 *iugera* were offered.¹⁶⁶ CTh 7.20.3 [Constantine I – 13/10/320] defines the bonuses to be paid to newly discharged veterans, which includes 100 *modii* of seed grain, enough to sow around 20 *iugera*. Ørsted's summary of land use in the Segermes Valley identifies the smallest farm within the survey area as somewhere around four-hundred *iugera*, which he believes was managed by a single family.¹⁶⁷ If all the arable land in Africa was divided into 20 *iugera* plots, and every plot could support a family of six like Kehoe suggests then Africa alone could support a population of around 19 million.¹⁶⁸ The potential range of landholdings among Africans ranged from meagre to massive, including outright ownership and leaseholds on estates or the fringes of owner-occupied lands. While most fiscal and administrative documents relating to the ownership and management of imperial land have not survived, a small set of laws and records provide invaluable evidence for imperial landholdings. For private landholdings however, there is practically no official imperial evidence. The vast archives of fiscal, administrative, and cadastral records that the state and municipalities possessed perished long ago.

Centuriation, the Roman practice of orthogonal land surveying and division, provides the most visible evidence of concentrated land use. Archaeological surveys, both aerial and terrestrial, along with careful cataloguing of boundary *cippi* has revealed the extent of centuriation in Africa, which consists of two main zones.¹⁶⁹ The first zone was along the eastern littoral of the original *Africa* province, which by Late Antiquity consisted of Proconsularis and Byzacium. This zone comprised land annexed from the ruins of Carthage and was centuriated in stages. C. Gracchus initiated the first stage of centuriation in connection with his ultimately unsuccessful plan to establish a Roman colony on the site of Carthage called Iunonia.¹⁷⁰ The second notable stage of centuriation was initiated by

¹⁶⁵ Richardson 1980, 1–2.

¹⁶⁶ Kay 2016, 69–70.

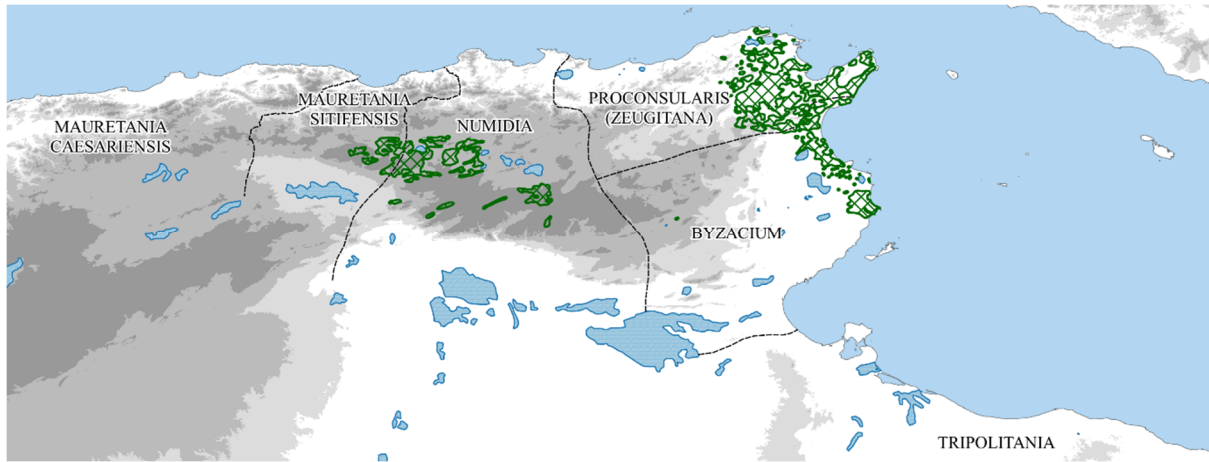
¹⁶⁷ Ørsted 2004, 93.

¹⁶⁸ $157,446\text{km}^2 = 62,978,400 \text{ iugera} \div 20 \text{ iugera per household} \times 6 \text{ people per household} = 18,893,520 \text{ people}$.

¹⁶⁹ Cherry 1998, 38–39.

¹⁷⁰ MacKendrick 1980, 28–35.

Caesar, who also intended to resettle Carthage. The second zone was located in central Numidia and eastern Sitifensis. This zone was formed as Roman military and civic power and administration moved westwards in the Principate era. Both virgin land and land under occupation by indigenous peoples was enclosed and centuriated so that it could be allotted to military and civilian settlers.¹⁷¹



Map 5: Centuriated land in Africa

Around 14,000km² of land in Africa was centuriated.¹⁷² While not an inconsiderable amount, this still represented only a small fraction of Africa's total arable land. Even if the centuriated land was fully utilised for cereal production the centuriated land could only produce around one third of the minimum requirements for Africa and the *annona civica*. The centuriation schemes were designed to facilitate the settlement of Roman and Latin colonists, and military veterans as colonists, who together formed a class of *colonus*, albeit different in important respects from tenant *coloni*.

Centuriation was not designed from the outset to create *latifundia*, although the Gracchan grants of 200 *iugera* in their centuriated zone would go a long way to making this happen. Regardless, gradual land acquisition by wealthy landowners eventually led to them owning large, if disconnected, tracts of centuriated land, and leasing tracts out to the *coloni*. Imperial and municipal governments also owned sections of centuriated land and other lands in their immediate hinterland, that they also leased out to *coloni*.¹⁷³

¹⁷¹ D. J. Mattingly 2014, 146–50.

¹⁷² The land area was calculated using perimeter-to-area calculation functions in QGIS.

¹⁷³ D. J. Mattingly 2014, 149–55.

Centuriation in Africa was constrained by the existence of a mature, widespread agrarian society across the continent. Centuriation risked displacing thousands of productive farmers and upsetting a perfectly stable system. Centuriation was of course not required for orderly distribution of land anyway. Outside of these centuriated areas land division followed established indigenous traditions, especially in lowland areas. Land was divided into irregular, albeit practical, plots that facilitated terracing and irrigation.¹⁷⁴ Estates dominated the Bagradas Valley in Proconsularis yet much of it was not centuriated. Vast imperial grain estates ringed the city of Sitifis, which lay to the north of Sitifensis' centuriated land.¹⁷⁵ Epigraphic evidence from Numidia similarly points to estates dotted around the province outside of the centuriated regions.¹⁷⁶ The Kasserine survey uncovered substantial large, coordinated developments that likely constituted estate(s).¹⁷⁷ Subdivision of land in Africa tends not to follow typical Roman practice. African agriculture was mature and widespread prior to Roman conquest and this system and practices were maintained throughout the imperial period. The division of land is pragmatic yet irregular, making detection of land use and concentrated ownership difficult, especially compared to centuriation which leaves distinctive, regular patterns on the land.¹⁷⁸

As discussed earlier, estates were a feature of land ownership and social organisation in Africa for centuries before the first Roman governor arrived on the continent. Estates remained a robust and important part of the African economy throughout Late Antiquity, with tenant *coloni* providing the bulk of the workforce on these estates.¹⁷⁹ Wealthy and shrewd landowners fragmented their landholdings as a diversification and income protection strategy.¹⁸⁰ By owning land in multiple areas the landowner was largely protected from regional adverse conditions or disasters, as only one estate would be affected, and allowed them to take advantage of regional environmental differences to

¹⁷⁴ Leone 2012, 125–28; D. Mattingly 1994b, 235.

¹⁷⁵ Fentress 1990, 119–20.

¹⁷⁶ Fentress 2015, 327; Kehoe 1988, 201.

¹⁷⁷ Hitchner 1990, 231–40, 244.

¹⁷⁸ Leone 2012, 125–30.

¹⁷⁹ Kehoe 2007, 47.

¹⁸⁰ Paulinus of Pella *Thanksgiving* 406–420 describes how his mother owned estates across the Greek and Epirote provinces.

produce a greater variety of crops, protecting them from erratic market conditions.¹⁸¹ This strategy necessitated absentee landlords appointing supervisors to oversee their individual landholdings. Ownership and subdivision of land, including estates, was dynamic – sales, gifts, and confiscations of land were regular occurrences. Estates were not necessarily transferred *en bloc*, in fact division of estates was sufficiently common that the imperial state issued regulations on how tenant *coloni* and slaves should be apportioned. There was a thriving market for land in Late Antiquity, which included Africa.¹⁸² Egyptian papyri are the primary source and origin for Late Antique land sale documents, due only to the favourable conditions for papyrus survival. The Albertini Tablets record a series of small-scale land sales, and even tenancy sales, in late fifth century Byzacium, demonstrating the longevity and vitality of the land market and contract law even in the absence of imperial governance.¹⁸³

In modern scholarship large, concentrated landholdings are usually called estates or *latifundia*. Although *latifundia* has gained currency in modern scholarship to describe the vast landholdings of wealthy Romans it was not used regularly in Roman texts, legal or literary, nor did it have any legal basis. *Latifundia* is used in Roman literature only as a descriptive term, it does not imply any system of management or attendant laws. Moreover, *latifundia* does not necessarily imply a single large estate but can equally refer to an individual's considerable but fragmented landholdings, as *latus* can mean “wide-spread” as well as “large”. Petronius uses the term to refer to ownership of a lot of property, rather than a single contiguous landholding.¹⁸⁴ Actual Roman terms for estates or *latifundia* were varied and regional. Four main descriptors for estate were used in Roman Africa:

Fundus: A standard term for an estate, used frequently in Roman literature and law. *Fundus* was not exclusively a term for agricultural land however, in a legal setting it meant land of any sort, whether rural or urban, large or small. Context alone differentiates the varying definitions of *fundus*. Moreover, because *fundus* has such broad usage it does not provide any indication concerning

¹⁸¹ Grey 2007b, 365–67.

¹⁸² Bagnall 1996, 72; Bowman 1985, 162–63; Rowlandson 1996, 178–79.

¹⁸³ Kehoe 2005; Weßel 2003, 124–55.

¹⁸⁴ Petronius *Satyricon* 77.

the size of the land or how it is cultivated. The small farm of a poor *plebeius* and a vast senatorial estate were equally covered under the rubric of *fundus*. The context of a law, an inscription, or a literary reference is needed to determine whether *fundus* refers to estates or farmland in general.

Praedium: A farm or an estate, along with any built structures on the land. *Praedium* is another standard legal term for a farm or estate, although in modern scholarship *fundus* tends to be preferred over *praedium*. *Praedium* and *fundus* occur with equal frequency in legal texts (legislation and jurisprudence), but *praedium* is comparably uncommon in literature. Like with *fundus* some named estates were designated *praedia*, almost all of which were in North Africa, for example the *Praedia Rufii Volusiani* in Proconsularis or the *Praedia Iulii* in Numidia.¹⁸⁵ Again, similar to *fundus* the term *praedium* carries no connotations regarding the size of the land, its terrain, how it was cultivated, or how it was occupied.

Saltus: this term had a wide range of meanings and historical implications. Originally *saltus* broadly described various types of uncultivated and largely wild land, such as woodlands, hills, and clearings, as well as pastureland; this land was typically *ager publicus*. As more land was cleared for farming the definition of *saltus* broadened to also denote large farm estates. Presumably, as woodland and semi-marginal land designated as *saltus* was cleared for intensive agriculture it retained its original appellation, and over time *saltus* meaning “estate” became an accepted definition. Varro alludes to this process, when he briefly describes a *saltus* as a quadrilateral area comprising four *centuriae*, which was used in subdividing public lands.¹⁸⁶ The public lands in question were presumably woodlands, clearings, or similar before subdivision.

Like *fundus* and *praedium*, there are several named estates in Africa that are called *saltus* (most named *saltus* are in Africa), such as the *Saltus Massipianus* or the *Saltus Domitianus*.¹⁸⁷ By Late Antiquity many of the estates designated *saltus* had probably been cleared and cultivated for decades, even centuries. Furthermore, although Varro defines a *saltus* as four *centuriae* the purchase

¹⁸⁵ For the *Praedia Buritanorum* see AAT I, 33.68, for the *Praedia Iulii* see AAA 18.23.

¹⁸⁶ Varro *On Agriculture* 1.10

¹⁸⁷ For the *Saltus Massipianus* see CIL 8.587, for the *Saltus Domitianus* see CIL 8.25943, 26416 and AE 2001 2083.

of additional adjacent land, or the sale of some of the *saltus* estate, over time could mean that an estate termed *saltus* had no resemblance in terms of its dimensions compared to the original division of land. Unlike *fundus* and *praedium* legal texts, especially statutes, rarely use the term *saltus*. *Saltus* occurs regularly in literature, however it is normally used in a rustic or topographic sense, not to define an estate.¹⁸⁸ Augustine refers to a *saltus* at Paratianis, in Proconsularis, with *coloni* settled on it in a letter to Fortunatus, and Cicero refers to a *saltus* in Gallia as private farmland, demonstrating that *saltus* as settled farmland had a long history.¹⁸⁹

Villa: Again, like the preceding three terms the term *villa* is appended to the name of certain estates, such as the Villa Magna Variana.¹⁹⁰ Named villas proliferate across the western Mediterranean but are relatively rare in Africa. Unusually, most of the named villas in Africa are located along the Tripolitanian littoral. Whether all the named villas in Tripolitania were working farm villas is uncertain. Some of the villas in Tripolitania are only referenced in the Antonine Itinerary, which does not typically include farmsteads as road waypoints. While unusual, there is a possible reason for this. Tripolitania was a broad and sparsely inhabited province in which there are few towns, military outposts, or stations to act as waypoints. The inclusion of a working farm villa as a waypoint or station might have been necessary in lieu of a more preferable alternative.

The formation of an estate is predicated on the assumption that the estate would be profitable. This required the land to possess good soil, workable terrain, and sufficient water, whether from bare rainfall or supplemented by reliable irrigation. More than the mere ability to produce crops, land ownership as an investment required market access. A surplus was only useful if transport to a market was cost-effective and the eventual sale price would recoup costs. Africa lacked a navigable river system, except for perhaps some of the lower stretches of the Bagradas River, though this remains

¹⁸⁸ Even the agronomists never use *saltus* to denote an estate. Columella *On Agriculture* 7.3, 9.1, 9.8, etc., Varro *On Agriculture* 2.1-3, 2.9-10, 3.1, etc. use *saltus* to mean either pasturage or public woodland. In *On the Latin Language* 5.36 Varro simply defines *saltus* as “woodland-pasture”, and Isidore of Seville provides similar definitions at *Etymologies* 14.25, 17.8.

¹⁸⁹ Augustine *Epistles* 30; Cicero *For Publius Quinctius* 29.

¹⁹⁰ CIL 8.25902.

uncertain.¹⁹¹ Not only are African watercourses not navigable for commercial vessels, but many are also ephemeral wadis and only carry water after bouts of rainfall. Transport through Africa then relied entirely on overland transport. Overland transport was slow, expensive, and potentially dangerous. Even to and from the provincial capitals transport was difficult. The terrain around Sitifis, for example, was difficult and easy prey for bandits.¹⁹² African landowners hired *custodes frumentum* – armed guards – to safeguard their exports en route to market or port.¹⁹³ Travel from Thugga, a sizeable town in the Bagradas watershed, to Carthage, roughly 100km away, would take a fully laden pack animal four or five days. De Vos calculated that it would take just under 5,000 individual trips, or nearly 100 caravans comprising 50 pack animals, to transport the full surplus produced in Thugga's environs to Carthage.¹⁹⁴ This required considerable and concerted effort, and this is for a town that is relatively proximate to the main export harbour in Africa.¹⁹⁵ The viability of profitable export was predicated on the presence of nearby roads.

The road network in Proconsularis, Byzacium, northern Numidia, and Sitifensis was dense. Numerous smaller roads linked up with trunk routes, connecting smaller towns and cities with larger metropoleis and export harbours. Southern Numidia was less connected. A military road traversed the southerly limits of the province, connecting the *limites*. Several north-south roads connected this road with the northern half of the province, but these roads all crossed the difficult terrain of the Aurès. Traders and military convoys travelling to southern Numidia may have preferred the longer but easier route to the southern coast of Byzacium rather than cross the difficult mountain ranges.¹⁹⁶ Compared to its eastern neighbours Caesariensis was disadvantaged in its road infrastructure. Three trunk roads traversed the province parallel with the coast. The northern and central roads were fairly close to the coast, and several smaller roads linked the two roads and intervening towns and farms together. The

¹⁹¹ Whether the Bagradas was navigable, and to what extent, is contested. Gasco 1991 believes it was, Paul 1984, 6 states much of the Bagradas' watercourse was not.

¹⁹² Fentress 1990, 117–18.

¹⁹³ Whittaker 1978, 349–50.

¹⁹⁴ de Vos 2013, 172–74.

¹⁹⁵ Stanford University's *ORBIS: The Stanford Geospatial Network Model of the Roman World* tool can be used to reconstruct approximate travel times and expenses between hundreds of notable locations in the Roman Empire, including nearly fifty in Africa. The project's researchers concluded that riverine transport, even along the Bagradas.

¹⁹⁶ Bonifay 2015, 553–57.

southern road crossed through the northern ranges of the Tell Atlas and had poor connections with the northern two roads. Inland Caesariensis had to contend with rough terrain and sparse road links. Tripolitania was like Caesariensis, but the province's limited capacity for cultivation in the inland areas mitigated the problems of underdevelopment. Two trunk roads ran parallel to the coast. The first followed the coast closely and linked the province's three eponymous cities together and with the rest of Africa. The second road was ~200km inland and served a more military function. A few north-south roads connected the southern military road with the coast and enabled inland towns and the Garamantes relatively easy access to the coastal cities.¹⁹⁷

The difficult terrain, poor road connections, diminishing rainfall, and hotter summers (in low-lying areas) means that estate formation was less viable and therefore less likely in the central mountain ranges and further south. The difficulties in reaching inland and mountainous parts of Africa restricted the mercantile exchange that occurred in these areas. Far fewer imported goods have been found in these areas compared to the accessible coastal areas.¹⁹⁸ Exports were presumably proportional to imports – that is, they were also limited.¹⁹⁹ The southern regions of the frontier facing provinces would have been a questionable investment, and not suited to estate formation. The agricultural economies of these regions was characterised more by smaller scale farming and veteran settlement; the military presence along the frontier was an important aspect of the local economy and crucial to maintaining monetary liquidity. The general absence of concentrated landholdings in regional Africa is visible when known sites of agricultural villas, which formed the core of estates and other agrarian agglomerations, are plotted on a map. The various named estates provide a cursory insight into the spread of estates across the various provinces.

¹⁹⁷ D. J. Mattingly 2014, 149–50.

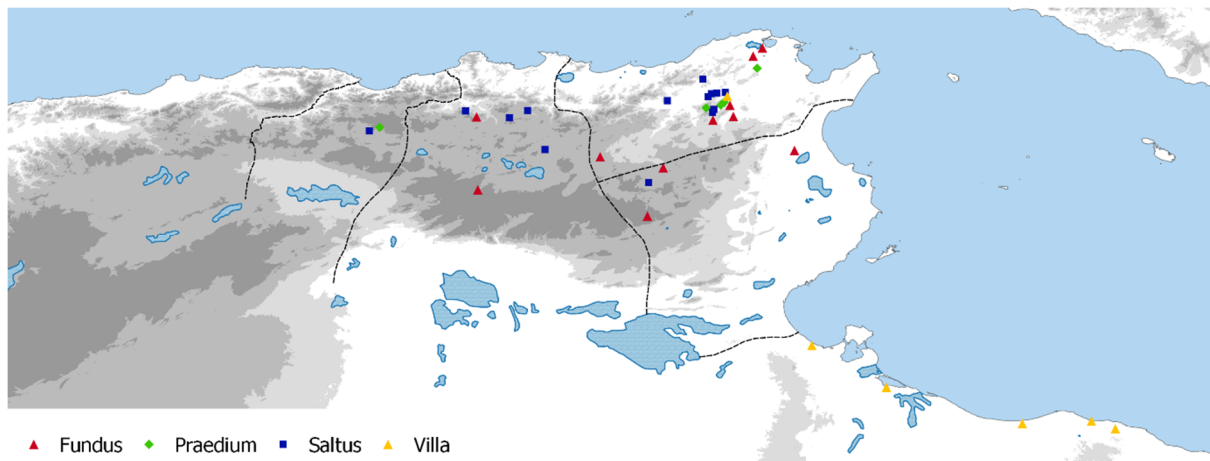
¹⁹⁸ Hobson 2015, 138–40.

¹⁹⁹ D. Mattingly and Hitchner 1995, 190.

Table 3: Named imperial estates in Africa²⁰⁰

Province	<i>Fundus</i>	<i>Praedia</i>	<i>Saltus</i>	<i>Villa</i>
Proconsularis	6	4	8	1
Byzacium	3	-	1	-
Numidia	2	-	4	-
Mauretania Sitifensis	-	1	1	-
Tripolitania	-	-	-	5

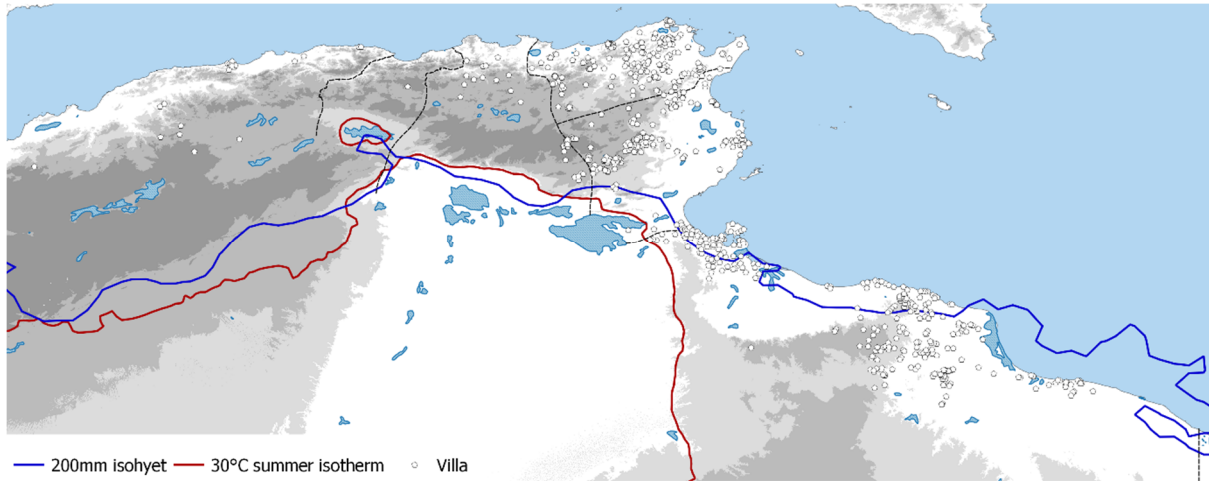
There are no known named estates in Mauretania Caesariensis (or in Mauretania Tingitana, either).



Map 6: Named *fundus*, *praedium*, *saltus*, and *villa* estates in Africa

The named estates constitute only a small, but largely reliable, fraction of sites that have been plausibly identified as estates. A full mapping of sites identified as *villas* in the Pleiades sites database is shown below, the isotherm and isohyet boundaries are displayed to again emphasise their relationship with the limits of large-scale cultivation:

²⁰⁰ The data in this table and map is derived from the Pleiades database, which amalgamates data from a range of other sources.



Map 7: *Villas* in Africa from the Pleiades dataset

The dataset used to produce this map is imperfect. Firstly, it relies on incomplete collation of archaeological surveys, and the archaeological surveys themselves are incomplete. Secondly, it relies on fuzzy criteria. Classification of sites was left up to the individual contributors. Tripolitania is over-represented because *gsur* –small, fortified farms – were included under the rubric of villa.²⁰¹

Nonetheless, this dataset is instructive. It follows similar patterns that were seen in Hobson’s analysis of Roman civic settlement. Villas, which in many cases were estates, were located along the coast, and also demonstrate a radial distribution from Carthage. There are no estates near the frontiers, where temperature and rainfall would make such formations difficult, and there are few in the mountainous highlands. Road access and preferable climate were essential in the formation of estates, as suggested.

The size of the estates plotted in the previous two maps is indeterminate. Similarly, it is not known who owned most of these estates. The existence and structure of offices in the Late Empire provides useful initial insights into the number of imperial estates per province. The *Notitia Dignitatum* records several offices pertaining to the fiscal management of various imperial estates in Africa; staffed variously by *rationales*, imperial accountants, a procurator, and even the lofty rank of

²⁰¹ *Gsur* were an increasingly prevalent feature of rural Tripolitania from the third century onwards and were associated with Roman and indigenous societies. The Garamantes built *gsur* as did the Romans. *Gsur* were not estates, they were at most fortified agrarian villages. Cf. D. Mattingly 1986, 51–58.

comes. Under the auspices of the *Comes Rerum Privatae*, who oversaw most of the emperor's landed estates, there were four subordinate offices in Africa, as follows:²⁰²

Comes Gildoniaci Patrimonii

Rationalis Rei Privatae per Africam

Rationalis Rei Privatae Fundorum Domus Divinae per Africam

Procurator Rei Privatae per Mauritaniam Sitifensem

The office of *Comes Gildoniaci Patrimonii* was formed after the rebel and erstwhile *Comes Africae* and *Magister Militiae* was subdued in 398. Gildo's lands were so extensive that it was deemed necessary to form a separate, high-ranking office to administer them. The formation of a fiscal administrator suggests that the state intended to retain a large percentage of the confiscated lands. Contrast with normal procedure in the Principate era, where confiscated properties (from political criminals, vanquished enemies, and from illegal bequests) were often sold by the *fiscus*.²⁰³ The two *rationales per Africam* administered different classes of estate, *res privatae* and *fundorum domus divinae*, which while functionally identical they were held under different legal classification and were subject to slightly different laws. Given that there was a separate *rationalis* for Mauretania Sitifensis the 'Africa' referred to in the previous two offices cannot be Africa as a whole. Since there is no specific office for Byzacium or Tripolitania the two *rationales per Africam* might have had jurisdiction over the late Principate-era iteration of Africa Proconsularis, which included Byzacium, Numidia, and Tripolitania.²⁰⁴

In addition, the Prefect of Italy had two further subordinates; unusually these offices were listed under the African provinces subject to the Prefect rather than amongst the other subordinate officers, no other region in the west elevated an office to the importance of a province. These two offices are:²⁰⁵

Praefectus Annonae Africae

²⁰² Not. Dig. Occ. 12.4, 10, 15, 24.

²⁰³ Maiuro 2012, 88–117.

²⁰⁴ Jones 1966, 155–56.

²⁰⁵ Not. Dig. Occ. 2.38-9.

Praefectus Fundorum Patrimonialium

As these offices were listed under the heading *Africa* their remit likely extended across all of Africa. The number of offices devoted to administering imperial estates in Africa is unprecedented elsewhere. A single *rationalis* sufficed to govern the emperor's estates in the Diocese of Gallia, and another for the Diocese of Hispania.²⁰⁶ That Africa had six high-level offices, each with its own cadre of functionaries, is a testament to the prodigious size of imperial landholdings there. The imperial state clearly considered it worthwhile and necessary to invest in maintaining a bureaucratic apparatus of this size.

Epigraphic evidence provides the best indicator of how widespread imperial estates were on the ground. Epigraphy is especially valuable in locating traces of estates as it only takes the chance survival of part of an inscription to provide compelling evidence. Demsiri-Laadoua undertook a comprehensive survey of all epigraphic evidence for imperial estates in Africa and detailed her findings per province. She does not suggest sizes for the estates she found evidence for, and she restricted her study to the Principate era. While thorough, Demsiri-Laadoua's data only covers imperial possessions. Private possessions are also attested via epigraphy, but presently no research project has collated and investigated the data. Furthermore, Demsiri-Laadoua used Principate-era provincial boundaries in her study, so this has been adapted to correspond to Late Antique provincial boundaries. Her survey is summarised below:

Table 4: Imperial estates across Africa, catalogued by Demsiri-Laadoua²⁰⁷

Province	Estates	Province	Estates
Proconsularis	32	Tripolitania	-
Byzacium	17	Mauretania Sitifensis	22
Numidia	24	Mauretania Caesariensis	1
Mauretania Tingitana	3		

²⁰⁶ Not. Dig. Occ. 12.11-12.

²⁰⁷ Demsiri-Laadoua 2006.

It is no coincidence that imperial estates were clustered in provinces with the greatest capacity to produce cereals and with the longest history of concentrated occupation. Tripolitania produced a vast quantity of olive oil annually, but only a modest amount of cereals. Only parts of Byzacium were suited to mass cereal cultivation, with other regions dedicated to viticulture and oleiculture. Caesariensis and Tingitana were both peripheral provinces

Whether all these estates remained imperial possessions through Late Antiquity is difficult to determine. There is evidence that the landed assets of the imperial state, civic governments, and temples were sold or granted to private individuals or the church throughout Late Antiquity, but the scale is difficult to determine; the practice is most noticeable in Egypt.²⁰⁸ Imperial property increased in size throughout the Principate, with a substantial enlargement occurring under the Severans. Certainly, the empire disposed of some of its landholdings;²⁰⁹ Constantine I is recorded donating various landed estates to the church. The total area donated, sold, or otherwise alienated in Africa must represent only an insignificant fraction of the total imperial landholdings. In general, the empire appears to have preferred retaining ownership of its lands, and on several occasions took action to recover landholdings that had slipped out of its control. CTh 5.13.4 [Valentinian I & Valens – 12/3/364] granted broad rights for private individuals to acquire imperial estates, but this began to be reversed with CTh 5.15.19 [Valentinian I & Valens – 28/7/365], which reversed the privatisation of emphyteutic and other lands formerly belonging to the *res privata*, reverting them to state ownership. CTh 5.16.31 [Arcadius & Honorius – 29/11/408] ordered the resumption of imperial ownership of any imperial land privatised since the death of Theodosius I (d. 395), and CTh 5.16.32 [Honorius & Theodosius II – ?/?/408] annulled CTh 5.13.4, effectively prohibiting privatisation.

CTh 11.28.13 [Honorius & Theodosius II – 20/02/422] provides rare and valuable insights into the extent of imperial landholdings in Africa, which are summarised in the following table:

²⁰⁸ Lo Cascio 2015, 68–70; van Minnen 2019, 259–60.

²⁰⁹ Maiuro 2012; Lo Cascio 2015, 66–67.

Table 5: Imperial estates in Proconsularis and Byzacium

Province	Land Area (Roman units)	Land area (km ²)	% of total area
Proconsularis			
Total Land Area	71,485 <i>centuriae</i> , 60 <i>iugera</i>	~36,000km ²	-
Imperial Estates (cultivated)	9200 <i>centuriae</i> , 141 <i>iugera</i>	4633.5km ²	12.9%
Imperial Estates (fallow/deserted)	5700 <i>centuriae</i> , 144.5 <i>iugera</i>	2870.9km ²	7.9%
Imperial Estates (total)	14,901 <i>centuriae</i> , 85.5 <i>iugera</i>	7504.4km ²	20.8%
Byzacium			
Total Land Area	115,170 <i>centuriae</i> , 154 <i>iugera</i>	~58,000km ²	-
Imperial Estates (cultivated)	7460 <i>centuriae</i> , 180 <i>iugera</i>	3757.3km ²	6.5%
Imperial Estates (fallow/deserted)	7615 <i>centuriae</i> , 3.5 <i>iugera</i>	3834.9km ²	6.6%
Imperial Estates (total)	15,075 <i>centuriae</i> , 183.5 <i>iugera</i>	7592.2km ²	13.1%

As the contents of the constitution show, imperial estates comprised a considerable portion of the two provinces' total land area. If fully utilised with no allowance for sub-prime land or leaving land fallow, the imperial estates in these two provinces could provide around two-fifths of the annual cereals needed for Africa and the *annona*. Utilised as it was at the time the constitution was issued the estates could provide about a fifth of the total food supply. Alternatively, they could be subdivided into nearly 300,000 twenty *iugera* tenancies. It should be remembered that the total land area includes settlements, bodies of water, and substantial tracts of land that are unsuitable for cultivation due to some feature of the terrain, soil, or climate. If this land is discounted then the size of imperial landholdings could rise as high as a quarter or a third in Proconsularis, and a fifth or more in Byzacium. The greater concentration of imperial estates in Proconsularis is likely due to topographic differences. Proconsularis is generally less rugged and better watered, whereas the southern and central portions of Byzacium are arid and not suited to cereal cultivation. Regrettably there are no other laws or official documents that provide comparable data for the other African provinces, for other time periods, nor for private estate ownership. Across Africa the percentage of land owned and cultivated by private owners must have, at the very least, matched that owned by the emperor.

Egyptian land surveys provide some helpful comparisons. From the second-fourth centuries documents record ratios of imperial-to-private land of between 1:5 and 2:1.²¹⁰

Ultimately, the archaeological evidence is currently too immature and the documentary evidence too sparse to arrive at a reasonable estimation as to the size of estates in Africa, or their tenant population. Moreover, as has been noted *coloni* were not required to lease from the estates of wealthy men and powerful institutions. Small and great leases abounded across Africa. The tenant *colonus* population at this point cannot be reliably estimated, but it was certainly considerable.

²¹⁰ Segrè 1947, 130–31.

III

The Legal Fundamentals of *Colonus* Tenancies

Late Antique rural tenancies were the product of a centuries-long legal tradition. Rural tenancies first became a feature of Roman law and economy some time during the Republican era, though the history of tenancies in this era is poorly attested and poorly understood. The obscure legal foundations established under the Republic nonetheless formed the basis for tenancies in the Principate, which persisted into Late Antiquity. During the Principate, and perhaps during the Republic also, the drafting of general legal standards for tenancies was almost exclusively the domain of jurists. The contract itself was matter of negotiation between the landlord and prospective *colonus*, but it would need to conform to the general precepts laid out in jurisprudence. A private landlord that acted contrary to these standards might be sued by their tenants, or an agent managing the imperial *res privata* might be censured by the emperor. Prior to the fourth century there are only a dozen surviving imperial constitutions, of any sort, that concern *coloni*, whereas emperors signed nearly two-hundred constitutions throughout the fourth, fifth, and sixth centuries. Principate-era emperors took a conservative and non-interventionist approach, at least where it concerned issuing statutes. There was no central process for adjudicating concerns with tenancies, nor a statutory process for embedding rules about tenancies in public law. Juristic opinion and case law emerged in response to legal questions, ambiguities, and disputes. As stated, Roman judicial authorities, such as governors or the emperor, were not necessarily bound to respect the opinions of any individual jurist and could rule contrary to prevailing judicial opinion. Emperors could, and did, issue judicial and administrative rulings on an *ad hoc* basis, normally in response to provincial petitioners. Such actions were region specific; they were not promulgations of empire-wide policy. These imperial pronouncements were often not selected for inclusion in Roman law codes, and knowledge of them relies on the chance survival of an inscription or similar. Inscriptions and documentary evidence have preserved imperial law and rulings pertaining to Africa that are otherwise absent from the codes of law.

This chapter will explore Roman law and the position(s) of *coloni* within it at a broad level, comprising a survey and analysis of relevant jurisprudence and imperial constitutions. This survey will be prefaced by a discussion on the nature of Late Roman law and the challenges of using it as evidence. With these points established the relevant excerpts from Justinian's Digests will be surveyed and analysed to produce a general model for how *colonus* tenancies operated in the late Principate era. This will form the basis for comparisons with the Late Antique era. This will be followed by a survey of rescripts issued in the third century, when emperors are first recorded intervening in matter concerning *coloni*. Lastly, the general creation of the colonate will be considered by analysing the twin concepts of *condicio colonaria* and (*ius*) *colonatus*.

Roman Law in Late Antiquity

The fundamental idea of the colonate is predicated on the universality and effectiveness of Late Roman law. This is true whether one considers the colonate a real or *de facto* institution, a product (intentional or not) of fiscal policy, a belated imperial acquiescence of powerful landlords redefining the tenant-landlord relationship, the gradual redefinition of socio-legal roles and expectations, or the incidental outcome of a history of disparate legislating. There is no theory of the colonate that does not posit that the law was the primary mechanism for subjecting *coloni* across the empire to a novel set of restrictions and regulations, or if the law did not create the colonate it was at least responsible for its transmission to the furthest reaches of the empire. Besides the particulars of the colonate itself, the lives of *coloni* across the empire continued to be ruled by a weighty body of statutes, rescripts, and jurisprudence dating back to the Republic. A nuanced understanding of Late Roman law and how it propagated throughout the empire is indispensable to any study of the colonate, especially one with a regional focus such as this.

In Late Antiquity there were three sources of law that were considered authoritative: the ancient *leges* enacted under the Republic and early Principate, the writings of Principate-era jurists, and imperial constitutions. By Late Antiquity, the old *leges* were effectively a source of legal precepts and procedures, provided a basis for legal discourse. The complete texts of these ancient statutes

likely did not survive to Late Antiquity, though fundamental legal precepts and judicial procedures survived.¹ Principate era, or classical era, jurisprudence refers to an enormous corpus of interpretations and commentaries on laws and judicial procedures, case law, legal hypotheticals, philosophical discourse on the law itself, and other such similar discourse. Constitutions were the mechanism through which the emperor issued statutes and formal declarations and decisions on administrative and judicial matters. Within the Late Antique era constitutions were effectively the only means to issue legislative enactments at the imperial level. Already in the second century Gaius could accurately state that the full range of the emperor's pronouncements, or *constitutiones*, carried full legal authority: "*a constitution is what an emperor establishes by decree, edict, or rescript. Nor is there any doubt that it holds the force of law, as the emperor receives his imperium through the law*".² As stated by Gaius, constitution is a generic term that encompasses three distinct classes of legislative issuances, which are:³

- Edicts (*edicta*), general proclamations of law.
- Rescripts (*rescripta*), written answers to consultations sent to the emperor.
- Decrees (*decreta*), judicial decisions.

The different classes of constitution had important implications for how they were despatched, distributed, and utilised in legal proceedings.

The volume of law preserved in the imperial codifications is prodigious and problematic, for both the modern scholar and ancient Romans alike. When Justinian's commissioners were preparing the *Digests*, they consulted approximately two-thousand different works of various lengths and scholarly complexity. Even after editing and condensing this mass of jurisprudence the *Digests* still

¹ Harries 2012b, 791.

² Gaius *Institutes* 1.5; cf. Dig. Iust. 1.4.1 [Ulpian *Institutes* Book 1]. This definition of *constitutio* is relevant for the purposes of the Late Roman law codes. In a broader sense *constitutio* also included *orationes*, speeches given by the emperor to the Senate for legal enactment, and *mandata*, administrative and judicial instructions to subordinates. These two sub-classes were not considered for inclusion in the official law codes and thus do not have any substantial bearing on the matter at hand.

³ The imperial court also issued mandates (*mandata*), instructions to subordinates, i.e. imperial officials, but these were not considered a type of constitution even though they could define rules of law, and they were rarely cited in court; cf. Buckland 1921, 21. CJ 1.15.1 [Gratian, Valentinian II, & Theodosius I – 16/6/383] required all mandates be in writing.

resulted in work comprising just under 930,000 words spread across fifty volumes.⁴ The Code of Theodosius contains about 248,000 words across more than 2,500 constitutions, and the Code of Justinian around 396,000 words over 4,670 constitutions – these figures do not include the sundry novels issued after the Codes were published.⁵ Effectively disseminating and authenticating this unwieldy corpus of legal material throughout the empire proved to be an enduring challenge. Indeed, the perceived predisposition of the law towards obscurity, esotericism, verbosity, and inscrutable argumentation made it and its practitioners subjects of derisive mockery since the Republic.⁶

The sheer volume of law and jurisprudence was only part of a larger problem with law in Late Antiquity, namely, how to effectively disseminate and enforce the ever-growing body of laws across the empire. All imperial constitutions were *de jure* binding across the empire regardless of the manner they were issued and to whom they were addressed. Legal universalism was the *de facto* doctrine of the Late Empire, but the imperial authorities never developed a comprehensive system to circulate legal knowledge. Logistical difficulties, bureaucratic inefficiency, and policy failure together meant that newly issued legal material spread slowly and unevenly. Even imperial officials in Rome, Constantinople, Ravenna, or the other erstwhile capitals of the empire did not have access to their full legislative, or jurisprudential publications either. Deficient record keeping meant that Theodosius II's codification commissioners had to consult provincial and private archives, libraries, and so forth for material that was unavailable in the archives of the capitals.⁷ The problem of legal universalisation and/or standardisation was further compounded by the division of the empire into two separate halves, both of which had their own state structures and legislative prerogatives that further slowed the distribution of law.⁸ Coordinating the standardisation of law across two separate empires, comprising

⁴ Jones 1964, 470–72.

⁵ Not all the Theodosian Code is extant, the first five books are partially fragmentary, and the remainder of the code has occasional *lacunae*.

⁶ Ammianus Marcellinus *Histories* 30.4.11–12 derides amoral lawyers who, in the pursuit of money, cite ancient and obscure passages or authors to support outlandish arguments.

⁷ Barnes 2001, 682; Matthews 2000, 242.

⁸ The *Notitia Dignitatum* clearly outlines the distinct hierarchies of two different states that were united only in name, history, and dynastic affiliation.

two separate state structures, never worked in practice.⁹ The declarations in the preamble of the Theodosian Code are informative:

...qui nullum errorem, nullas patietur ambages, quinostro nomine nuncupatus sequenda omnibus vitandaque monstrabit. ... In futurum autem, si quid promulgari placuerit, ita in coniunctissimi parte alia valebit imperii, ut non fide dubia nec privata adsertione nitatur, sed ex qua parte fuerit constitutum, cum sacris transmittatur adfatibus in alterius quoque recipiendum scriniis et cum edictorum sollemnitate vulgandum.

... (the Code) shall suffer neither error nor ambiguity, and shall be called by Our name, and advise on everything that is to be obeyed and everything that is to be avoided. ... Furthermore, if in the future it should be Our pleasure to promulgate any law in one part of this very closely united Empire, it shall be valid in the other part on condition that it does not rest upon doubtful trustworthiness or upon a private assertion; but from that part of the Empire in which it will be established, it shall be transmitted with the sacred imperial letters, it shall be received in the bureaus of the other part of the Empire also, and it shall be published with the due formality of edicts.

Code of Theodosius Senate Minutes 4

Per this directive laws issued anywhere in either half of the empire should have been immediately binding everywhere else, and this was to be accomplished by the originating imperial division sending a copy to their counterparts in the other half for dissemination. That Theodosius was required to state this as policy indicates that it was not an existing practice. Further, despite his stated intentions, no such practice of efficient trans-imperial legal distribution eventuated. Theodosius himself was forced to admit this in 447, nine years after the publication of the Code, when he dispatched a weighty collection of novels to the western court. In the second novel of this collection Theodosius apologised to Valentinian III, his western counterpart, that he had been preoccupied with matters concerning his own state and had been unable to send even a single copy of a law to the west; Valentinian confirmed the validity and legality of these constitutions eight months later.¹⁰ That Theodosius' scheme, and his broader vision of a unified legal system, never eventuated is a telling indicator of the slow, inefficient movement of legal material throughout the empire(s). None of

⁹ Harries 2004, 60–61.

¹⁰ NTh 2.1 [Theodosius II – 1/10/447], NVal 26.1 [Valentinian III – 3/6/448].

Theodosius' predecessors attempted to institute a similar scheme to coordinate legislating with their peers either.¹¹

The codifications of Theodosius II and Justinian were the primary mechanisms of standardising legal knowledge, though the incredible size of the works meant there were never many copies in existence. Further, the office of the *constitutionarii* held a monopoly on making official, legally admissible copies of constitutions based on the few officially authorised copies, further compounding the difficulty and expense of accessing legal knowledge.¹² The late date of the Theodosian Code's publication meant that it could only have had a minimal impact on the legal landscape of Africa while it remained under West Roman rule. Whether the Vandals employed the Theodosian Code as the basis for their state's legal system, as the Gothic states in Italy and Spain did, is unknown. After Vandal Africa fell to the Byzantines in 533-534 the Code of Justinian, which was finalised only a few months after the campaign's successful end, was used to help assert Constantinopolitan/Roman law and state authority in Africa. In lieu of official imperial codifications *ad hoc* codification, compilation, and editorialising were long-standing practices of the juristic community, but this only did so much to bridge the knowledge gap. Prior to the publication of Theodosius's Code, and later Justinian's Code, lawyers had to content themselves with the codes of Gregorian and Hermogenian, which had a quasi-official character, and private compilations of constitutions and other laws, such as the *Fragmenta Vaticana* and the *Collatio Legum Mosaicarum et Romanarum*.¹³ The former two codes only covered the period up until the Diocletianic Tetrarchy, and private compilations were not comprehensive, and were often topical in scope. Until Theodosius II issued his code there was no standard work covering the legislative issuances of the post-Diocletianic emperors, which was a period of nearly one and a half centuries. Throughout this period it was therefore incredibly difficult to have a comprehensive knowledge of contemporary statutes issued across the two imperial halves. Landowners, *coloni*, provincial administrators, etc. in Africa had no

¹¹ Millar 2007, 12–13.

¹² Harries 2004, 23–24; Salway 2013, 345–48.

¹³ Later constitutions would grant official status to the Gregorian and Hermogenian codes, but they did not have them from the outset, cf. Corcoran 1996.

consistent, reliable way to receive constitutions published in distant parts of the empire, which obviously impinges on the purported universalising quality of Late Roman law and the centralising tendencies attributed to Late Roman governance.

New constitutions were dispatched from the imperial court to their recipient for implementation and were ordinarily gazetted in a public place. The duration and visibility of the posting depended on the type of constitution; typically only edicts would remain posted for long. Judicious lawyers made copies of constitutions from these public notices for their own collections.¹⁴ Constitutions addressed to imperial officials would naturally be actioned that that official, and if necessary promulgated further. If a private individual received a response from the emperor, then it was at their discretion whether they acted to have the emperor's ruling enforced. If, for instance, someone sought advice about litigation and the ruling was unfavourable then they may simply have decided to do nothing about it. A copy of a constitution was competent evidence in legal proceedings even outside its original jurisdiction and when utilised by someone other than the original recipient, as all constitutions were notionally legally binding despite their *ad hoc* character, but this relied on an individual actually having a copy of the constitution.¹⁵ The possessor of a constitution would need to prove that it was a valid, imperially authorised text. This meant, at a minimum, knowing which emperor gave assent to the constitution, the date it was issued, the city it was issued from, and to whom the constitution was originally addressed.¹⁶ Judges could dismiss a constitution if the advocate could not cite these facts and could still doubt the legitimacy of the constitution anyway. Where the authenticity of a constitution was in doubt the matter could be referred to the emperor, which then required the issuance of a new constitution to verify the old one. Constitutions issued in the other half of the empire were *de facto* applicable in both halves, but on occasion explicit endorsement was sought from the relevant sitting emperor to reaffirm its legality.¹⁷ Constitutions could also be rescinded. Newer rulings could invalidate older constitutions, and emperors could also simply

¹⁴ Private legal libraries were a key source for Theodosius and Justinian's codification committees as imperial archives did not have complete records of all constitutions dispatched; cf. Barnes 2001, 682; Matthews 2000, 242.

¹⁵ Gaius *Institutes* 1.5; Iust. Inst. 1.2.6.

¹⁶ Barnes 2001, 683–84.

¹⁷ Salway 2013, 332.

abrogate older rulings at their whim. Tax benefits obtained by rescript were often rescinded during times of fiscal difficulties, and victors of civil wars often repudiated the entire legislative output of their defeated foes.¹⁸

Edicts were the mechanism for emperors to promulgate new statutes, but not all edicts were originally conceived as such. At the broadest level, an edict was given universal scope by being addressed to the People, to the Senate, or to an imperial officer with empire-wide jurisdiction, such as the *comes* of the *res privata* or the *magistri peditum* or *equitum*. Other edicts were issued to officers with a specific regional jurisdiction, such as a Praetorian prefect, diocesan *vicarius*, regional fiscal officers, provincial governor (including the African proconsul), or to a city or group of cities.¹⁹ Within the appropriate jurisdiction an edict was intended to convey major decisions on policy or administration and be implemented swiftly. The recipient would be responsible for distributing copies to subordinates, and major edicts were publicly inscribed as permanent monuments. For example numerous fragmentary copies of Diocletian's *Editum de pretiis*, or Edict on Maximum Prices, have been found at various locations in the Near East, inscribed in both Latin and Greek.²⁰ The scope and importance of the price edict is exceptional however, not all edicts were inscribed as vast, public monuments.²¹ Theoderic, the Romanesque Gothic king of post-Roman Italy, required only that his edicts should be posted publicly for thirty days.²² Nonetheless, edicts should therefore be considered generally known and enforced within a few months or years of their promulgation in their jurisdiction of origin. Whether edicts were enforceable outside their relevant jurisdiction remained ambiguous. CJ 1.14.3 [Valentinian III & Theodosius II – 13/11/426] somewhat resolved the issue for the western empire. In this law Valentinian decreed that all edicts should be obeyed universally, and any constitution that sets out general precepts should be considered equivalent to an edict and therefore

¹⁸ Several laws rescind the *constitutiones* issued by 'tyrants', a pejorative that was broadly used to describe would-be usurpers as well as long-reigning emperors who fell afoul of their imperial colleague(s), such as Licinius or Maxentius (e.g. CTh 8.4.1 [Constantine I - 28/4/315]).

¹⁹ For example, CTh 2.25.1 [=CJ 3.38.11, Constantine I – 29/4/334] was addressed to the Gerulus, the *rationalis* of the provinces of Sicily, Sardinia, and Corsica. The law is an edict but with a restricted geographical scope.

²⁰ E.g. K. Erim, Reynolds, and Crawford 1971; K. Erim and Reynolds 1973; Doyle 1976.

²¹ The price ceilings set by Diocletian could scarcely be enforced without an easily accessible public reference.

²² Cassiodorus *Variae* 9.19-20.

also be universal in scope; this presumably included laws promulgated by eastern emperors.²³ Special orders that were specific to a case or region did not attain the force of an edict and were not generally applicable.²⁴ Since this law was only passed in 426 it was at the discretion of the adjudicating authority whether an edict should be considered enforceable outside its originating jurisdiction. That the emperor's word was law is a compelling argument for the affirmative argument, but there was room for argumentation and doubt. Again, imperial officials would have had little reason to oversee the publication of edicts outside their own jurisdiction. The spread of edicts outside their region of official publication would have been much slower and more haphazard, especially from the eastern to western empires and vice versa. A delay of several years should be assumed at a minimum.

Returning to Diocletian's Price Edict it is evident that it was not issued everywhere at once, rather the evidence suggests it was a staged rollout. The evidence from the east demonstrates that it took several years after the edict's initial publication in 301 to spread to the various provinces. During this multi-year rollout, the text underwent minor changes to the structure and values of the various price caps.²⁵ As for the western empire the evidence is non-existent. No fragments of a public monument have been found, and no western author makes any reference to price intervention by the state.²⁶ This indicates either that edict was never dispatched to any western official or no official in the west considered it worthwhile to inscribe the edict monumentally as in the east, which would undermine its effectiveness.²⁷ In any case the effective circulation of the edict in the west was negligible at best. Following Diocletian's abdication in 305 the edict fell into abeyance meaning that in the approximately four years the edict, which aimed at resolving long-standing issues with imperial market economics and price equity, only managed partial penetration in one half of the empire. The

²³ Honoré 1998, 255–57 argues that this law was drafted by the Constantinopolitan quaestor Antiochus, who at the time was on secondment to Ravenna. The purpose of the law was, in part, to begin the harmonisation of law between the two imperial halves.

²⁴ Lokin 2014, 361–65.

²⁵ Harries 2012a, 68–69.

²⁶ Contrast with Lactantius' effusive criticism of the Tetrarchs in *On the Deaths of the Persecutors* 7.6-7, where he describes the supposedly devastating human cost the edict caused in the east.

²⁷ Corcoran 1996, 223–25.

slow pace of this major reform demonstrates the difficulties in circulating and enforcing statutes, even when passed by a pre-eminently authoritative, centralising emperor.

Rescripts were official written responses to questions and petitions posed to the emperor. Judges presented queries to the emperor when they were unsure of the law or were unable to resolve an argument or ambiguity, and private citizens petitioned the emperor for legal advice, for redress of grievances, or for a grant of a favour or benefit. Rescripts were delivered in writing to the petitioner, and as noted were also publicly posted, from whence they were copied and distributed by private citizens. Rescripts only remained posted for a short time and were not be inscribed on a permanent medium. Although rescripts were not formulated as statements of general law they were still a legal utterance of the emperor and therefore anyone could validly cite a rescript if they could verify its authenticity (according to the rules defined earlier). This caused a problem for the empire. Emperors could, and did, issue rescripts that defied existing law, or granted undue privileges, and that any number of suitors could cite a contrary rescript could mean considerable deviation from the expected legal norms.²⁸ Several emperors tried to handle the problem of rescripts by issuing new laws controlling the use of rescripts; the second title of the first book of the Code of Theodosius contains several attempted resolutions.

CTh 1.2.2 [Constantine I – 29/8/315] ruled that rescripts that contravene the established law are invalid. A rescript therefore was not supposed to have the legal to contravene statute, but this did not stop emperors issuing rescripts that contravened statutes. Later, Valentinian III issued CJ 1.14.4 [Valentinian III & Theodosius II – 11/6/439] to resolve the specific issue of petitioners requesting extra-legal privileges that were contrary to the law. In this law Valentinian rules that emperors are bound by the law and cannot rule contrary to it. This ineffectual law did not stop petitioners and did not even truly accord with the legal reality that the emperor enjoyed unlimited legislative privileges.²⁹ The most drastic solution is found in CTh 1.2.11 [Arcadius & Honorius – 6/12/398], wherein Arcadius' regents went so far as to declare that rescripts should be valid only for the lawsuit they

²⁸ Garnsey 1968, 3–4, 14–18.

²⁹ Dig. Iust. 1.4.3 [Javolenus *Letters* Book 13] defends the right of the emperor to dispense benefits.

specifically address. Except for Arcadius' heavy-handed solution, the other ineffectual laws were unsuccessful due to the simple fact that no one in the empire had a perfect knowledge of the laws. The emperor regularly ruled against his own laws, and it is reasonable to expect that judges would unknowingly accept a rescript that was not in accordance with the laws. Concurrently, a legitimate rescript might be rejected if it was considered of dubious authenticity, outright fraudulent, or incompatible with the law. Distance, both geographical and temporal, also increased the difficulties in authenticating a rescript. A rescript issued to a petitioner in Asia presented to a judge in Africa could be dismissed. Similarly, a constitution issued decades earlier could be dismissed because it no longer reflected the contemporary state of the law, whether that was true or not. For these reasons the popularity of rescripts waned in the later fourth century onwards, whereas previously they were an important and frequently utilised source of law. Accordingly, the modern scholar should assume that there was a substantial delay between the publication of a rescript and its general dissemination; a rescript issued to a far-flung region of the empire, or even in the eastern half, plausibly never reached Africa.

Decrees were verbal judicial rulings made by the emperor directly when trying a case. They were not posted publicly, nor distributed by any imperial official, at least not as part of their duties.³⁰ The dissemination of a decree beyond the reaches of the court depended entirely on a thorough witness making a copy. Because a decree was a verbal utterance it would have been difficult to verify their authenticity; attempting to cite one in a provincial court could require the judge writing to the imperial court to ascertain whether it was a real judgement. The deficient record keeping of the imperial court could make this difficult though. As a result, there are few decrees within either Code compared to the other two classes of constitution.

Regarding jurisprudence, by the dawn of Late Antiquity Roman legal experts had all but ceased writing new works of jurisprudence. Throughout the Principate era, which is roughly coterminous with the *classical era* of Roman jurisprudence, academic-minded lawyers debated and wrote extensively on the theory and practice of law, and their output was voluminous. By the mid-

³⁰ Jones 1966, 182–83.

third century however the political, cultural, and legal conditions that facilitated the flourishing of scholarly jurisprudence had ended. After the death of Ulpian and his contemporaries no new generation of jurists emerged to continue the tradition of academic jurisprudence in the same vein, thus began the *post-classical* era of jurisprudence, wherein the practice of jurisprudence was largely relegated to the lesser arts of writings commentaries or epitomes of earlier works.³¹ Despite the cessation of new jurisprudential writing and the changed functions of the jurisconsult in Late Antiquity, the writings of the classical era jurists remained citable, venerable, and influential in the legal system – the legal and societal use of juristic writings did not change. Jurisprudence provided a philosophical, or epistemological, framework that guided court proceedings, judicial decisions, the functioning of the imperial bureaucracy, and even the drafting and promulgation of imperial statutes. While most of the notable jurists did hold imperial office, the value and authority of their opinions did not derive from an official position. The virtues of the juristic argumentation and their social standing conferred on them their authority (imperial favouritism and tenure in high office did help in this regard, of course).³² Roman law during the classical era thus developed in large part due to the free discourse and contributions of an expert community of legal experts who actively participated in legal proceedings and philosophic debate about the law. The legal and academic climate in Late Antiquity did not grant lawyers the same freedom to innovate within the law. By necessity Late Antique lawyers, imperial officials, and even the emperor simply relied on the corpus of jurisprudence that developed in the prior era. Certain jurists, including Ulpian, Papinian, Gaius, and Paulus, earned particular respect and acclaim from their contemporaries, and this status endured into Late Antiquity, which accorded them heightened authority. Justinian’s systematisation of legal education paid

³¹ Consider that Hermogenianus, an eminent jurist of the Diocletianic era, contributed a single work of six volumes, *Epitomes*, to the Digests, whereas Paulus contributed some seventy-one-separate works, and the comparatively minor jurist Venuleius contributed six separate works, comprising forty-three volumes.

³² For example, Papinian and Ulpian occupied the office of *magister libellorum*, who received and responded to imperial petitions with the emperor’s blessing. Distinguished jurists also attained the lofty albeit enigmatic office of *ius respondendi*, which granted the jurist the privilege to independently convey judicial opinions on their own authority, cf. Tuori 2004.

especial homage to Papinian by officially terming third-year legal students *Papinianistae*, and he similarly regarded Julian as the greatest of jurists.³³

Despite the voluminous output of the classical era jurists they could not cover all legal circumstances and eventualities. Matters not sufficiently addressed directly by jurisprudence needed to be answered either by some reference to some semi-related juristic opinion, through some act of novel judicial argument, or by petitioning the emperor for advice; cautious judges preferred to petition the emperor for advice rather than boldly make novel judgments. Imperial constitutions, in part, helped fill the gap caused by the decline of novel scholarly jurisprudence. Constitutions tended to be pragmatic and aimed solely at resolving the issue at hand, whereas classical era jurisprudence might provide legal decisions with philosophic explanations, thereby resolving the intellectual underpinning of the initial query.³⁴ Increasingly through Late Antiquity imperial fiat invalidated the reasoned opinions of the jurisconsults by dictating a specific outcome to a legal event that directly contravened the jurists, or by nullifying the precedents or arguments that underpinned an opinion. It must be noted that appealing to a higher authority for advice did not necessarily mean that relevant juristic material did not exist, only that the concerned party did not have access to it, or even knowledge of its existence.

Most jurisprudential material was largely inaccessible to the average advocate, or even the average provincial governor, as the few extant copies were sequestered away in the libraries of the law schools, within the libraries empire's great cities, or the personal collections of powerful, successful lawyers. Tribonian, Justinian's chief jurist and legal advisor, owned a vast legal library containing hitherto lost or forgotten works, which he submitted for inclusion in the Digests.³⁵ One cannot therefore simply look at the bulk of material contained within the Digests and assume that every legal practitioner across the empire had equal knowledge or access to it. The so-called Law of Citations, CTh 1.4.3 [Valentinian III & Theodosius II – 6/11/426], of Valentinian III offers some

³³ On *Papinianistae*, see Roby 1884, xxvii; Justinian gave formal status to a customary term that was centuries old, thereby recognising the enduring importance of Papinian some three-hundred years after his death. For Julian, see *Constitutio Adedoken* 18.

³⁴ Turpin 1991, 118.

³⁵ *Constitutio Tanta* 17.

insights into the general state of legal textual knowledge in Late Antiquity. This law was a stop-gap measure designed to reduce the complexities of navigating the corpus of jurisprudence by restricting legal admissibility to citations from Papinian, Paulus, Gaius, Ulpian, and Modestinus.³⁶ While this law has been maligned as the nadir of Roman jurisprudence, as it prioritises the personal authority of jurists over the virtues of their argumentation,³⁷ it likely reflected the reality of contemporary knowledge and practice for most lawyers. The jurists prescribed by Valentinian were undoubtedly heavily studied during legal schooling, and their works were the most copied and accessible.³⁸ Papyrus fragments dating from the third-sixth centuries testify that it was exactly these jurists whose works were available in Egypt.³⁹ The logistics and economics of textual copying gave a natural preference to more recent authoritative texts, especially those with a more encyclopaedic remit. This law obviously disadvantaged the more judicious or well-read advocate, who could no longer cite from authors besides those prescribed.⁴⁰ The effect on African judicial proceedings while it remained part of the western empire is limited though considering it was promulgated only a few short years before the Vandal incursion of Africa begun, just as the Theodosian Code could only have had limited impact on imperial governance in Africa. Justinian's Digest was a more robust attempt at resolving the jurisprudence problem. Rather than artificially reducing the body of usable jurisprudence to works authored by a handful of select jurists, his commissioners created a comprehensive and canonical set of jurisprudential excerpts that could be consulted in legal proceedings. For this reason, Valentinian's Law of Citations was excluded from Justinian's Code, and thus it lost any status as binding statute. To this end Justinian prohibited citing any jurisprudence that was not included in the Digests, and further prohibited writing commentaries on his entire legal corpus, which included the Code, Digest, and Institutes.⁴¹

³⁶ To a lesser extent the opinions of Scaevola, Sabinus, Julian, and Marcellus are also admissible where their writings have been incorporated into the prior list of canonical jurists.

³⁷ Watson 1970, 91; Honoré 2010, 50–52.

³⁸ Harries 2004, 33–34.

³⁹ Humfress 2007, 83–84; Taubenschlag 1944, 26–27..

⁴⁰ Jones 1964, 470–71.

⁴¹ Gordley and Von Mehren 2006, 31–32; Harries 2012b, 796–97.

A Late Antique emperor could say “*la loi ç’est moi*” and it would be an accurate statement. Whether *coloni*, their landlords, or even the mass of imperial administrators heard the emperor’s pronouncements is a different matter. Roman law was universalising, to an extent, but it was not universal. There was no moment when methods of legal transmission were so perfect and dutifully undertaken that each of the far-flung provinces were receiving and obeying the exact set of laws that emanated from the imperial *consistorium*. This is especially true while the western empire persisted and laws were issued from two separate imperial centres, each ostensibly equal in legal authority. Furthermore, while the emperor attained a monopoly on the promulgation of new laws, the Late Empire nonetheless had to contend with an overwhelming inheritance of Republic and Principate era laws, jurisprudence, and rescripts. Thus, in Late Antiquity there were two sources of law that were considered authoritative: the writings of Principate-era jurists, and imperial constitutions. Laws and judicial material circulated unevenly as copies of original works, excerpts, epitomes, commentaries, letters, private collections and finally, in imperial codes. The extant copies are almost exclusively the versions selected for inclusion in the great imperial codification projects of Theodosius II and Justinian.

Except for edicts, constitutions were not drafted with the intent to achieve general dissemination or applicability. The codifications of Theodosius II and Justinian transformed a mass of sundry, specific laws into *leges generales*, whereas before that they had no such status. Except for codification there was no official mechanism for achieving universal distribution and knowledge of the legal output of the imperial court. In general, it should be expected that there was a substantial delay between the publication of a constitution and its spread outwards from wherever its recipient was; many laws likely never circulated to any appreciable extent outside the recipient’s region until codification. There would be no reason for a prefect, *vicarius*, governor, or other geographically circumscribed official to routinely dispatch copies of constitutions to colleagues in other jurisdictions. One that addressed a niche or trivial issue would understandably circulate slowly, whereas one addressing a matter of importance or benefit to some class would circulate faster; ultimately the distribution of a constitution and the rate at which it spread is unknowable.

Late Roman law thus remained thoroughly affected by particularism. In a study such as this with an expressly regional focus one cannot simply survey the entire corpus of Roman law and consider it legally effective and binding from the instant it was promulgated. African governors, administrators, lawyers, landlords, and *coloni* may never have been affected by many of the constitutions contained within the Codes of Theodosius II and Justinian. Furthermore, the Codes themselves cannot have any appreciable impact of legal standardisation in Africa during the Roman era as the latter was published nearly a century after the fall of (western) Roman Africa, and the former because it was published too late and during a period of tumult. Theodosius II and Valentinian III intended to make the Code known throughout Africa. The Proconsul of Africa received a copy of the Code, which was to be used for consultation and dissemination in Africa.⁴² In the same year though the Vandals captured Carthage, along with the remainder of Proconsularis, Byzacium, and eastern Numidia. This made the African copy of the Theodosian Code unavailable to imperial officials, lawyers, and private citizens in the rump Diocese of Africa. With large tracts of Africa occupied and with the Vandals poised to make further gains against the feeble Roman remnants in Africa legal harmonisation cannot have been a priority for either the imperial court in Ravenna, or for the officials in the rump state of Roman Africa. Whether the Vandals used the Theodosian Code as the basis for law within their nascent domain, like the Gothic and Burgundian kings did, is uncertain. In any case, throughout the entire history of Late Antique Roman Africa advocates, petitioners, and even imperial officials had to content themselves with the Codes of Gregorian and Hermogenian, other unofficial compilations, and sundry copies, edited editions, and epitomes of both jurisprudence and imperial constitutions. Law in Africa was fragmented, and it needs to be interpreted as such. Laws that were issued to jurisdictions that did not include Africa, especially those in the east, as well as constitutions of minor importance should be considered carefully before assuming they had applicability within Africa.

⁴² The Proconsul's copy was one of a *tria corpora* that were to act as references of last resort within the Prefecture of Italy; Salway 2012, 44–50. Presumably the Gallic Prefect took similar steps within his prefecture.

Locatio-Conductio Rei

A tenant *colonus* leased their land through contract, known in Roman legal parlance as *locatio conductio rei*.⁴³ This form of lease, as it applied to land, merely specified that the lessor, the *locator*, promises the use of a dwelling and/or cultivable land to the lessee, the *conductor*, who in return pays a rent and/or corvée labour.⁴⁴ The fundamental act of consenting to a tenancy contract transformed a *plebeius* into a tenant *colonus*.⁴⁵ Ostensibly, the relationship between the tenant and the landlord was one of private law, namely contract law. Throughout the Principate era jurists wrote extensively on matters relating to *locatio-conductio*, and increasingly from the late second century onwards various emperors began issuing rulings of matters relating to such tenancies. Thus by 300 CE rural tenancies were already a complex interconnection of public and private law, and this situation only became more complex as the emperor and his subordinates became the sole issuers and arbiters of law. The ability of *coloni* and landlords to freely contract, execute, and terminate a tenancy arrangement became increasingly circumscribed by imperial fiat.

When finding land to farm prospective tenants had a wide range of lessors to choose from. Ordinary private landholders, senators, municipalities, imperial agents overseeing the *res privata*, and even churches acted as landlords in Late Antiquity.⁴⁶ Often large estates, especially those belonging to either the municipalities of the emperor's *res privata*, were leased *en bloc* to *conductores*, who then leased parcels of the estate to individual *coloni* and generally managed the estate. During the Principate, leases of whole imperial estates were contracted for fixed five-year terms, but by Late Antiquity leases were often granted on an emphyteutic basis, which was more common elsewhere in the empire.⁴⁷ Emphyteutic leases were another class of *locatio-conductio* lease distinct from ordinary *colonus*-type leases. Emphyteutic lessees enjoyed perpetual leases and had an almost undisturbed and

⁴³ Gaius *Institutes* 3.142-7

⁴⁴ While a *colonus* was legally a *conductor*, in standard legal and literary usage *coloni* are rarely referred to using this term; *conductor* normally denoted a lessee with a considerably larger leasehold.

⁴⁵ A lease of a dwelling house alone made the lessee an *inquilinus* rather than a *colonus*, though by Late Antiquity there were very few distinctions between an *inquilinus* and a *colonus* in terms of law or status and in most regards they were conflated. Cf. Mirković 1997, 101.

⁴⁶ Temples also often possessed land, which could be rented out in a similar manner. The Christianisation of the empire naturally led to the appropriation and reallocation of temple property; whether this displaced lessees is indeterminate, and unlikely to be uniform.

⁴⁷ Cordovana 2014, 472; Johnston 1940, 344–45.

unlimited authority to utilise the leased land, conditional only on the payment of rent. Generally, emphyteutic lessees were not subject to the same laws and regulations that *coloni* were, and emphyteutic lessees enjoyed greater social prestige. *Coloni* who leased land on an emphyteutic estate were responsible to the *conductor*, who was their landlord, and not to the property's owner.

Regarding imperial estates *coloni* constituted the bottom tier of a thorough hierarchy of status and power. The emperor was the *de jure* owner of these estates but understandably did not have a direct role in their management. Instead, a multi-layered bureaucracy oversaw the administration of the emperor's *res privata* in his name. Various imperial officials, from the senior *Praefectus Fundorum Patrimonialium* or *Rationalis Rei Privatae per Africam* to provincial level authorities, oversaw fiscal policy and governed estates at a high level, which included adjudicating disputes whenever necessary and managing subordinates. The direct management and fiscal oversight of individual estates was undertaken by *procuratores*, who were normally responsible for a cluster of neighbouring estates. *Procuratores* were responsible for implementing imperial policy on estates and were responsible for contracting for the leasing of land on the estates. *Conductores* were answerable in the first instance to the *procurator*, and the *procurator* was nominally the first authority that would intervene in a dispute between a *conductor* and a subordinate *colonus*. The *procuratores* effectively governed the *conductores* and ostensibly maintained harmony between the *coloni* and the *conductores*. Disputes and requests were heard by the procurators and would only advance to a formal imperial petition in the event that they could not satisfy the petitioners. The office of *procurator* was a respectable position in the imperial state, whereas the *conductores* and *coloni* were regarded as humble agricultural labourers; *conductores* enjoyed a superior position in the social strata relative to *coloni* though.

Leases of private property had a much simpler hierarchy. The *colonus* either leased from the property's owner or through an agent of the owner. In the case of small or medium landholdings the landowner might directly engage with the tenant farmers himself, and perhaps even farm some of the land alongside the *coloni*. In the case of absentee landlords, who were especially common on large or

discontiguous estates, an agent of the landowner was appointed to manage the estate.⁴⁸ Agents of private landowners were variously termed *actores*, *vilici*, *conductores*, or *procuratores*.⁴⁹ Leases contracted through an agent were equivalent to those contracted directly with the owner, and the owner retained all the rights of the lessor. If the *colonus* subleased, whether from another *colonus* or otherwise, then the property's owner was not considered the lessor and had limited power to intervene against sublessees. Regardless of whether the *colonus* leased public or private land the *colonus*' socio-legal position was identical – they possessed the same rights and responsibilities, and in the case of landless *coloni* were considered lowly in the social hierarchy.

All *coloni* and all landlords were bound by the general rules and precepts prescribed via jurisprudence. So far as it is possible to tell, no jurist wrote a treatise specifically on *colonus* tenancies. Instead, jurisprudence regarding *coloni* is interspersed amongst discussions of *locatio-conductio* more generally, amongst discussions of some related aspect of the law such as usufruct or the Salvian interdict, within case law, and so on; in the Digests excerpts referring to *coloni* are scattered throughout no fewer than twenty-six books. The jurists generalised and were undoubtedly ignorant about some aspects of provincial life and culture that may have impacted the operation of tenancies. Roman jurists were aware of regional legal variations and particular local customs, but they rarely paid much interest to them. They were content to merely allude to the existence of regional *consuetudo* without providing any details.⁵⁰ Nonetheless, the jurists were not just legal philosophers, they were throughout their careers practicing lawyers who witnessed countless real cases. Doubtless many jurists were involved in judicial matters concerning *coloni* and their leaseholds, as an example Dig. Iust. 7.1.58 [Scaevola *Replies*, Book 3] addresses a specific case concerning the inheritance of a landlady's rent when bare ownership and usufructuary rights were bequeathed to different parties. The jurists' opinions not only had a direct bearing on the formulation of new legal norms, but they were

⁴⁸ Constantine I, as part of his efforts to stimulate population growth and urban development in the newly founded Constantinople, passed a law requiring that any emphyteutic lessee of imperial land must own a house in Constantinople; this law was reconfirmed as CTh 5.14.36 [Honorius & Arcadius - ???/405]. Whether lessees of said estates were resident in Constantinople is uncertain, but it is clear that the imperial court did not think it improper for emphyteutic lessees to not administer their leasehold in person.

⁴⁹ Lenski 2017, 120.

⁵⁰ Scheidel 2000, 730.

based at least in part on actual cases at law. It must be remembered though that jurists neither worked in concert to ensure consistency and standardisation, nor did they work in a way that facilitated dissemination of their opinions. Furthermore, as established earlier, knowledge of jurisprudence was far from standardised at any point in Roman history. Thus, disagreements between jurists and disparities with available legal knowledge meant that understandings and expectations of how tenancies should work differed from place to place, even if only slightly. Proconsularis, a province rife with estates and home to a leading metropolitan city, likely had better access to current legal thought than a remote frontier province such as Noricum. What follows is an idealised standard model for how *colonus* tenancies should have operated in the mid-third century, based on the available evidence.

The lease between the *colonus* and their landlord was contracted voluntarily, coercion and desperation notwithstanding. The prospective *colonus* and landlord together negotiated the particulars of the lease. The principal terms that every lease contract required were the size and siting of the land to be leased, the duration of the lease, and the method and amount of rent due. Additional non-standard terms could also be negotiated. According to Julian, a plucky *colonus* could successfully argue for a clause that prohibited their landlord from bringing any legal action against them but left their right to sue their landlord for breaches and abuses unencumbered.⁵¹ Upon the signing of a lease the landlord acquired a *hypotheca* – a lien or surety – over the property of the *colonus*. That a landlord held a *colonus*' property as a security was established in public and private law.⁵² In the event of rental arrears, flight of the *colonus*, or some act of negligence the landlord was empowered to seize the property as damages through the *actio Serviana*. Landlords could not arbitrarily seize a *colonus*' property, nor did they have a right to use or possess it under normal circumstances. Because of the *hypotheca* pledged to the landlord *coloni* were not free to dispose, sell, or otherwise alienate their property without first consulting their landlord.⁵³ Alternatively, *coloni* could retain full control of their

⁵¹ Dig. Iust. 2.14.56 [Julian *From Minicius* Book 6].

⁵² CJ 4.65.5 [Alexander Severus – 1/3/223]; Gaius *Institutes* 4.147; Inst. Iust. 4.6.31, 4.15.3.

⁵³ Selling pledged property without consent was considered an act of theft; Dig. Iust. 47.2.19 [Ulpian *Sabinus* Book 40].

property by offering a monetary surety instead, or have a guarantor pledge security on their behalf, in which case the guarantor was liable for the *colonus*.⁵⁴

The duration of the lease was entirely at the discretion of the contracting parties. Jurists set the *de jure* default lease length at five years, but there was no expectation or requirement that leases follow this guideline.⁵⁵ Lease documents from Egypt show that it was not uncommon for *coloni* to contract a lease for a single year.⁵⁶ Conversely, a lease could be granted in perpetuity – this was an established practice in Africa, as shall be explained. When a fixed-term lease expired it would persist on an ongoing basis by default unless either the *colonus* or the landlord specifically terminated the agreement, either by the *colonus* moving on or the landlord demanding they leave.⁵⁷ The conditions for an ongoing lease remained the same as they had been during the fixed-term period. Leases could be renewed; documentary evidence from Egypt shows that around half of all leases were renewed.⁵⁸ A landlord could not compel a *colonus* to remain after the expiration of the fixed-term period however.⁵⁹ During the fixed-term lease period neither party could arbitrarily or unilaterally break the lease, and if they did the aggrieved party was entitled to sue the other for damages.⁶⁰ There were valid reasons to prematurely terminate a lease. If a *colonus* failed to cultivate the land or otherwise neglected it the landlord was entitled to evict them.⁶¹ Similarly, if a *colonus* was prevented from accessing the leasehold due to the landlord's malice or negligence they could bring an action against the landlord and void the lease.⁶² Generally, if either party considered the contract breached they could bring the matter to court and seek eviction or cancellation of the lease, depending on who was the plaintiff.⁶³ If successful, the plaintiff was awarded damages that differed according to the circumstances of the

⁵⁴ Dig. Iust. 19.2.54 [Paulus, *Replies* Book 5], 20.6.14 [Labeo *Posthumous Works*, *Epitomised by Javolenus* Book 5].

⁵⁵ Dig. Iust. 19.2.24.2 [Paul *Edict* Book 34], 45.1.89 [Paul *Plautius* Book 9], 47.2.68 [Celsus *Digest* Book 12]; Mousourakis 2012, 230.

⁵⁶ Jones 1964, 802–3; the seasonal flooding of the Nile had single-year leases possible and attractive.

⁵⁷ Dig. Iust. 19.2.14 [Ulpian *Edict* Book 22].

⁵⁸ Jones 1964, 802.

⁵⁹ CJ 4.65.11 [Phillip I – 8/8/244].

⁶⁰ CJ 7.65.15 [Valerian & Gallienus – 13/8/259]; Dig. Iust. 19.2.24 [Paul *Edicts* Book 34].

⁶¹ Van Den Bergh 2004, 549.

⁶² Dig. Iust. 19.2.24.4 [Paul *Edict* Book 34].

⁶³ Many of the excerpts in the Digests relevant to *coloni* contain some variation of the phrase “...they (the *colonus* or the landlord) will be liable on the hire”.

case.⁶⁴ A fixed-term tenancy was inheritable, though not compulsorily so as the heir of a *colonus* could elect not to retain the leasehold.⁶⁵ Landlords though could not deny a tenant's heir the right to enjoy an inherited lease, and they were liable to a lawsuit if they attempted to. Even if an heir declined to inherit the lease itself, they nonetheless retained the right to gather any crops or fruits the testator had planted.⁶⁶ If the landowner sold the land the buyer was not required to retain any tenancies, whether fixed-term or ongoing. However, if a *colonus* was evicted by the buyer then the *colonus* could sue their erstwhile landlord for failing to honour their contract, hence the seller could stipulate that the buyer had to retain all existing tenancies.⁶⁷ Lastly, a *colonus* could ordinarily sublet part of these leasehold to another *colonus*, unless the lease contract specifically forbade subletting.⁶⁸

Once a *colonus* had secured their lease they attained broad rights to utilise the leased land and property, analogous in most respect to usufructuary rights.⁶⁹ *Coloni* received their land with the freedom to cultivate it as they saw fit, so long as they paid rent and did not damage the landlord's property through neglect or malice. *Coloni* were protected in the case of unavoidable accidents, such as if an otherwise properly kept fire gets out of control and causes property damage.⁷⁰ The landlord did not just furnish bare land, however. The landlord was required to provide agricultural equipment, such as wine or olive presses, grain mills, storage facilities, or whatever else was necessary; the equipment was determined according to the locale – a landlord understandably did not need to provide a wine press in a region unsuited to viticulture.⁷¹ *Coloni* were entitled to sue if their landlords either failed to provide this equipment or failed to keep it in working order. *Coloni* in turn were expected to use this equipment respectfully and responsibly, and any damages caused by misuse could be recouped by the landlord. The landlord was also responsible for maintaining the farmhouse – *coloni*

⁶⁴ Dig. Iust. 19.2.61 [Scaevola *Digest* Book 7] relates a case wherein a *colonus* was unjustly expelled after his rent was increased owing to vines that he planted. Scaevola contends that the *colonus* should be reimbursed for the expense of planting the vines.

⁶⁵ Dig. Iust. 19.2.32 [Julian *From Minicius* Book 4].

⁶⁶ Inst. Iust. 1.1.36.

⁶⁷ Dig. Iust. 19.1.13 [Ulpian *Edict* Book 32], 19.2.25 [Gaius *Provincial Edict* Book 10].

⁶⁸ Du Plessis 2005, 143–44.

⁶⁹ Mousourakis 2012, 169–70.

⁷⁰ Dig. Iust. 19.2.13.11 [Ulpian *Edict* Book 32]; if the *colonus*' slave burns it down, or the *colonus* leaves the fire unattended then the *colonus* is deemed fully liable per Dig. Iust. 9.2.27.9–11 [Ulpian *Edict* Book 18], 19.2.30.4 [Alfenus *Digest*, *Epitomised by Paul* Book 3].

⁷¹ Dig. Iust. 19.2.19.2 [Ulpian *Edict* Book 32].

and *inquilini* alike were entitled to a home that received air and light, and with intact doors and windows.⁷² *Coloni* could take legal action against someone who damaged their private property, but also against someone who damaged the land or stole their crops. Concurrently, the landlord could also take legal action against the thief independent of their *colonus*, as the landlord retains an interest in the property (the crops) separate from the *colonus*.⁷³ Conversely, if a *colonus*' leasehold is raided (*impetus*) only the *colonus* is entitled to seek restitution via the law.⁷⁴ The apparent discrepancy between the two situations is because the opinions belong to different jurists – Paul and Ulpian, respectively. Besides maintaining the physical condition of rented property, *coloni* also had to respect the landlord's intangible interest in property, which included the *colonus*' property and fruits. Not selling or alienating property pledged as a *hypotheca* has already been mentioned. The *colonus* violated the landlord's interests if, for example, they surreptitiously harvested a crop, sold it, or turned it over to someone else; the crop only becomes the *colonus*' property with the landlord's consent, otherwise the *colonus* was considered to have stolen it. Similarly, if a *colonus* lingered on the land after the lease's expiration against the wishes of the landlord they were liable to be sued for theft for any crops they harvested.

Throughout a lease *coloni* had two fiscal burdens: rent and tax. Rent was obviously paid to the landlord, and the amount due was determined by the contract. Taxation and the modes of assessing and collecting it were complex and the Late Antique system bore only a passing resemblance to its Principate-era predecessor, hence the next chapter is dedicated to the issue of taxation. It is important to note however that landless *adscripticii* were enrolled as taxable dependents under their landlord's tax roll entry, meaning that their landlord paid the tax owing for their family and capital assets. The rent, and the method of paying the rent, was set when the lease contract was agreed to. Generally, rent was either paid as a fixed-sum or in a sharecropping arrangement, wherein a percentage of the harvest was paid as rent. The latter was advantageous for both parties, as a poor

⁷² Landlords were only responsible for buildings they provided. If a *colonus* built their own structures they were solely responsible for their upkeep and had to ensure that the building did not cause adverse effects for their neighbours.

⁷³ Dig. Iust. 47.2.83.1 [Paul *Views* Book 2], 47.2.86 [Paul *Handbook* Book 2].

⁷⁴ Dig. Iust. 47.10.5.4 [Ulpian *Edict* Book 56].

harvest would not necessarily ruin or cause indebtedness on the part of the *colonus*, and the landlord would still receive some rent, albeit reduced from what would be expected in a normal year. A fixed-sum rent required the *colonus* to furnish the rent regardless, which could leave them without enough food and/or seed, or even potentially exceed the amount harvested. The conditions and quantity of rent owed were not standardised in Roman law. Excessive rent demands would deter a prospective *coloni* from entering a lease if they had other options available. Under normal circumstances, landlords were prohibited from increasing the rent. If by some fraud the *colonus* obtained an unduly low rent the landlord could either increase the rent to a just amount or evict the *colonus*.⁷⁵ If the *colonus* on their own initiative increased the yield or profitability of the leasehold the landlord could, in the case of a fixed rent lease, seek a rent increase. Scaevola relates a case where a *colonus* planted vines, thereby increasing the profitability of the leased land, and the landlord attempted to impose a rent increase of ten *aurei*, or about sixteen *solidi*, which required a vineyard of over four *iugera* with a fairly optimal yield simply to pay the increased rent.⁷⁶ In such a case if the *colonus* was evicted due to unpaid rent the *colonus* could countersue and seek recompense for the expense of planting the vines, and if the landlord did not pay then the arrears were annulled.

When struck by natural disasters and misfortune, *coloni* could obtain rent reductions or exemptions. In cases of *vis maior*, or an “act of God” in English legal parlance, *coloni* were excused from having to pay rent, on account that they could not have prevented the disaster (such as flooding, locusts, armed invasion etc.) Spoilage of wine, oil, grains etc., infestations of weeds, and other like misfortunes were deemed to be preventable by the *colonus* and were not grounds for rent exemptions. Gaius states that rent reduction protections should only be afforded to those *coloni* who pay a fixed-sum, and that sharecroppers should pay as normal.⁷⁷ Ulpian and a law of Alexander Severus simply state that remittances should be granted to *coloni* without distinction if affected by *vis maior*. Both

⁷⁵ Dig. Iust. 19.2.23 [Hermogenian *Epitome of Law Book 2*].

⁷⁶ Dig. Iust. 19.2.61.1 [Scaevola *Digest Book 2*]. From Nero’s reign an *aureus* was minted at 7.27g, a *solidus* was minted at 4.55g. For calculations on vineyard yield cf. Cato *On Agriculture* 11.1, Duncan-Jones 1982, 44–46; Roselaar 2010, 157–59. For price data see Appendix A.

$$\frac{16 \text{ solidi}}{0.0025 \text{ solidi per sextarius}} = 6,400 \text{ sextarii} \rightarrow \frac{6,400 \text{ sextarii}}{\text{Average yield of } 1,504 \text{ modii per iugerum}} = 4.25 \text{ iugera}$$

⁷⁷ Dig. Iust. 19.2.25 [Gaius *Provincial Edict Book 10*].

sources also state that landlords can recoup remittances in future years of plenty.⁷⁸ Given the lack of concordance in the law in this case it would have been a matter for the landlord and *coloni* to negotiate, or for Roman authorities to adjudicate in the event of a dispute.

If a *colonus* fell into arrears their landlord had several courses of action available. Firstly, and most simply, landlords could evict indebted *coloni*. Secondly, landlords could seize and sell their *coloni*'s property to cover arrears, as Pliny attests.⁷⁹ Thirdly, the landlord could retain the indebted *colonus* until they repaid the outstanding rent. In this case the lease would not expire at the end of the fixed-term period and the *colonus* could not legally leave until the rent was paid in full;⁸⁰ arrears however were not inheritable.⁸¹ These options were not mutually exclusive. A landlord could evict a *colonus* and sell their property, or a landlord could retain an indebted *colonus* and still confiscate some of his property. Pliny cautioned against confiscating and selling the property of a *colonus* in arrears, as that would only worsen their productive capacity and guarantee ongoing arrears.

The above covers the ordinary terms and circumstances involved in a *locatio-conductio* lease involving *coloni* and rural leaseholds. Each lease was different, with *coloni* and landlords able to negotiate conditions particular to the needs and desires. Again, jurisprudence was not standardised, jurists regularly disagreed and reach different conclusions, and what is available to modern scholars is only an imperfect subset of the original material. Regardless, the jurists share ideals of contractual fairness and an equitable distribution of duties and responsibilities. Both *coloni* and landlords had an enumerated set of circumstances in which they could take legal action to seek redress of grievances, which were largely based on the standardised Praetor's Edict, giving a sense of certainty regarding the efficacy in pursuing legal action. At the dawn of Late Antiquity leases generally would have resembled this model, regional particularities notwithstanding, and it is against this model that changes to the legal conditions and opportunities of Late Antique *coloni* shall be measured.

⁷⁸ Dig. Iust. 19.2.15 [Ulpian *Edict* Book 32], CJ 4.65.8 [Alexander Severus – 1/8/231].

⁷⁹ Pliny the Younger *Epistles* 9.37.

⁸⁰ Mirković 1997, 58–62.

⁸¹ Dig. Iust. 33.7.20 [Scaevola *Replies* Book 3].

Third century Rescripts & Tenancy Arbitration

Prior to the accession of Constantine I, all of the excerpts in the imperial law codes that have a direct bearing on *coloni* are rescripts. Originally these rescripts were preserved and published in the Gregorian Code, but with the publication of the Justinianic Code the Gregorian was superseded and made obsolete. There is no sure way to know how many relevant rescripts Justinian's commissioners discarded from the Gregorian, and similarly there is no way to know how many rescripts perished without being recorded in either code. The first rescript within the Code dates to the early third century, but emperors adjudicating matters concerning *coloni* tenancies is certainly not a phenomenon that begun in the third century. In Africa, several rescripts issued by emperors ranging from Hadrian to Commodus (i.e. from the second century) in response to petitions from Mancian *coloni* survive as mostly complete inscriptions. These rescripts were not included in Justinian's Code, and it should be assumed many more rescripts with a regional focus were excluded from codification. Generally, the third century rescripts, including those issued by Tetrarchic emperors, were neither radical nor even particularly innovative.

The forthcoming analysis will demonstrate that throughout the third century the rulings of the emperors accorded in large part with the opinions of the eminent jurisconsults. Perhaps the one field that Late Principate emperors did innovate in was the inheritance of leaseholds. As demonstrated in the previous section, heirs could but were not required to inherit the testator's lease. The shift in thinking on this matter is amply demonstrated by the following three laws:

Dig. Iust. 19.2.60 [Labeo, *Posthumous Works, Epitomised by Javolenus* Book 5]: the first subsection in a lengthy extract sets out in no uncertain terms that a *colonus'* heir is not automatically a *colonus* himself. This opinion states that an heir nonetheless possesses on behalf of the legator, in this case the *colonus*. That is to say that any property, fruits (in the legal sense), leaseholds, or anything else a *colonus* legally possessed his heir could also possess on his behalf regardless of his status. While Labeo authored his opinion in the earliest days of the Principate Javolenus, who epitomised his works, lived under the Flavians and presumably concurred with Labeo

on this point. Throughout the first century CE it is clear that *coloni* did not, and could not, burden their heirs with their contractual and labour duties.

CJ 4.65.10 [Gordian III – 22/2/239], to Pomponius Sabinus: this law specifies that a lessee's heir must succeed them in all leases, whether fixed-term or perpetual. The term of the law does not specify *coloni*, rather it uses the term *conductor*. *Conductor* can refer either to lessees in general or to lessees who hold large public or private estates, usually as *emphyteuticarii*; in both cases the term *conductor* is derived from *locatio-conductio*. *Conductor* is used elsewhere in the Codes in a generic sense, and it would be strange for the empire to burden wealthier and more socially respected estate-holding *conductores* with mandatory inheritable leases while permitting the heirs of poor or middling *coloni* to desert if they wanted to. This law should be considered binding on agrarian lessees in general.⁸²

CJ 4.65.11 [Phillip I – 8/8/244], to Aurelius Theodorus: this law proclaims that neither *coloni* nor their heirs can be compelled to remain as lessees after the expiration of a fixed-term lease. This implies that an heir was required to fulfil the remainder of the deceased's lease, which is supported by the aforementioned law (CJ 4.65.10).

Thus, by the middle of the third century there was a distinct shift in how a deceased *colonus*' lease was treated. That two different emperors ruled in concordance that leases were inheritable, at least when they were still within the fixed term period, indicates a prevailing shift in opinion on the matter. Previously where a male *colonus* exercised his *potestas* as a *pater familias* he could compel his children to assist him in his agrarian/contractual duties. Upon his death his heirs became *sui iuris* and were no longer bound by their father's authority, which previously meant they could choose to discard his lease. Legal innovations of the third-century denied a *colonus*' heirs this option by making leasehold inheritance an obligation. This granted obvious benefits to both landlords and the imperial treasury. As long as the *colonus* had children there should have been little to no interruption in the

⁸² Kehoe 2007, 124–26; Kehoe 2007, 124–26, contra Vera 1986, 288–89.

payment of rent and taxes, and the fields would remain productive, allaying to a small extent the possibility of food shortfalls.⁸³

The remainder of the third century rescripts demonstrate notable legal conservatism. Some of these rescripts address renters generically, and others are ambiguous about the category of renter it concerns. Nonetheless, in the third century there was little legal demarcation between a *colonus* and any other class of renter per *locatio-conductio*. Some of these laws have already been cited in the preceding section, they will nonetheless be expanded on here.

CJ 4.65.5 [Alexander Severus – 1/3/223], to Aurelius Petronius: the landlord acquires a lien on whatever property a *colonus* brings onto a rented farm, or into a rented house. The mention of rented houses presumably means *inquilini* are included within the scope of this law, though they are not specifically mentioned. Under the rules of *locatio-conductio*, and the jurisprudence that underpinned it, there was no question that the prospective *colonus* had to offer a *hypotheca* – a lien – to the landlord to secure the lease. This law establishes without doubt that the *hypotheca* was not limited to any particular portion of the *colonus*' property. Therefore, in the event of damages, arrears, or abandonment of the leasehold the landlord was entitled under the *actio serviana* to recover anything whatsoever from the *colonus*. This rescript does not address the contingency wherein the *colonus* offers a monetary surety or has a guarantor pledge on their behalf. Presumably Alexander and his advisors did not feel the need to comment on that possibility as it was outside the scope of the petitioner's query, hence demonstrating the pitfall that rescripts, while binding as a source of law, do not have the same scope as a proper statute.

CJ 4.65.6 [Alexander Severus – 25/2/224], to Lucilius Victorinus: Alexander rules that subletting is a given right of all tenants unless the lease contract expressly prohibits it. This ruling follows existing jurisprudential opinion on the matter. It is unclear whether this rescript was addressed

⁸³ The tax levied on the landlord's land would remain the same even if the lease was abandoned, however the landlord might seek a reassessment or refuse to pay for land that would now be fallow. The landlord might have to summon the heir to the fields if they were not working them along with the legator.

to the lessor, who wanted to prevent subletting, or to the lessee, who was being prevented from subletting.

CJ 8.51.1 [Alexander Severus – 30/5/224], to Claudius: if the child of a female slave or adscript *colona* is abandoned (exposed) the master is entitled to reclaim the child. If in the meantime the exposed child had been adopted the master must repay any expenditures incurred by the adoptive parents. The inclusion of *adscripticiae* in the text is likely a sixth century interpolation to bring the text into line with contemporary thinking. At face value, this law suggests that the legal thinking of Alexander Severus' court had largely assimilated the legal standing of adscript *coloni* and slaves, which is remarkably similar to the Byzantine conception of personal status after Tribonian.⁸⁴ This would mean that while this rescript has only minimal bearing on the lives of *coloni* the imperial court already considered them analogous to slaves in many respects and that their subordination to their landlord was more than a matter of property rights. While it is not impossible that the original rescript did include the suspect reference to *adscripticiae*, the role of the landlord as *dominus* had not matured at this point to include personal authority over dependant tenants. This rescript should be considered anachronistic and an artefact of Byzantine editing.

CJ 7.30.1 [Alexander Severus – 26/3/226], to Sabinus: neither *coloni* nor any other lessee of land shall claim ownership of land through adverse possession. That is, a long, uninterrupted tenancy does not confer any right to ownership of the land. It is not clear who Sabinus, the addressee of the law, is though presumably he was an aggrieved landowner who had a *colonus* try to usurp title of his land. Later laws also refer to *coloni* illicitly selling either the landlord's capital assets or even title to the property itself, suggesting that unscrupulous and enterprising *coloni* claiming undue ownership of their leaseholds was an ongoing nuisance. Interestingly, that Sabinus had to write to the emperor for legal advice indicates that there was real ambiguity or dispute in this case, and it is probable that in some cases a tenant did manage to win legal recognition of ownership despite not having a legitimate claim to it.

⁸⁴ Evans-Grubbs 2013, 87–89.

CJ 4.65.8 [Alexander Severus – 1/8/231], to Sabianus Hyginus: Hyginus was a *colonus* renting farmland for a fixed sum, and he had been beset by inclement weather that had badly damaged his crop.⁸⁵ He sought remissions on his rent, which was evidently refused by his landlord, prompting him to petition the emperor for advice. Alexander answered that rent reductions were not a given right and that unless expressed in the lease or in local custom the *colonus* was responsible for failed crops. However, if Hyginus could demonstrate to the judge that the losses he just incurred were not counterbalanced by bumper yields in previous years then a rebate might be still be granted. While Alexander's ruling was in accordance with existing juristic opinion, the conditional statements in the rescript demonstrate imperial acknowledgement of and deference to local tenancy customs. Furthermore, it is clear evidence that even a *colonus* could successfully petition the emperor.

CJ 4.65.9 [Alexander Severus – 7/12/234], to Aurelius Fuscus, a soldier: this rescript reconfirms the jurisprudential opinion that the purchaser of land leased to *coloni* does not need to retain those tenancies. The rescript elaborates with further commentary, noting that the erstwhile owner is in jeopardy of being sued by any tenants displaced by the new owner, and then notes that most sale contracts did require the purchaser to retain existing tenancies. Thus, while Alexander's legal experts acknowledged that ordinarily the purchaser was contractually bound to retain tenancies it was nonetheless optional, thereby preferencing the property rights of the purchaser over the rental rights of the *colonus*. It is unclear whether Fuscus was the seller being threatened with a lawsuit by his aggrieved former *colonus*, if he was the purchaser seeking to evict a *colonus*, or if he was the *colonus* being evicted by the purchaser.

The rulings of Alexander Severus laws are not radical, or even innovative. In each law Alexander Severus decrees in accordance with existing jurisprudence. Regrettably these rescripts preserve very little about the underlying context or who the petitioner was. The rescripts only specify the addressee's name, it does not detail where they lived or if they were the lessor or the lessee.

⁸⁵ The text uses the second-person pronoun, indicating that Hyginus was the *colonus*.

Nonetheless, it is clear that in each case the petitioner was a provincial citizen seeking legal advice from the emperor.

We do not possess any of the context surrounding these laws, however I posit that it is likely that citizens or provincial officials wrote to the emperor seeking clarity on matters they were unsure of – presumably they did not possess a substantial legal library. The better-informed imperial court answered these queries, and answered in accordance with the jurists. Neither Alexander nor his advisors sought to redefine or innovate on any aspect of *locatio-conductio* tenancies, they simply sought to clarify legal questions presented to them.

Following Alexander's assassination, the empire entered a prolonged period of civic instability and high turnover of the imperial office. Only a small number of rescripts date to the years between the death of Alexander Severus and the accession of Diocletian and the enthronement of his Tetrarchic co-rulers. It is reasonable to suppose that it was difficult to petition the emperor in this period given their low life expectancy and that they were regularly campaigning or travelling. Gregorian and later Justinian's commissioners may have found it difficult to verify rescripts issued in this period and may have discarded those that seemed dubious. Further, Justinian's commissioners may have discarded rescripts that were repetitious or mundane, and there is no evidence to suggest that any of the crisis emperors attempted any significant reforms of *locatio-conductio* that would merit preservation. Gordian III's and Phillip I's rulings on leasehold inheritance have already been noted, which leaves a small handful of other rescripts issued by mid third century emperors:

CJ 4.65.12 [Phillip I – 29/10/245], to Aurelius Nica: Aurelius, the tenant, sought restitution from his landlady because thieves broke into his rented property and stole and/or damaged his personal property. Phillip ruled that he had to recourse against the landlady because she bore no responsibility to safeguard the property or his belongings. The wording suggests this dispute concerned urban property, making Aurelius and *inquilinus* rather than a *colonus*, but the legal principles were the same. If a *colonus*' farmhouse, granary, or similar was robbed the landlord was

only liable if the landlord had guaranteed security for the premises in the lease contract, which was not standard.⁸⁶

CJ 4.65.13 [Valerian & Gallienus – 3/3/259], to Aurelius Heraclides: this rescript answers a question regarding whether a *colonus* is liable for other *coloni* on the same property. If the property is subdivided into multiple leases with each lessee on separate contracts, then there is no liability between *coloni* – a *colonus* cannot be sued on account of another. However, if there are two or more co-signatories on a lease each lessee is equally liable to the landlord. The landlord could therefore recover debts from or sue any of the joint signatory *coloni*, even if they were not personally responsible for any wrongdoing. A *colonus* who paid a debt on behalf of co-tenant could demand ownership of the erstwhile debtor's *hypotheca* as compensation.

CJ 4.65.15 [Valerian & Gallienus – 13/8/259], to Aurelia Euphrosyna: if the landlord prematurely breaks a lease the *colonus* is entitled to recompense, assuming the eviction was illegal. If the contract specified a penalty for breaking the lease then this was to be paid to the *colonus*, less any outstandings the *colonus* owed. If no penalty was specified the *colonus* could sue for damages, which would be decided by the judge. In this case it seems Euphrosyna was the contracting *colona*, and she asserted that she was unjustly evicted.

CJ 4.65.16 [Valerian & Gallienus – 29/6/260], to Aurelius Timotheus: The rescript opens with the emperors instructing that all terms of the lease must be observed, and that the landlord may not demand a greater rent than what was agreed to in the contract. Rents did fluctuate, and it is uncertain how changes were determined but certainly the law prohibited arbitrary increased exacted by the landlord.⁸⁷ Then, the rescript addresses Aurelius' query, which concerned whether leases persisted after the expiration of the fixed-term period and, if they did, on what basis. The emperors responded that as long as the *colonus* remained on the land the lease was implicitly renewed under the

⁸⁶ Cf. CJ 4.65.1 [Caracalla – 4/1/213], 4.65.4 [Alexander Severus – 1/12/222].

⁸⁷ Hopkins 1980, 104–5.

same conditions. The text also notes that the landlord retains the *hypotheca*, their lien, over the *colonus*' property as an enduring security.

Following the example set by their predecessors, emperors in the mid third century continued to uphold long-standing law concerning *locatio-conductio* in nearly every respect. After Valerian's capture by the Persians in 260 no further rescripts concerning *coloni* or *locatio-conductio* were issued, likely owing to the increasing instability of the empire. *Coloni* and landlords alike were left without reliable access to a final appellate authority and would need to have relied on the judicial processes and legal knowledge available in their local area. The publication of rescripts resumed with regularity once Diocletian was secure in his rule.

CJ 4.10.3 [Diocletian & Maximian – 31/5/286], to Rusticianus: *coloni* who pay their rent cannot be sued for a personal debt owed by their landlord. This law demonstrates that the lessor and lessee, such as a landlord and *colonus*, remained legally and financially distinct persons and that the authority the lessor did not create any personal obligations for their lessees. Interestingly though, the rescript dictates that this is only the case for *coloni* who had not fallen behind in their rent payments. The wording suggests a *colonus* in arrears could be sued for their landlord's debts, but it is unclear a *colonus* would ameliorate their own debt to their landlord if they were sued in such a way.

This ruling is followed by the inverse:

CJ 4.10.11 [Diocletian & Maximian – 25/7/294], to Paula: it is not permissible to recover debts owed by a *colonus* from his landlord. The rescript remonstrates Paula for attempting to do so. The landlord's position as *dominus* did not create any personal obligation to their tenants. If the landlord acted as a sort of *pater familias*-esque figure to their *coloni* then perhaps the argument could be made that they should also be responsible for the debts of their *coloni*. The imperial court at the time clearly did not consider this to be the case.

CJ 4.65.17 [Diocletian & Maximian – 18/3/290], to Hostilius Hectarius: Hostilius seemingly was troubled by one or more lessees (the text uses the generic *conductor*) who were refusing (or were unable) to pay their rent. Hostilius is informed that the local provincial governor is

required to assist in securing swift payment of the overdue rent. Furthermore, Hostilius is advised that he can sue for interest from his defaulting lessees, and that the governor should be familiar with such an action. These actions were presumably available to all lessors against all kinds of lessees, including *coloni*. However, as noted earlier Pliny advised against hasty pursuit of arrears from *coloni*, as it would further damage their ability to produce a saleable surplus and thus compound the issue of arrears. Landlords nevertheless retained the option of pursuing legal redress once their *coloni* fell into arrears.

CJ 4.65.18 [Diocletian & Maximian – 21/9/290], to Annius Ursinus: Some unspecified misfortune befell Annius' *colonus*, and the *colonus* was attempting to secure a temporary rent remission, prompting Annius to seek imperial counsel. The rescript specifies that unless the *colonus*' crop failure was due to locusts there is no grounds for rent reductions. It is curious that the rescript only mentions locusts when jurisprudence established that uncontrollable *vis maior* could trigger rent remissions. The specific mention of locusts might have been due to a recent outbreak of locusts in Annius' province that was known to the imperial court, prompting them to address that disaster alone. Elsewise, later editors may have deleted other stated reasons for remissions, rent remission may not have been customary in that province for *vis maior*, the imperial court might have intended to limit the scope of eligibility for rent remissions, or the drafters of the rescript may simply not have considered additional reasons. It is indeterminate whether this rescript was a statement of a new limited policy on *vis maior* and rent remissions, or if the rescript is simply succinct. Further, it is unclear whether the *colonus* was a sharecropper or paid a fixed-rate rent, which would affect eligibility for rent reductions. In any case, the rescript advises Annius that unless locusts were involved his *colonus* must pay the full amount of the disputed outstanding rent, and further instructs him to enrol the assistance of the provincial governor if necessary.

CJ 4.65.24 [Diocletian & Maximian – 25/12/293], to Aurelius Antoninus: this rescript relates advice to a landlord whose *colona* (the text specifies that she was woman) and her heirs were disputing the existence or validity of the lease contract because there was no written copy and were therefore refusing to pay rent; they may have absconded from the fields entirely, though the rescript

does not specify. Firstly, the emperors declare that a lease can be valid even without a written contract, thus a verbal agreement can be sufficient to initiate a lease. This is not surprising given the low rate of literacy in antiquity, but as this rescript demonstrates verbal contracts created problems proving the existence of a lease and the conditions agreed to. Secondly, the emperors recommend suing the *colona* to recover the full amount of unpaid rent. This rescript is purely advisory, as the text states that Aurelius will still need to prove the matter to a judge. However, armed with the emperor's advice Aurelius would have had no trouble convincing the judge of the legality of his appeal.

CJ 4.65.21 [Diocletian & Maximian – 8/10/293], to Antonia: Antonia, a landowner, leased the *fruits* (in the legal sense) of her property for a set amount of olive oil. She contracted with an unnamed party, but later attempted to renege on the deal because a different party offered her a larger rent of oil. Antonia requested imperial advice on whether it was legal to annul the initial contract and, undoubtedly to her disappointment, the emperors ruled that it was not, as long as the contract was signed in good faith. If Antonia did welch on the contract anyway, she could be sued. By extension this ruling would protect *coloni* from being evicted from their leasehold because someone else offered a larger rent for the same land.

CJ 4.65.25 [Diocletian & Maximian – 30/12/293], to Aurelius Epagathus: if a *colonus* intends to sue their landlord to claim ownership of the leased land they must vacate the land before bringing the lawsuit to court. This ruling does not have a precedent in jurisprudence or an earlier rescript and is therefore a scarce example of the promulgation of a new rule. This ruling must have been designed to discourage frivolous or unsubstantiated claims on the landlord's property by requiring the prospective litigant to surrender their livelihood to proceed; the *colonus* would need to feel secure in their claim to proceed.

CJ 4.65.28 [Diocletian & Maximian – 17/9/294], to Tuscanius Neo: landlords (or *locatores* of any kind) are able to sue for damages where fraud or neglect damages their property. However, damages that occur due to unavoidable accidents shall not incur any penalty and shall not constitute grounds for restitution. This precept of responsibility had long been enshrined in Roman

law and it continued to be a guiding principle into the Byzantine era, as Justinian enshrined it within his Institutes.⁸⁸

CJ 4.65.22 [Diocletian & Maximian – date unlisted], to Papinianus: Papinianus provided some unspecified trade or service and his services were duly and properly hired, yet he failed to undertake the contracted work. The exact question Papinianus posed to the emperors is unclear, but it is clear he was seeking advice on how to avoid culpability. The emperor responded negatively to Papinianus' entreaty, and stated that the presiding provincial judge should, after due investigation, compel Papinianus to carry out the contract rather than simply pay a penalty to the plaintiffs. This rescript set an important precedent on the enforcement of contracts, which could become binding on *coloni* following the publication of a law by Constantine – this shall be explored in the following section.

CJ 4.65.29 [Diocletian & Maximian – date unlisted], to Aurelius Julianus: Aurelius Julianus contends that his tenant (identified in the text only as a *conductor*) destroyed buildings that were in good condition prior to the lease. The issuing emperor takes Aurelius' side and directs the provincial governor to command the tenant's heir, as presumably the tenant had since died, to restore the ruined buildings. This rescript marks in a small way the heritability of responsibilities, just as earlier rescripts instituted the heritability of the lease itself. While this rescript is contrary to existing law, it does not necessarily follow that this was part of an effort to prescribe new policy. It may have been a one-off ruling to grant justice to Aurelius.

CJ 7.32.5 [Diocletian & Maximian – date unlisted], to Mennonis: echoing Alexander Severus' ruling in CJ 7.30.1, this rescript states that *coloni* could not sell the land or moveable property they were leasing, nor does the act of cultivation ever grant them title to the property. Mennonis' alleged that his *colonus* had sold the leased land, hence the petition to the emperors. Presumably Mennonis did not petition the emperors to determine whether a *colonus* could sell property leased to him, as this was unambiguously prohibited. Rather, Mennonis was presumably

⁸⁸ Book thirteen, title six of the Digests contains numerous excerpts adjudicating culpability for things hired; Inst. Inst. 3.24.6.

seeking advice from the emperors on how to remedy the situation. The emperors ordered that the matter be referred to the provincial governor, who was to conduct an inquiry and, if Mennonis' claim was substantiated, return title of the property to Mennonis.

Again, much like the rescripts issued earlier in the third century, those issued under the Diocletianic Tetrarchy are mostly remarkable for their mundanity and conservatism.

The petitioners in the third century rescripts present a cross-section of lessors and lessees, both male and female, who were involved in real disputes concerning their lease. This is in stark contrast to edicts and mandates, which were addressed to lofty imperial officials. The recipient of CJ 4.65.9, Aurelius Fuscus, was a soldier; CJ 4.65.22 was addressed to Papinianus, a tradesman; CJ 4.65.15 was addressed to Aurelia Euphrosyna, an evicted *colona*; and so forth. These rescripts provide valuable insights into the lived experience of *coloni* and their landlords, and how they engaged with public and private law, that abstract statutes and juristic opinions, stripped of their context, do not. The socio-economic standing of the rescripts' recipients is not always clear, but it is apparent that many of them were working peasant *coloni* and middling-class lessors. Humble wealth and status were not insurmountable impediments to seeking imperial assistance. In answering the petition, the emperors provided advice rather than outright resolutions. The emperors did not exercise their absolute power of executive and legislative fiat, instead they preferred to defer the matter to local judicial authorities after informing the petitioner of their legal standing. The petitioner, armed with a succinct statement of the law and procedure, could thus confidently pursue their case, or abandon it if the emperor ruled contrary to their expectations. In general, the third century rescripts upheld the legal *status quo* concerning *coloni*, and *locatio-conductio* more generally. Given the nature of rescripts, as succinct answers to targeted legal questions, one should not expect to find statements of novel policy. Not only is there scarce innovation in the rescripts themselves, there is no indication that the statutory or jurisprudential basis that underpins the rulings had changed; there are no corresponding edicts from this era that made any alterations to the traditional arrangements of *locatio-conductio* either.

The legal conservatism exhibited in the rescripts is perhaps not surprising for the laws issued by early-to-mid-century emperors, but various scholars have posited that the colonate began to take

shape under the Diocletianic Tetrarchy. There is nothing in the small collection of Tetrarchic laws to suggest that the imperial court intended to subject *coloni* to a system of quasi-bondage. In fact, there is nothing in any of the Tetrarchic laws to suggest any intent to change the *status quo*. Far from establishing a rigid subordination of the *colonus* to their landlord and to the state, the Tetrarchic laws reinforce the legal separation between lessee and lessor and lend imperial concurrence to longstanding jurisprudential norms. If the colonate, or something resembling the colonate, did originate under the Tetrarchy it did not have a statutory basis. Not only are the rescripts indicative of legal continuity, but there are no edicts or decrees that would indicate a change of policy. While several major edicts from the Diocletianic Tetrarchy, such as the currency reform or the price ceiling edict, are absent from the codes this was because they were either rescinded or fell into abeyance and therefore did not warrant codification. These major edicts are nonetheless available to modern scholarship through fragmentary inscriptions. There is no similar corpus of epigraphy that attests to even the slightest shift in how rural *locatio-conductio* operated.⁸⁹ Moreover, if Justinian's editors considered it worthwhile to include a series of relatively mundane rescripts about *coloni* and landlords, they may have also considered it worthwhile to include an edict or edicts that were foundational in redefining the governance of tenancy-based agriculture in the empire. If the Diocletianic Tetrarchy endeavoured to redefine the relationship between tenant *coloni* and their landlords, and with tenant *coloni* and the state, it is not apparent in the surviving laws.

The Condicio Colonaria & Ius Colonatus

Throughout the Principate era where the law was concerned *colonus* routinely referred to tenant farmers only. Neither farmers in general (i.e. freeholders) nor the family of a leaseholding *colonus* were *coloni* by law. Moreover, jurisprudence tended not to refer to freeholding farmers directly. Instead, farms and farmers were governed by ordinary rulings concerning landed property, servitudes, usufructs, commercial relations, etc. In Late Antiquity the legal definition of *colonus*

⁸⁹ Clausen 1925, 17.

broadened – it came to refer also to a *condicio*, a juridical status.⁹⁰ Previously, due to familial association and common share of the agricultural labour the wife of a *colonus* could have colloquially been called a *colona*, and their children *coloni*, but until the creation of *condicio colonaria* there was no legal backing to this. The introduction of *colonus* as a *condicio* extended the legal rubric of the term to include the *colonus*' family and heir(s). Therefore, someone categorised as a *colonus* according to this status was not necessarily a *colonus* proper, that is an actual lessee.

No specific statute created *colonus* as a formal status, instead it gradually appears in laws from the middle of the fourth century onwards. The concept may have developed organically, with the quaestor, *consistorium*, and lawyers using the term to describe how they now perceived *coloni* within the rubric of the law. The force of these laws, and therefore their importance, was to gradually bind an increasingly large number of rustics to the legally meaningful appellation of *colonus*. Legally, rustics were always considered *humiliores* and/or *plebei* and were therefore bound by the legal handicaps of these statuses.⁹¹ As the imperial government gradually expanded the scope of the *condicio colonaria* an increasingly large number of rustics found themselves legally classified as *coloni* and therefore subject to a raft of additional laws along with the accompanying impediments and benefits. A problem with the *condicio* within the legal codes, especially with respect to women, is that it is not always explicitly stated. In some cases, rustic women were addressed with only the term *originaria*, which by itself is not synonymous with the *condicio* of a *colona*. An *originaria* could refer to a woman born into her status (rather than acquiring it later in life), or simply born in a rural *origo*. The same would apply for male *originarii*, but whenever this term is used in the codes it is clarified with additional terminology that marks them out as *coloni originarii*. With *originariae* context and similarity with other laws are necessary to determine that the *condicio colonaria* is meant. Elsewhere in the Code of Justinian the precise term *condicio colonaria* is used, however it is completely absent from the Theodosian Code, and the Digests. This term of art was perhaps not current in legal circles until

⁹⁰ Although the term *condicio colonaria* found usage in the Code of Justinian it is only rarely used in modern scholarship but will be used herein.

⁹¹ Finley 1973, 87.

sometime after the Theodosian Code was issued, and therefore the editors commissioned by Justinian thought it appropriate to substitute earlier terminology with *condicio colonaria*.⁹²

An important precursor to the establishment of the *condicio colonaria* was the imperial state imposing inheritance of a lease as an obligation on a *colonus*' heir(s). The legal history of this development was detailed in the previous section; by the mid third century the law required heirs to complete the testator's fixed term lease. Without such a requirement the imposition of the *condicio colonaria* would be tenuous, as a *colonus*-by-inheritance would be bound by the duties imposed by the *condicio* but could alienate these duties in the short-term by refusing to take up the deceased's lease. In the long-term the *condicio* could force a *colonus*-by-inheritance to take up a lease elsewhere, but in such a case the *condicio* would be weak and difficult to enforce. Mandatory leasehold inheritances meant that the landlord would act to ensure the *colonus*' heir(s) fulfilled their duties, rather than leaving it to the state to ensure that transient *coloni* found a new place to cultivate. Thus, by the middle of the third century there was a distinct shift in how a deceased *colonus*' lease was treated. Previously where a *colonus* exercised his *potestas* as a *pater familias* he could compel his children to assist him in his agrarian/contractual duties. Upon his death his heirs became *sui iuris* and were no longer bound by their father's authority, which previously meant they could choose to discard his lease. Legal innovations of the third-century denied a *colonus*' heirs this option by making leasehold inheritance an obligation. This granted obvious benefits to both landlords and the imperial treasury. As long as the *colonus* had children there should have been little to no interruption in the payment of rent and taxes, and the fields would remain productive, allaying to a small extent the possibility of food shortfalls.⁹³

The other legal innovation necessary for the existence of the *condicio colonaria* was established by Constantine I in 332 CE, with the promulgation of CTh 5.17.1. This law established that *coloni* who abandoned their leasehold were to be forcibly returned and compelled to fulfil their

⁹² For example, CTh 10.20.10 [Gratian, Valentinian II, & Theodosius I – 14/3/380] uses *colona*, whereas the Justinianic version of the same constitution (CJ 11.8.7) uses *colonaria*.

⁹³ The tax levied on the landlord's land would remain the same even if the lease was abandoned, however the landlord might seek a reassessment or refuse to pay for land that would now be fallow. The landlord might have to summon the heir to the fields if they were not working them along with the legator.

contractual duties. Previously, the aggrieved landlord was able to determine about what to do with a fugitive *colonus*. They could elect to recover unpaid rent from the period the *colonus* was gone but retain them as a tenant, or they could endeavour to have the contract annulled and recoup their losses by confiscating the *colonus'* *hypotheca*. Constantine denied them that choice. This law represents a distinct shift in ancient agricultural labour relations and is perhaps the single largest instance of public law overriding centuries-old tenets of *locatio-conductio*, an aspect of private law, to date. Jones declares it the “first clear evidence that *coloni* ... were tied to their farms”, and he is not alone in considering it a cornerstone of the colonate regime..⁹⁴ This law, seemingly a summation of the central tenets of the colonate, is worth quoting in full:

Imp. Constantinus A. ad provinciales. Apud quemcumque colonus iuris alieni fuerit inventus, is non solum eundem origini suae restituat, verum super eodem capitationem temporis agnoscat.

I. Ipsos etiam colonos, qui fugam meditantur, in servilem condicionem ferro ligari conveniet, ut officia, quae liberis congruunt, merito servilis condemnationis compellantur implere. Dat. iii. kal. Nov. Pacatiano et Hilariano coss.

Emperor Constantine Augustus to the Provincials

If anyone is found with a colonus who is subject to another's authority he shall not only return the *colonus* to his *origo* but also make good the *capitatio* owing for the same time.

I. Furthermore, *coloni* who consider flight shall be bound in irons and reduced to a servile condition, so that by virtue of their servile penalty they will be compelled to fulfil the duties that befit free men.

Code of Theodosius 5.17.1 (30 October 332)

This edict was issued *ad provinciales*, to everyone in the empire, meaning that the law should be read as having universal remit from the moment it was issued. Constantine intended to effect swift and meaningful change on leased farms across the empire. A cursory reading of the edict would seem to confirm that *coloni* were subjected to harsh restrictions on their freedoms. A more thorough analysis however reveals that this constitution is not as straightforward as it appears. The forthcoming examination of this law is a test case for the applicability of the notion of the colonate more generally,

⁹⁴ Jones 1958, 1.

within Africa and across the empire as a whole. The contents of the constitution shall be broken down into four discrete topics to simplify discussion:

I. Which *Coloni*? *Sui Iuris* and *Iuris Alieni*

The relevant *coloni* in the constitution are referred to as *colonus iuris alieni*, an uncommon legal term of art; how this phrase should be understood is unclear. *Iuris alieni* by itself is a standard legal term and simply denotes someone who is not *sui iuris* – someone who has full legal competence. The exact phrase “*colonus iuris alieni*” occurs in only one other constitution, CTh 5.17.2 [Gratian, Valentinian II, & Theodosius I – 25/10/386], which imposes substantial fines for people who harbour fugitive *coloni*. Pharr translates it as “...a *colonus* belonging to another...”, implying a sort of ownership, which is indicative of the thought on the colonate at the time. There is presently no agreement on how this phrase should be understood. Jairus Banaji for instance takes a traditional approach to this law, arguing that the *coloni* were subject to the full *potestas* of their landlord, which in his words denoted being under a ‘household dependence’.⁹⁵ To this end he situates the law in a larger legal context, citing material from the fourth to sixth centuries. There are two main problems with this approach. Firstly, the argumentation is anachronistic. Banaji utilises the legal context of Justinian I’s reign to explain how a fourth-century constitution operated in a fourth-century context, thereby assuming the colonate was a deliberate policy fully in-place by the later years of Constantine I’s reign. Secondly, his definition of the distinction between *sui iuris* and *iuris alieni* derives from a single passage from Justinian’s Digests, which is only a small excerpt from a longer discussion in Gaius’ *Institutes*. The passage from the Digests is defective as it opens by stating it will define who is *sui iuris* by providing a list of counterexamples, but then proceeds to list only slaves, the most extreme example of someone being under *iuris alieni*.⁹⁶ The original passage from the *Institutes* contains a much longer discussion on the different classes of *iuris alieni*, which carried some legal weight until the publication of Justinian’s Digest. For example, members of a Roman family who were subject to a *pater familias* were not *sui iuris*, but it would be wrong to state that they were unfree

⁹⁵ Banaji 2007, 206–12.

⁹⁶ Dig. Iust. 1.1.6.1 [Gaius *Institutes* Book 1].

or bound as a result. Neither a *colonus* nor a subordinate family member possessed full legal competence, however the impediments to their personal legal capacity were circumscribed and would not interfere with daily life. At no point in Roman, or Byzantine, history were *coloni* subject to the arbitrary authority of their landlord in a manner comparable to slaves.

Interpretation of this law and the concept of *colonus iuris alieni* is so open-ended that practically every theory of the colonate has justified itself on this basis. Aleksandr Koptev vacillates between reading *colonus iuris alieni* in its Constantinian context as referring to settled barbarian prisoners-of-war, or simply to *coloni* in general.⁹⁷ Mirković posits that a *colonus* became *iuris alieni* due to rental arrears, which granted the landlord extraordinary authority until the debt was repaid – an almost impossible feat she claims.⁹⁸ On this single point alone it is possible to write a full literature review. Rather than engage in such a lengthy discussion, a simpler and preferred reading for *colonus iuris alieni* shall be suggested instead. In the context of the fourth century, thus when Constantine originally promulgated the law, a *colonus iuris alieni* was any *colonus* who had an ongoing lease contract, thus referring to *coloni* in general. As discussed, no *colonus* was *sui iuris* on account of their lease contract, which had them subject to their landlord in a limited sense.

A *colonus* was in a very limited sense subject to a landlord. *Coloni* were not considered *sui iuris* owing to their contractual requirements to provide rent, corvée labour, and pledge property as security. Because of these duties *coloni* imposed real, but restricted, impediments on their rights to movement and property. An independent *plebeius rusticus* on the other hand was considered *sui iuris* because he had no limitations on his legal capacity except those prescribed by law, which were not considered impediments *per se*. Restrictions on *plebeii* arose from public, nor private, law and were therefore not personal obligations.

II. Landlords' Right to Restitution

Therefore, the edict relates to *coloni* in general, and states that *coloni* who have absconded from their duties, that is they have abandoned their leased fields and thus their contract, are to be

⁹⁷ Koptev 2009, 264–70; 2012, 306–7.

⁹⁸ Mirković 1997, 47–64.

returned, by force if necessary. However, as already mentioned, *coloni* never had the right to arbitrarily abandon a lease – there was always a penalty involved (if caught). What this law introduced was the right, or the obligation even, for landlords to forcibly retrieve *coloni* who absconded from their duties. Prior to this law landlords had two avenues for legal recourse. Firstly, they could bring a suit against the fugitive seeking damages for breach of contract.⁹⁹ Secondly, a landlord could utilise the *actio Serviana* to seize the *colonus*' *hypotheca*, which ordinarily encompassed all the property the *colonus* brought onto the leased land. If the *colonus* offered a monetary surety or a pledge from a guarantor, then the landlord would pursue these sources for restitution. However, the unexpected flight of a *colonus* could have caused substantial financial burdens for a hapless landlord even if they did seize the *colonus*' *hypotheca*. If the *colonus* was an *adscripticius* – a taxable dependant of the landlord – then taxes were still due for the *colonus* as well as for any abandoned crops and animals.¹⁰⁰ A landlord could minimise losses by assuming care for the absent *colonus*' land, thereby ensuring it remained productive. The *capitatio humana* that was owed for the absent *colonus*' person was still due, hence the requirement that anyone harbouring the *colonus* shall be required to pay the full measure of this tax as compensation. If the *colonus* could not be retrieved the landlord would either have to continue paying the *capitatio* until the next census, which could be years away, or seek a tax reassessment in the interim.¹⁰¹ This measure further strengthened a landlord's ability to minimise losses if a *colonus* should flee by providing a legal mechanism to force fugitives to resume their leases thereby preventing either the leasehold becoming *ager desertus* or potentially costly redistribution of labour to fill the place of the fugitive.

III. *Origo*, Birthplace, and Duties

The law specifies that the *colonus* is to be returned to be *origini restituat*, restored to his *origo*. The concept and implications of *origo* for *coloni* will be discussed in further detail in the following chapter. In short, *origo* has a legal meaning that denotes municipal citizenship via

⁹⁹ Dig. Iust. 19.2.24 [Paulus *Edicts* Book 34]; as this opinion was authorised in the Digests it follows that a landlord could still bring an action against a fugitive *colonus* for damages and follow the law and have him recovered.

¹⁰⁰ Kehoe 2007, 178–80.

¹⁰¹ CTh 11.1.7 [Constantius II – 3/5/361] provided tax exemptions to senators in the event *coloni* fled from their estates, but presumably every other landowner was still liable; (Silver 2017, 7; contra Mirković 1986, 56).

birthright, and it also has a more general meaning of ‘birthplace’. Pharr and numerous scholars have interpreted *origini* in this context as indicating ‘birthplace’.¹⁰² However, instead of reading *origo* as either birthplace or to mean birthright citizenship, it ought to be read in a more generic sense – the *colonus* should be sent back to where they came from, namely the fields they absconded from. This is a demonstration of the ambiguity that exists in Roman law, where certain words have common and specialist definitions and are both used in law without a clear way to distinguish which is meant. It is possible that the drafters of this law supposed that nearly all *coloni* were the children of *coloni*, and thus it is likely that fugitives were fleeing from a familial lease, hence utilising a convenient term to refer to this. Further, if *origini* was meant as “birthplace” then there is some ambiguity regarding the law’s applicability. If the fugitive was a first-generation *colonus*, and therefore the estate was not their birthplace, should they be compelled to return? Was simply living within the estate in conjunction with a current tenancy agreement sufficient grounds to permit forcible recall of fugitive *coloni*? The law does not provide enough detail to determine whether this is so, however it would be strange for the state to provide an exemption to forcible recall to first-generation *coloni*. The rationale for the forced return fugitive *coloni* was based on them being *iuris alieni*, a legal condition common to all *coloni* regardless of whether they were a *colonus* by birth or by contract.

IV. Penalising Fugitives

Lastly there is the matter of the punitive action taken against captured fugitives. The text of the law stops short of actually condemning the fugitive to slavery proper, rather stating that they should be punished *like* a slave. That is, a fugitive *colonus* should be retrieved and treated in the same manner that a fugitive slave would be – being bound in chains and forcibly returned.¹⁰³ The fugitive’s punishment was a temporary measure, and upon his return to the estate they resumed their duties as a free tenant farmer. The idea put forth by Robinson, Gascou etc. that returned fugitives were confined to an estate prison (*carcer privatus*) has been thoroughly overturned by Hillner.¹⁰⁴ Moreover, Hillner

¹⁰² Blume’s translation of the Justinianic Code also treats *origo* as ‘birthplace’.

¹⁰³ Koptev 2009, 267.

¹⁰⁴ Hillner 2015, 163–85 argues that *carceres privati* were repurposed spaces within a Roman household, not an organised and purpose-built prison structures.

also cogently argued that landlords would greatly prefer their returned *colonus* resume productive work rather than languor in a cell.¹⁰⁵ Instead, upon their return *coloni* might be subjected to flogging or be degraded by being forced to wear a neck collar, just as fugitive slaves were.¹⁰⁶ The punishment imposed was subject to judicial interpretation, which was shaped by the broader socio-political environment. Contrast the text of the law with the *interpretatio* appended to the identical constitution in the Breviary of Alaric [Brev. 5.9.1], which unambiguously condemns the fugitive to slavery.¹⁰⁷ Between Constantine I original publication of the law in the early fourth century and Alaric II's republication in the early sixth there must have been considerable redefinition of the social and legal standing of *coloni* to permit such widely divergent punishments based on the same text. With this in mind it is important to remember that the political and legal context can, and did, change during the centuries of Roman rule as well. Regarding this law the effect is even more marked, as the law has the potential to adversely affect swathes of the population while being incredibly brief (a scant forty-three words in the Latin text) and lacks any supporting or explanatory material.¹⁰⁸ The text of the law was static but that does not mean its implementation was.

This concludes the analysis of this edict. Constantine's law certainly represented a change from the Principate-era *status quo*, but the force of his law is not as great as has often been supposed. *Coloni* were not assimilated to slaves, nor were they arbitrarily bound to estates. Landlords did gain a new legal avenue to prevent their *coloni* fleeing their contractual responsibilities in addition to the existing means of restitution. It is difficult to say how often a landlord would pursue a fugitive and how effective such a pursuit would be. It might have been the case that landlords would prefer to confiscate any assets the fugitive left behind and just find a new tenant for the abandoned land.

¹⁰⁵ Hillner 2015, 163–85. Further, imprisonment was generally considered a temporary measure pending trial, payment of fines, or execution, or a serious measure imposed only in especially serious circumstances; cf. Bauman 1996, 12–18, 30, 34, 47, 136–39.

¹⁰⁶ Flogging is a somewhat common punishment allotted for *coloni* in Late Antique law, cf. CTh 16.5.52 [Honorius – 30/1/412], NJ 22.17 [Justinian I – 17/3/536], etc.

¹⁰⁷ The text of CTh 5.17.1 from the reconstructed Theodosian Code is identical to its counterpart Brev. 5.9.1, meaning that differences in judicial interpretation did not arise from a difference in the text of the law itself.

¹⁰⁸ The law's text might have been amended or condensed since it was issued, particularly during the codification process. Moreover, the impetus for the law is unknown. It is unclear whether Constantine promulgated the law in response to petitioners, or whether it was conceived solely by the imperial chancellery.

The kernel of the *condicio colonaria* – the basis for binding *coloni* to their land – was created gradually, taking decades to come together. An alternative technical term for the new relationship between *coloni* and their landlord and the state would appear to be *ius colonatus*, but the evidence is more complicated than it first appears.¹⁰⁹ The term *colonnate* (and its cognates in other European languages) is a modern invention that derives from the *colonatus*, a Late Latin neologism. *Colonatus* is a *nomen actionis* that itself derives from the term *colonus*. A *nomen actionis* denotes the action or actions undertaken by the word it derives from. So, in the case of *colonatus*, it would seem to define and/or regulate the conditions of *coloni*. *Colonatus* rarely appears in Late Roman texts: it appears only once in a literary context, otherwise it is only used in Roman legal codes, and then it is only used in just six separate occasions. What the *ius colonatus* is, or what it is envisioned as, is not directly defined in either statute or jurisprudence. The latter is not surprising, since the authorship of novel jurisprudence had effectively ended by the time *colonatus* entered the Roman legal lexicon. Moreover, only two laws directly use the phrase “*ius colonatus*”, the rest rely on inference to connect *colonatus* with *ius*. The idea of a “*ius colonatus*” was foundational to von Savigny’s original formulation of the idea of the colonate, and the mere existence of the *ius colonatus* in Roman law helped solidify the idea that the colonate was an intentional and conscious invention of the imperial state.¹¹⁰ Despite the nomenclature, the laws which reference the *ius colonatus* are not necessarily indicative of the lived conditions of, or restrictions imposed on, tenant *coloni per se*. *Ius colonatus* was invoked to either describe or impose a legal position of other groups of people that might also be referred to as *coloni* in a generic sense. The *coloni*, whether tenants or not, described in association with *ius colonatus*. Throughout this section the meaning of *coloni* as a tenant, which is the default definition ordinarily herein, shall be contrasted against *colonus* as a farmer in a general sense. A brief study of the relevant laws shall demonstrate the tenuous relationship between *ius colonatus* and tenant *coloni*:

¹⁰⁹ Banaji 2001, 211; Koptev 2012, 309; Grey 2011, 161–63.

¹¹⁰ Cordovana 2014, 482–83; von Savigny 1822.

CTh 12.1.33 [Constantius II – 5/4/342], to Rufinus, *comes* of Oriens: certain decurions were attempting to evade their compulsory municipal services (*munera*) by taking out a leasehold on an estate owned by the emperor's *res privata*. *Coloni* on such estates enjoyed a special privilege that exempted them from performing civic *munera*. The text of the law specifically states that is privilege is “*privilegia ... colonatus iure*”. Opportunistic decurions wanted to exploit the privilege offered as part of the *ius colonatus*, which was presumably intended to free poor *coloni* from excessive burdens and ensure their fields did not suffer. For a decurion, who possessed some wealth and means, being enrolled as a *colonus* would not have any impact on their other landholdings or business interests. In order to counter this fraud, the law prohibits anyone with private landholdings and more than twenty-five *iugera* leased from the imperial *res privata* shall forfeit the *colonus*' freedom from civic *munera*. This law, therefore, clearly refers to tenant *coloni* and a privilege that was broadly understood to be a constituent element of the *ius colonatus*, but the force of this law had nothing to do with *coloni* directly. This law only sought to retain a privilege of the *ius colonatus* for those who were considered proper tenant *coloni*. Freeholding farmers, who could also be considered under the rubric of *colonus*, had no claim to this privilege.

CTh 14.18.1 [=CJ 11.26.1; Gratian & Valentinian II – 20/6/382], to Severus, Prefect of Rome: to reduce the problem of urban mendicancy anyone who informs on an able-bodied beggar shall receive him as a slave if he is of servile status, or subject to “*colonatu perpetuo*” if he is free. Since this law does not use *ius* in conjunction with *colonatu*, nor is there any mention or reference to tenancy, this law mandates that a free beggar shall be rendered to the informer as a compulsory and perpetual *colonus* farmer, not as a tenant *colonus*. In this case the beggar-farmer is comparable to a serf in that he would technically be free, but he would be bound by rules and subject to a master without end. This is an extraordinary measure, and considering it was issued to the Prefect of Rome it was likely envisioned to reduce the idle, potentially unruly population of the city, ease the burdens of the *annona*, and provide a supply of agricultural labour for farms in Rome's hinterland.¹¹¹ Provisions

¹¹¹ Grey and Parkin 2003; Grey 2007a, 161–63; Grey and Parkin further consider that the desire to expel malingering vagrants arose from a longstanding plutocratic and imperial fear of the potentially seditious and revolutionary potential of the urban mob, and that there was an underlying concern for preserving boundaries

of this sort are not repeated in any other law, and only Constantinople could compete with Rome for overall civic and vagrant populations anyway.

CTh 12.19.2 [=CJ 11.66.6; Arcadius & Honorius – 29/6/400], to Vincentius, Prefect of Gallia: if a *colonus* serves on a municipal council, guild, or at a border fortress for thirty years, forty if in a foreign province, he shall be immune from any questions or actions regarding their rightful status as a *colonus*. Any impediments, duties, or rights arising from the *ius colonatus* are extinguished regardless of whether the *colonus* was from a private or imperial estate. Extraordinarily, the text of the law refers to “*colonatus quis aut inquilinatus*”. This is the only usage of the term *inquilinatus* in any legal text; ordinarily *inquilini* are conflated with *coloni*, and as a result *inquilini* would normally be covered under the heading of *colonatus*.

This law seems to have had the presumptive heirs of tenant *coloni* in mind, that is those who were going to inherit a lease from their parent(s). This law would not make sense if it referred to farmer *coloni* as their legal connection with the land did not preclude them leaving it (though they were not supposed to abandon their land); the reference to *inquilini* also reaffirms the reference to tenants, not mere farmers. Numerous laws imposed on *coloni* the requirement that they not vacate their fields, but this requirement only became binding on an heir of a *colonus* upon their inheritance – after the death of the testator. Someone set to inherit the duties of a *colonus*, or someone who had inherited a leasehold but failed to return to undertake the associated duties, would be vindicated from his duties if he had performed the listed services. It would be a difficult feat for a fugitive *colonus*, already an adult, to undertake thirty or forty years of professional service while remaining alive and undiscovered.

CTh 5.6.3 [Theodosius II – 12/4/409], to Anthemius, Prefect of the East: the Scyri were a barbarian people defeated by the Eastern Empire, who were then settled as farmers – this law sets out the terms of their settlement. Notably, it subjects the Scyri to the *ius colonatus*, forcing them to become farmers. The constitution prohibits anyone from using their labour except as is permitted

between urban and rural. They however consider that the *colonatus perpetuus* that vagrants were condemned to was a form of tenancy.

for *coloni*. That is, the settled Scyri are settled with the same rights and duties as *coloni*, but they are only *coloni* in the sense of settlers, not as tenant farmers. The text of the law does specifically call them *coloni*, but further defines their status by stating “*ex hoc genere colonorum*”, that is that the Scyri as *coloni* form their own special class. They are not to be regarded as legal equals to either a free tenant *colonus* or a free farmer *colonus*. They are a category of subjugated dependents being settled as compulsory farmers. *Colonatus* assimilates some of the restrictions of a tenant *colonus*, namely the prohibitions on flight and the limited legal dependency on a *dominus*, onto the Scyri as a matter of convenience.¹¹²

The edict on the Scyri was supposed to be definitive evidence that the colonate was formed from barbarian settlers across the empire.¹¹³ The evidence for the *ius colonatus* instead suggests that in this one instance the Scyri were settled according to rules and regulations that existed for a different group of people – tenant *coloni*. Barbarian settlement does not account for how the colonate would reach Africa. Advocates of the theory list the numerous settlements of barbarians in Germania, Gallia, Pannonia, Dacia, Italy, and other parts of the empire, but they struggle to list occasions when settlement occurred in Africa, or Egypt, or the east.¹¹⁴

NVal 27.1 [Valentinian III – 20/7/449], to Firminus, Prefect of Italy: the emperor registers his disgust that the privileges afforded to retired members of the imperial service, specifically guards and bureau officials, are not enough to support them and that they are being harried by “shameful” lawsuits. As a result of the damage caused by this litigation, the aged retirees are being forced into “*vilissimi colonatus*”. To protect honourable imperial service retirees (and prevent other unrelated abuses), a statute of limitations of thirty years is imposed on all new lawsuits. While the life of a tenant *colonus* was unenviable from an aristocratic perspective and ranked poorly on the Roman social hierarchy, this law does not necessarily relate to tenancy. The usage of *colonatus* is comparative. Distressed retirees are being forced into the livelihood of a poor farmer due to their poverty; a freeholding farmer could be as poor and considered almost as lowly as a tenant if his assets

¹¹² Grey 2011, 156–60.

¹¹³ Clausen 1925, 34–35, 37–39; Wenck 1825, 284–89.

¹¹⁴ Zumpt 1845, 11, 16–37; Clausen 1925, 47–48.

were meagre. The addition of *vilissimi* to *colonatus* is to distinguish the harsh and laborious farming life of the rural poor, and thus the supplicants of this law, from the socially respectable farming of the propertied classes. Thus, this law does not specifically state that the retirees are enrolling themselves as *coloni* nor does it specifically refer to the *ius colonatus* or certainly have any direct connection with tenant *coloni* at all.

ACD 9 [Justinian I – 22/9/558], to John, Praetorian Prefect of Africa: following the Byzantine conquest of Vandal Africa, Justinian promulgated a law, ACD 6 [Justinian I – 6/9/552], that prohibited anyone from recalling a fugitive *colonus* who fled during the Vandal era. This first law was disobeyed to such an extent that Justinian was prompted to effectively republish the same law, though the latter version is far more emphatic in its language; a weighty penalty of five pounds of gold is levied against anyone who violates this law. Again, Vandal-era fugitives are protected from recall, but a specific amnesty is granted to those who were properly subject to *ius colonatus* who had since become priests in the Catholic Church. This is a clear reference to tenant *coloni*, as freeholding farmers were in no way subject to recall or ordinarily suffered any forbiddance in joining the clergy. This law retroactively suspended two regulations against tenant *coloni*: the right for landlords to recall them, and the prohibition against *coloni* enrolling in the church clergy.

Aside from the legal texts, there is the single literary use of *colonatus*, which appears in Victor of Vita's account of Vandal cruelties against Catholics in Africa:

...Iurantibus dictum est: quare contra praeceptum evangelii iurare voluistis, iussit rex ut civitates atque ecclesias vestras numquam videatis, sed relegati colonatus iure ad excolendum agros accipiatis, ita tamen ut non psallatis neque oretis aut ad legendum codicem in minibus gestetis; non baptizetis neque ordinetis aut aliquem reconciliare praesumatis.

...To those who swore this was said: "since you were willing to swear, which is contrary to the teachings of the Gospels, the King has ordered that you never see your cities and churches, but you are banished to the legal status of a *colonus* (*ius colonatus*) and shall receive fields to cultivate. Furthermore, you are to neither sing psalms nor pray, and nor

shall you carry a book (Bible) in your hands to read from. You shall not baptise nor ordain, and nor shall you presume to reconcile anyone.”

Victor of Vita *History of the Vandal Persecution* 3.20

Victor’s description of Huneric’s, the Vandal king at the time, condemnation of obstinate Catholic clergymen is reminiscent of the settlement of the Scyri under Theodosius II. The sentenced African clergy are involuntarily settled on land according to terms resembling or derived from the *ius colonatus*. In addition to the judicial ban on indulging in any Christian rites, this sentence also imposed a substantial degradation of social and economic status from clergymen to *colonus*. As Victor was a bishop, not a lawyer, he might have been better off describing the sentence as reducing the clergy to the *condicio colonaria*, imposing on them and their descendants the duties of a farmer. Unfortunately, where the clergy were banished to is unknown; it is possible that they did become an involuntary tenant *colonus* if they were forcibly settled on the king’s *res privata* or similar. However, while the condemned clergymen may functionally resemble tenant *coloni* the given the additional judicial restrictions placed on them makes them a *sui generis* category of semi-unfree farmers, just as the Scyri are described as *ex hoc genere*.

From the seven occurrences of *colonatus* just listed, more often than not there is ambiguity whether the person or persons used in connection with *colonatus* are actually a *colonus* in the sense of a farmer with a contractual lease, or at least those burdened by the *condicio colonaria*. The laws treating urban beggars and the settlement of the Scyri certainly do not deal with tenant *coloni*, nor does it involve anyone who would become a tenant *colonus*. The Vandal condemnation of Catholic clerics to the status of a *colonus* is comparable to the treatment afforded to beggars and the Scyri, namely that it was an involuntary status forced upon them. In the case of the Vandals it was used as an extrajudicial penalty.¹¹⁵ Valentinian’s law on ex-imperial serviceman is ambiguous. It is clear that the destitute retirees are being forced into farm work of some sort, otherwise there would be no need to use the term *colonatus*, but there is no indication that they were forced to sign agrarian leases to make ends meet. Itinerant work as a wage labourer, or work as a peasant freeholder are equally possible.

¹¹⁵ Lenski 2017, 142–46.

Given that the retirees were allegedly being harangued by lawsuits it is possible their status is due to indebtedness, which could result in them becoming a debt bondsman.¹¹⁶ Honorius' law that thirty years of service shall extinguish duties owed as a *colonus* definitely refers to *coloni*, but it is possible that the law also refers to other classes of people subject to the *ius colonatus*. For example, if a Scyri or an heir thereof performed one of the prescribed services he too might be liberated from the duties imposed on him by the *ius colonatus*. Similarly, Justinian's law could also include those involuntarily subjected to the *ius colonatus*, such as the aforementioned banished clerics.

Why were these laws treating barbarian settlers, banished Catholic clergy, imperial retirees, and other groups of people as if they were tenant *coloni*? The answer lies in the diversity of the term *colonus*. The introductory paragraph introduced *coloni* as tenant farmers, which is an accurate use of the word, but it is not the only possible use of the word *colonus*. *Colonus*, in its most basic sense, simply meant farmer, especially a settler farmer. Etymologically, *colonus* derives from the root verb *colo* -ere, meaning "to cultivate" or "to inhabit". As Roman socio-economic organisation grew over the centuries new definitions branched from the generic meaning of *colonus*, and other related words also emerged from the same root word. By Late Antiquity *colonus* could denote a farmer in a generic sense, a tenant farmer specifically, a slave settled in the manner of a *colonus*, or in a somewhat antiquarian sense to a settler colonist. Further, throughout Roman history an increasingly large vocabulary of supplementary colloquial, administrative, and legal terms emerged throughout Antiquity to describe different classes of *coloni*, similar types of tenants, and the lands they inhabited and worked. The introductory matter to the tenth book of Augustine's *City of God* outlines his understanding of what *colonus* meant in the context of early fifth-century Africa.

Nam ex hoc verbo et agricolae et coloni et incolae vocantur, et ipsos deos non ob aliud appellant caelicolas nisi quod caelum colant, non utique venerando, sed inhabitando, tamquam caeli quosdam colonos; non sicut appellantur coloni, qui condicionem debent genitali solo, propter agriculturam sub dominio possessorum, sed, sicut ait quidam Latini eloquii magnus auctor: "Urbs antiqua fuit, Tyrii tenuere coloni." Ab incolendo enim colonos vocavit, non ab agricultura.

¹¹⁶ Mirković 1997, 44–45, 62.

For from this word [*colo*] we get the words *agricola*, *colonus*, and *incola*, and the gods themselves are called *caelicolae* for no other reason except that they inhabit and “cultivate” the sky, not by worshipping it, but by dwelling in it, as though they were a settler (*colonus*) of the heavens. This is not meant in the same way as (agricultural tenant) *coloni*, who owe their status to the land they were born on, and are so-called because they cultivate land under the dominion (full legal power of ownership) of its owner, but just as that great author of Latin speech (Virgil) said: “there was an ancient city held by Tyrian settlers (*coloni*).” They were called *coloni* because they lived there, not because they cultivated that land.

St. Augustine *City of God* 10.1

The lexical diversity of *colonus* is clear to Augustine. Similarly, the etymology of *colonus* and other similarly derived words was apparent to Augustine. Isidore of Seville’s *Etymologies* gives a similar definition, with greater emphasis on antiquated usages of the word:

Coloni sunt cultores advenae, dicti a cultura agri. Sunt enim aliunde venientes atque alienum agrum locatum colentes, ac debentes conditionem genitali solo propter agri culturam sub dominio possessoris, pro eo quod his locatus est fundus. Coloni autem quattuor modis dicuntur. Nam coloni aut Romani sunt, aut coloni Latini, aut coloni auxiliares, aut coloni ruris privati. Inquilini vocati quasi incolentes aliena. Non enim habent propriam sedem, sed in terra aliena inhabitant.

Coloni are foreign settlers, so-called because they cultivate farmland. For they come from elsewhere and cultivate foreign land that they have leased, and owe their condition to the fruitful soil and because they cultivate land under the control of the owner, in so far as the estate was leased to them. We speak of four types of *coloni*. There are Roman *coloni*, Latin *coloni*, auxiliary *coloni*, and *coloni* of private lands.

Inquilini are so called as though they are the inhabitants of another. For they do not own their own home but live on another’s land.

Isidore of Seville *Etymologies* 9.4.36-7

The application of tenant *coloni* rules and regulations to non-tenants was a legal contrivance. In a broad sense the beggars, bishops, and barbarians were made into kinds of *coloni*. They were not tenants, they were settlers – settlers that were bound to the patrimonial power of an individual or the

state. Only one law, Constantius II's law on decurions avoiding their *munera*, refers to *coloni* as tenants, and tenancy in general, without ambiguity. Even in the case of this law it did not involve any matter concerning the tenancy agreement *per se*, rather it was concerned with preventing tenancies from facilitating fraud. *Ius colonatus*, at least in the examples of usage that survive, does not seem to regard matters of contractual leases, at least not directly. Rather, the *ius colonatus* as it appears in the laws, and in Victor of Vita's history, concerns the rights and duties that *coloni* as farmers had irrespective of status as tenants.

Ius colonatus is used instead to apply the *condicio colonaria* to people who were not properly *coloni* according to the law. *Colonatus* did not define a *sui generis* legal category, and by extension neither did *ius colonatus*. The *ius colonatus* was derived from the position of *coloni* vis-à-vis the law, but it was not exclusive to them. The empire could, and did, apply the *ius colonatus* to other classes of agricultural settler where it was deemed that there was sufficient overlap in the circumstances and socio-political standing. The *ius colonatus* could be employed as a tool of convenience. The empire had a ready-made set of duties and obligations for a widespread category of farmer (*coloni*), and therefore it was expedient to apply these same duties and obligations onto other categories of farmer via the *ius colonatus*. *Ius colonatus* was invoked by legal drafters to create a sort of pseudo-*colonus*, who were bound by the restrictions imposed on *coloni* proper. Rules that derived from tenant *coloni* could, and were, generalised without affecting the legal standing of the tenant *coloni* themselves. Because the *ius colonatus* was extended to persons who were not tenants it would not make sense to incorporate matters relating to tenancy into it. Further, matters of tenancy were primarily a private law concern, which may have prompted Late Antique legal thinkers to consider such matters separately from the *ius colonatus*. Thus, while the Scyri did not enter into a lease contract, or any contract for that matter, they could still be subjected to the *ius colonatus* as they were farmer-settlers. It is important to note that the Scyri had additional restrictions placed on them that were not part of the standard *ius colonatus* – it was an extensible framework.

The *ius colonatus* as presented is less informative than it would seem. In the laws where it is invoked it is amended or clarified for specific circumstances, not defined. The laws come from all

regions of the empire. It is possible that the inclusion of *colonatus* in some, or all, of these constitutions is a distortion arising from interpolation wherein the editors replaced some other phrasing with *colonatus*. However, considering that *colonatus* is only used so infrequently it cannot have been a standard term – it would have been an unusual choice for an editor to insert *colonatus* in place of another term. In all likelihood, *colonatus* was present when the constitutions were originally drafted, and it was assumed the recipient could infer the meaning. *Ius colonatus* as it was used was a generalised and extensible by-product of the rules and regulations governing *coloni*. Certainly, *coloni* were bound by the *ius colonatus*, but how barbarian prisoners of war, recalcitrant African bishops, etc. fared under a statutorily or judicially amended *ius colonatus* is not the primary purpose of the colonate either as a supposed imperial institution, nor as an explanatory framework. So, instead of using the *ius colonatus* as encapsulated in a handful of semi-related laws to define the condition of the *coloni*, it would be more appropriate to analyse the various laws concerning *coloni* to define a more robust and accurate *ius colonatus* specific to tenant *coloni*.

Thus, *colonatus* was a derivation of the *condicio colonaria*, not the other way around. The *ius colonatus* laws attributed rules or regulations to disparate groups of people based on the pre-existing rules that existed for *coloni* who were affected by the *condicio colonaria*. Some of these rules have their origin in jurisprudence, such as the prohibition on performing *munera*, not in Late Antique legislation. Together, these two legal aspects created the foundation for the *condicio colonaria*. However, the term *condicio colonaria* would not appear in any legal text for more than thirty years after Constantine published his landmark edict. The first unambiguous attestation of the *condicio colonaria* dates to the Valentinianic era law:

CJ 11.68.4 [Valentinian I & Valens – ??/??/364], to Florianus, *Comes* of the *Res Privata*: henceforth per this law the children born of a free father and a servile or *colona* mother shall inherit the mother's status; in the latter case the status is the *condicio colonaria*. Roman jurisprudence considered the matter of a newborn's status extensively and curiously this law diverges from the established norm. Ordinarily, a child born from a lawful marriage would inherit the father's status,

elsewise the child inherits the mother's status.¹¹⁷ The text of this law is indiscriminate – any child born to a servile or *colona* mother will inherit her status without consideration of whether the child was conceived within or without of marriage. Under longstanding Roman law, a marriage required mutual legal capacity – *connubium* – to be valid.¹¹⁸ Slaves ordinarily did not possess *connubium* meaning that they could not contract a valid marriage; any child born to a female slave would inherit her status regardless of other considerations.¹¹⁹ A *colona* on the other hand was a fully enfranchised Roman citizen and thus no issue regarding *connubium*. Furthermore, the law does not call into question the validity of the marriage (if there was one) but simply assigns the mother's status to any children. The recipient of this law is interesting – it was dispatched to the *comes* of the *res privata*. The likely intent of this law was to shore up the number of agricultural labourers on the emperor's estates by reducing the social mobility of children born on said estates. Given the targeted addressee this law was not intended as a general measure, and therefore children born outside of the *res privata* would continue to inherit their status according to standard Roman procedure.

Although this is the first law to invoke the *condicio colonaria*, it is not the first law to set out new procedures for status inheritance specifically for rustics. Constantine I began the process of setting out new rules for rural labourers:

CTh 4.12.3 [Constantine I – 27/1/326], to the People: this law sets out that freeborn women who marry fiscal (imperial) slaves shall no longer forfeit their freeborn status, and any children born of such unions shall have Latin status – an intermediary status between servile and free.¹²⁰ The remit of this law is limited to imperial slaves and those born (*originariis*) on imperial property; the law specifically names *patrimonia fundorum*, emphyteutic estates, and the *res privata*. Unions between free women and servile men in cities remain bound by longstanding status laws, as

¹¹⁷ Dig. Iust. 1.5.19 [Celsus *Digest* Book 29], 1.5.24 [Ulpian *On Sabinus* Book 27].

¹¹⁸ Ulpian *Epitome* 5.3-5, 8-10.

¹¹⁹ Laws regarding family matters are riddled with exceptions, several of which will be introduced in the coming discussion.

¹²⁰ Per the *Senatus Consultum Claudianum* free women could marry male slaves if the slave's master consented; Harper 2010, 610–11, 637–38; Sirks 1994.

do their children. While this law is only concerned with slaves it nonetheless demonstrates that separate rules governing status for rustics were already developing under Constantine.

The process of redefining status inheritance continued throughout Late Antiquity. New legislation outlining inheritance procedures continued to be promulgated even under Justinian:

CJ 11.48.21 [Justinian I – ??/??/530], to the Senate: the children of a *colonus adscripticius* and a slave shall inherit the mother's status, regardless of whether she was the *colonus* or the slave; this law does not grant *coloni censiti* such leeway for status inheritance. This law does not consider whether the parents were married, and therefore there is no consideration of *connubium* with respect to this law. If there was *connubium* a case *could* be made for the child inheriting the father's status (supposing he was the *colonus*). Instead, this law simply overturns the ancient requirement that if the mother was a slave then the child would also be a slave regardless of the father's status.

Although the previous three laws put in place new procedures for semi-matrilineal status inheritance, subsequent legislation did not follow this precedent exclusively. Honorius instituted a system of strict patrilineal descent for half of his domains:

CJ 11.48.13 [Honorius & Arcadius – 29/6/400], to Vincentius, Praetorian Prefect of Gallia: this law opens by declaring that *coloni* and *inquilini* (presumably rustic rather than urban *inquilini*) shall inherit the condition of their father. Furthermore, children shall similarly inherit their father's *origo*, so even if the family relocates the authority presiding over where the children's natal *origo*, whether a landlord or some imperial authority, shall have the right to recall them for duties. No mention is made of the mother's birth status, therefore across Gallia, Spain, and Britain *coloni* exclusively inherited their father's *condicio*.

The system of patrilineal inheritance for *coloni* instituted under Honorius in Gallia did not form part of a general policy restructuring throughout his empire. Later during his reign, a law was issued to the Prefect of Italy that clearly enforces matrilineal descent of status:

CTh 5.18.1 [=CJ 11.48.16 Honorius & Theodosius II – 26/6/419], to Palladius, Praetorian Prefect of Italy: the Justinianic version of this law is pared down to a single subsection, which declares that *colonae originariae* who marry free men and leave the *origo*'s fields for cities or “any other place” shall be liable to recall to the fields – along with their children. Along with this clause, the Theodosian version contains a further provision relating to women that states that *colonae originariae* who abscond their fields and marry *coloni* from a foreign *origo* should be returned to their natal fields along with one-third of their children; the other children are to remain with the father, otherwise an equal number of substitutes need to be furnished to the mother's *origo*.¹²¹ The Theodosian law also provides a statute of limitations of twenty years for recall claims. The clause shared between both versions of the law strongly implies that the children of a *colona originaria* are automatically *coloni*, regardless of the father's status. The father's status is only important when he is also a *colonus*, in which case his position is considered more important as two-thirds of the children are to remain with him. In fact, this clause uses *agnatio* to denote children, a term that designates patrilineal descent. Otherwise, the law uses either *suboles* or *origo* to refer to children, neither of which has any association with parental descent.

What these laws demonstrate is that throughout the imperial era there was a distinct, albeit, gradual shift firstly towards mandatorily inheritable leaseholds and secondly towards a familial transmitted agrarian duty – this is the kernel of the *condicio colonaria*. With few exceptions, the *condicio colonaria* was transmitted through matrilineal descent, in opposition to typical Roman procedure (at least where there was a valid marriage). The creation of the *condicio* also involved public law interference in what was previously a primarily a private law arrangement – a lease. The state forced the continuation of contracts onto people other than the signatory lessee and used a lease as a catalyst for sweeping personal legal status changes. In Late Antiquity a rural lease became a much more serious matter involving legal status for the lessee and their immediate family. Hence an important point arises: a *novus colonus*, that is someone who signs a lease contract without already

¹²¹ The *interpretatio* appended to the version of this law in the Breviary (Brev. 5.10.1) comments that the provision permitting substitutes is to prevent the breakup of families, though the text of the Roman law itself makes no mention of this concern.

being a *colonus* by status, effectively also signed the contract on behalf of wife and children, even if they did not exist at the time, and their descendants. There is an important point to note – the *condicio colonaria* only concerns *coloni adscripticii*, which is explicitly stated in some of the laws that were already discussed. A *colonus censitus* remained a *colonus* purely by virtue of the fact that he was a lessee, and upon the termination of the lease his status as a *colonus* ended.

Ordinarily, the *condicio colonaria* was imposed from birth and was an inflexible and unremovable aspect of a person's legal character. Ostensibly, the *coloni* themselves could not independently take action that would change their *condicio*, as is made clear in law:

CJ 10.39.4 [Diocletian & Maximian – date unlisted], to Secundus: in a rather curt response, the emperors inform Secundus that no one can by their own actions change the conditions (*condicio*) of their birth. This rescript predates the formalisation of the *condicio colonaria*, but the general rule still applies. The wording of the rescript only rules out personal actions affecting status, that is, one cannot reflexively change their legal status. Someone with due authority over the individual, such as a *dominus* can effect a change in status and condition; slave cannot unilaterally free themselves, but their master can manumit them and change their condition from servile to free.

An example of how a *colonus* could see their status as a *colonus* erased from their legal character is preserved in Sidonius Apollinaris' *Epistle* 5.19. In this letter Sidonius writes to his contemporary Pudens concerning a recent scandal wherein a *colonus* of Pudens either seduced, raped, or eloped with the daughter of Sidonius' nurse.¹²² Sidonius was the patron of the young girl, but she was otherwise free and unencumbered with any disadvantageous personal statuses, whereas Pudens' *colonus* was restricted by the legal strictures imposed on *coloni*. Sidonius could have sought redress by taking the matter to court which would have strained relations between Pudens and Sidonius and could potentially have resulted in the *colonus* being sentenced to death, depending on what he did exactly.¹²³ Instead Sidonius opted to arbitrate himself, and suggested the following resolution to Pudens: the *colonus* should firstly be released from his hereditary status (that is, the *condicio*

¹²² See Koptev 2004, 276–78 for a discussion on the possible meanings of *rapuit* in Sidonius' letter.

¹²³ Gardner 1991, 118–21.

colonaria), thus making him a *liber plebeius*, and secondly the now former *colonus* and the girl should be wed. While it was legal for a *colonus* and a *libera plebeia* to marry such a marriage would be unequal on account of their disparate statuses and would be a source of shame and infamy for the couple, for Sidonius, and Pudens.¹²⁴ Release from the binding status of *colonus* was at the discretion of the *colonus*' *dominus*, and may have been as simple as scratching the *colonus* from the tax rolls. A consequence of changing from the status of *adscripticius* to *liber plebeius* was that the former *colonus* became responsible for managing and paying their own taxes, whereas previously as an *adscripticius* that was the exclusive responsibility of their landlord. However, there is a fifth century law that seems to contradict this practice.

CJ 11.48.11 [Arcadius & Honorius – date unlisted], to the People: following the promulgation of this law *coloni originarii* became inextricably bound to their estate and duties. The law dictates that neither rank, nor privilege, nor independent listing on the census would liberate an *originarius* from their hereditary status and bonds. This not only prevented the *originarius* being freed by their landlord, but also prevented the *originarius* unburdening themselves of their status by acquiring landed property and thus an independent census listing. The landowner of the *originarius*' natal estate automatically assumes the role of *dominus*. Only the text of the law, the reigning emperors, and its nature as an edict survive. When it was issued, and in what city, is unknown. Therefore, it is not immediately apparent whether this edict was issued in the Eastern or Western empire. Based on the relatively mild sequence of laws discussed for Italy and Africa until now, this law is nearly unprecedented in its scope and severity. Furthermore, Sidonius Apollinaris suggested a scheme that would liberate a *colonus* from his status which involved little more than removing the *colonus* from their landlord's census entry. Either Sidonius was suggesting an illegal scheme, or this is an eastern law, and therefore not applicable to Africa or the west in general.

Besides direct emancipation a tenant *colonus* could elevate their socio-economic standing by buying their leased land outright from their landlord. This was evidently possible even in the case of

¹²⁴ Koptev 2004, 279–80.

imperial landholdings, as there are eastern imperial laws regulating this.¹²⁵ Constantinople empowered the *comes rerum privatarum* to make such sales, but stressed that imperial land should only be sold to an association of *coloni* as the drafters of the law did not trust the fiscal stability or competency of a single *colonus*. Again, this process contradicts CJ 11.48.11, which asserted that this should not be possible. These ambiguities suggest that the rules and regulations of the *condicio colonaria* were ambiguous to people in the fourth and fifth centuries also.

Locatio-conductio leases continued throughout Late Antiquity in one form or another.¹²⁶ Not only did rustic *locatio-conductio* leases certainly persist into Late Antiquity, but there is no evidence to suggest that *coloni* – in the sense of a tenant – acquired a leasehold in any other way. Theodosius II and Justinian’s codification commissioners retained a vast corpus of law that pertained directly to rustic *coloni* as tenants. Title sixty-five of the fourth book of the Code of Justinian is dedicated to matters of *locatio-conductio* – fittingly it is titled “*De locato et conducto*”. Considering the subject matter, most of the thirty-five constitutions within this title have some relevance to *coloni*, and no fewer than ten directly concern *coloni*. Numerous excerpts from the Digests have already been cited, and while these opinions were drafted during the Principate their inclusion within the Digest suggests the commissioners saw ongoing legal value in these opinions. It is not always the case that laws and jurisprudence pertaining to rustic matters can be reasonably extrapolated to account for different circumstances. Further, Hermogenian, the famed jurist of the Tetrarchic age and author of his eponymous code, commented on matters of *locatio-conductio* in a way that supports an ordinary continuation of it – during the period that is often supposed to be the beginnings of the colonate. There was a real value in retaining legal material addressing *coloni* under *locatio-conductio* in Late Antiquity. It could be though that the interest was antiquarian, or that *coloni* leasing under this system was vestigial. That *locatio-conductio* remained relevant is supported by Justinian’s *Institutes*, an

¹²⁵ CTh 5.16.34 [=CJ 11.68.6, Theodosius II – 13/12/425]. Originally this law only concerned land sales in Thebaïd, the later Justinianic version was modified to have a general remit.

¹²⁶ Cordovana 2014, 482–83 believes an alternate *colonatus* institution replaced *locatio-conductio* leases; Sirks 2008, 133–34 argues that by Justinian’s reign *coloni* no longer contracted tenancies, but were amalgamated to bound serfs; Mirković 1997, 58–60 argues that *locatio-conductio* leases gradually transformed into unshakeable personal obligations owed to the landlord, usually arising from debt; Tedesco 2018, 417–18 argues that the colonate arose from shorter term wage labour contracts (*locatio operarum*), not *locatio-conductio*.

elementary compendium of public law for budding lawyers as well as a binding source of law. It retains provisions relating to *locatio-conductio* leases and *coloni* more specifically. While Justinian's cadre of lawyers might have retained references to *coloni locatio-conductio* in the Code and Digest out of scholarly interest or similar, they are unlikely to have done the same for the intentionally concise Institutes. There would be little point instructing fledgling lawyers on archaic points of law and adding cruft to an already sizeable work. Furthermore, no fourth, fifth, or even sixth century laws provided an alternate system by which a tenant *colonus* might acquire land. Centuries later, the Νόμος γεωργικός, or "farmer's code", contains rulings on rural leases that are reminiscent of the rulings put forth by the Principate-era jurists. There was perhaps no standard model for Roman agricultural practices and tenancies until the enactment of the Νόμος γεωργικός in the seventh, perhaps early eighth, century, as the coming chapters will demonstrate how *coloni* continued to enjoy (or suffer) from regional differences in their conditions.¹²⁷

¹²⁷ Chitwood 2017, 110–14; Toševa-Nikolovska 2018, 206–7 suggest an early eighth century enactment was possible.

IV

Coloni & the Imperial Taxation System

Attempting to quantify the impact of Roman imperial taxation, whether for *coloni* or any other group of individuals, often amounts to little more than guesswork and broad estimation. There are some scattered remnants of documents from the personal archives of certain Roman citizens that provide some real individual fiscal data, and there is the tax information from imperial law, however even together this information provides a very incomplete picture of Late Roman imperial taxation. That is not to say that it is pointless to attempt to model the imperial tax structure and assess how it affected different socio-economic strata, just that any attempt must be heavily caveated.

The Late Roman state collected a vast array of taxes, and a vast array of factors affected whether *coloni*, whether tenants or not, were liable for these taxes, and how much they might pay. The province the *colonus* dwelt in, whether the *colonus* had their own landed property in addition to a tenancy, whether the lessor was a private individual or a civic authority (communal or imperial), and the social class of private lessors were the most important factors determining what taxes a *colonus* was liable for. While Roman law determined liability for particular taxes, most Roman taxes were assessed and collected at the local, civic level. From Augustus' reign onwards, the empire relied on the mélange of semi-autonomous communes (variously styled *municipia*, *colonia*, or *castella*) scattered throughout the provinces to undertake most of the bureaucratic work involved in revenue collection.¹ The fiscal relationship between the Principate-era state and the communes was inconsistent and variable – the empire awarded tax exemptions to privileged communes, awarded others special rights to collect local revenues, and generally deferred to the commune's government on how to collect imperial revenues. Reforms begun under the Diocletianic Tetrarchy overhauled the Roman fiscal system, which replaced the patchwork of fiscal systems and relationships with a semi-uniform macro-level taxation scheme. The Late Roman state retained the services of the provincial

¹ Duncan-Jones 1974, 165; Millar 2001, 93; the different grades of municipality were accorded different privileges and respect but were functionally identical concerning taxation.

communes in tax assessment and collection, but with a much greater degree of oversight and intervention.² Late Antique fiscal reforms also abolished most of the privileges enjoyed by various communes. At the same time the empire's citizens were subjected to closer scrutiny concerning assessment of taxable individuals and assets.

The apparent over-taxation in Late Antiquity is proverbial as much today as it was then. Lactantius famously commented on the purportedly rapacious exactitude of tax assessment under Galerius.³ Salvian of Marseille mentions taxation as a reason for the decline of the plebeian small-farmer in Gallia and their semi-voluntary reduction to the state of *colonus*.⁴ Isidore relates a similar anecdote wherein Spaniards in Byzantine Spania allegedly left the province for the lightly taxed Visigothic Kingdom to the north.⁵ Late imperial over-taxation has been decried as a principal cause in the decline of the Roman Empire, and this argument is even used as fodder in modern political debates. Bartlett argued that the Late Roman state fell due to economic deterioration that stemmed from imperial taxation and overregulation.⁶ In his final statements on the "Fall of Rome" the author focuses exclusively on the western empire, and provides no explanation of how the eastern empire survived despite having a comparable economic system. The machinery of taxation in the empire became more sophisticated and thorough, though it was envisioned as both more efficient and more equitable. Beyond taxation, the Late Roman fiscal reforms had a number of possibly unintended flow-on effects concerning personal status, civic responsibilities, and for *coloni* restrictions on their personal autonomy.

This chapter will examine the Late Roman fiscal system and the position of *coloni* – as tenants and ordinary farmers – within it. A study of the general functioning of the Late Roman taxation system and the categorisation of *coloni* within it will begin this section of the study. A further examination of secondary imperial taxes and their potential fiscal effects on Africa's *coloni* will

² Local diversity in tax assessment endured nonetheless, cf. Bagnall 1980; Jones 1953.

³ Lactantius *On the Deaths of the Persecutors* 23.

⁴ Salvian of Marseille *On the Governance of God* 5.43-45; Goffart 2009.

⁵ Sarris 2015, 129, Isidore of Seville *History of the Kingdoms of the Goths, Vandals, and Suevi* 15.

⁶ B. Bartlett 1994; the Cato Journal publishes Austrian economics public policy papers, which is the ideological lens that underpins Bartlett's paper.

follow. Finally, a study of the curious phenomenon of *autopragia*, which plays a role in certain theories on the formation and operation of the colonate, will conclude the chapter.

The Census, the State, and *Iugatio-Capitatio*

The bureaucratic apparatus of imperial taxation relied on comprehensive tax registers compiled through periodic censuses. Though the system evolved considerably from the Principate into Late Antiquity, the fundamental principle of the imperial census was that it theoretically assessed and collated data concerning every inhabitant of the empire and the landed property they owned. Fiscal data obtained from the census was used to calculate tax-rates at the macro-level and hierarchically levy revenues from provinces, communes, and down to individual taxpayers. Where an individual lived, and where an individual owned property, was crucial information for the operation of the tax system, and for the imposition of compulsory civic duties as well. Whomever was recorded as a taxpayer on the census was liable for the sum due on the household's registered landed assets and livestock, as well as registered dependents, which could include their spouse, children, slaves, and in certain cases *coloni*. Therefore, two key components in the organisation of the Roman taxation system, and more broadly the regulation of *coloni*, were the interrelated concepts of *domicilium* and *civis* (citizenship), particularly where it is inherited via *origo*. *Domicilium* and citizenship refer to an individual's personal legal attachment to a commune or, in Late Antiquity, a rural district (with exceptions relating to citizenship). Both *domicilium* and citizenship through *origo* have a long history in Roman law and administration, and both underwent reform to better accommodate the needs of the Late Antique tax system and the realities of rural life (especially for *coloni*) vis-à-vis imperial and municipal administration. The forthcoming discussion will first consider these concepts as they existed under the Principate, then analyse the shift in meaning and legal usage resulting from Late Antique fiscal reforms.

Domicilium, broadly speaking, denoted the commune in which an individual permanently resided. Jurists and laws disagree over what specifically constitutes *domicilium*, however there is a general agreement that it is where someone ordinarily lives, conducts business, and attends public

festivals and spectacles.⁷ *Domicilium* was not unchangeable however, barring any legal hindrance a free individual could choose to relocate elsewhere and establish their *domicilium* in a new commune;⁸ it was an unsettled matter in Roman jurisprudence whether it was possible to have two *domicilia*.⁹ *Domicilium* in a commune could be obtained regardless of whether someone was a citizen of that commune; *domicilium* neither implied nor conferred citizenship. Where someone had a *domicilium* in a commune without being a citizen thereof they were legally designated an *incola*.

In contrast, *origo* denotes that an individual possessed citizenship in a community by birthright; citizenship in a community could otherwise be obtained by adoption, manumission, or by a grant from the local magistrates.¹⁰ In translation *origo* is often rendered as ‘birthplace’ or ‘origin’, and in most circumstances this is a sound translation (as well as from an etymological standpoint).¹¹ In the context of communal citizenship and its attendant legal obligations *origo* did not simply refer to where someone was born, as in isolation this fact had no legal bearing; *ius soli* did not exist at a communal level. It must be noted however that *origo* is also used in its generic sense through Roman law and jurisprudence, it is not a reserved specialist term. Following Roman inheritance law, *origo* indicates that an individual inherits their father’s right of citizenship in the case of a legal marriage, otherwise they inherit citizenship via their mother.¹² It was not necessary to be born within the *territoria* of the relevant commune to obtain citizenship via *origo*; communal citizenship was inherited strictly via *ius sanguinis*. If neither parent possessed prior citizenship in a commune, then any children born to them would likewise have no right to citizenship regardless of where their children were born. Being a citizen of a commune, whether by *origo* or any other means, did not compel anyone to establish or retain *domicilium* in that commune, however.

⁷ Dig. Iust. 50.1.27.1 [Ulpian, *Edict* Book 2], 50.16.203 [Alfenus Varus, *Digests* Book 3].

⁸ Dig. Iust. 50.1.31 [Marcellus, *Digest* Book 1]; Dig. Iust. 50.1.20 [Paul, *Questions* Book 1] requires physical residence to establish *domicilium*, it cannot be asserted or denied by a simple claim.

⁹ Dig. Iust. 50.1.27.2 [Ulpian, *Edict* Book 2] concurs with an unpreserved opinion of Celsus that having two or more *domicilia* is possible albeit rare, as is having no *domicilium*.

¹⁰ von Savigny 1880, 90–91; Duncan-Jones 1963a, 85–86.

¹¹ Berger 1953, 613 bluntly opens his definition of *origo* by writing “the birth place.” The definition goes on to provide plentiful additional detail on the nuances of *origo*, but the at the heart of the definition is the notion that it is intrinsically tied to birthplace.

¹² Individual municipalities could institute their own privileges relating to how citizenship was conferred by birth – some communities bestowed citizenship to the children of female citizens even if they inherited citizenship from their fathers.

When someone claimed *domicilium* within a community, whether as an *incola* or as a citizen, they became subject to that commune's jurisdiction, which conferred on them certain rights and duties. Possession of local citizenship, whether by *origo* or some other means, similarly empowered the community even over non-resident citizens. There were two primary rights conferred by both citizenship and *domicilium*: the community's local public law applied to residents and citizens, and the local court was empowered as *forum competens* – a competent court – which gave the local court jurisdiction to hear disputes wherein the resident is the defendant.¹³ It is possible however that local law would only apply to an *incola* if they were not a citizen of any community. Citizens alone had the exclusive right to civic magistracies and enrolment in the local senate.

The duties imposed on residents and citizens by their commune(s) were numerous, and all fall under the general heading of *munera*. *Munera* were compulsory public burdens assigned by the community to provide some service to either the community itself or to the imperial state, in the latter case the state allotted the duty to the community, which then dispensed it as a *munus*. Citizens of a commune were required to perform *munera* for that community when summoned even if their *domicilium* was elsewhere; this did not diminish the right of the commune of residence to also impose *munera*.¹⁴ A property owner in a community who was neither a resident nor a citizen was still liable for taxes related to that property – this was the only *munera* that was levied on people who were neither residents or citizens. *Munera* took two forms: active and passive duties. Active duties required the selected individual to undertake a service or assume an office; unlike voluntary civic magistracies, offices assigned as *munera* carried no prestige (*honor*). Maintenance of civic infrastructure, such as roads, waterworks, public buildings, or management of public goods and the food supply were among the most important civic *munera*. The foremost passive *munera* was taxation, whether in kind or monetary. By *domicilium*, everyone was required to register their taxable property in the tax rolls of

¹³ In Roman judicial procedure lawsuits had to be brought before a court that had jurisdiction over the defendant. Wherever someone had *origo* or *domicilium* those courts had jurisdiction.

¹⁴ Dig. Iust. 50.1.29 [Gaius, *Provincial Edict* Book 1] states that *incolae* are subject to the authority of local magistrates and are fully liable for public *munera*, while still being subject to the full authority of wherever they are also citizens. CJ 10.39.1 [Antoninus – date unlisted] defines dual obligations arising from citizenship and *domicilium*. Furthermore, according to CJ 8.47.7 [Diocletian & Maximian – 22/1/294] a citizen of a particular commune who is adopted by a citizen of a different commune becomes a citizen of both, and is therefore required to perform *munera* for both communes.

the commune where it lay – if someone owned multiple properties across different communes, he was required to enrol each property in the relevant commune’s tax rolls.¹⁵ In this way someone could be liable for taxes in the absence of both *domicilium* and communal citizenship.

During the Principate the census, or more properly censuses, were thoroughly decentralised. The empire required that each commune undertake a census at its discretion to record local citizens, residents, and property owners and whatever assessable property they owned in that commune. The valuation of residents and their assets via the census was used by the empire to estimate the tax-paying capacity of each municipality and was also used by each municipality to apportion the taxes that the empire amongst resident and property-owning individuals, supposedly according to their ability to pay. Under the Principate, the two chief taxes that communes levied on residents and citizens on behalf of the empire were the *tributum soli*, a tax on landed property and real assets, and the *tributum capitis*, a poll tax;¹⁶ the Late Antique replacements for these taxes shall be introduced shortly. In certain communes the census was a pre-existing institution used to assess local communal taxes and determine eligibility for local offices, else it was instituted at the empire’s behest.¹⁷ Generally, *quinquennales*, high magistrates in municipal governments, supervised local censuses on behalf of the imperial government, with numerous exceptions;¹⁸ the empire tended to have little to no direct involvement in the execution of municipal censuses. The empire did not mandate how the census ought to be conducted, nor did it impose a schedule or even set a frequency for how often new censuses should be conducted. Occasionally, *ad hoc* censuses of entire provinces would be conducted at the discretion of either the emperor or the provincial governor, though these censuses never conformed to a regular schedule nor were they conducted on an empire-wide basis. Communal and especially individual liability for taxes therefore relied on irregular and idiosyncratic records. Since the majority of tax assessment under the Principate was conducted via communal censuses land

¹⁵ Dig. Iust. 50.15.4 [Ulpian *Censuses* Book 3].

¹⁶ Carrié 2005, 273–74.

¹⁷ Brunt 1981, 161.

¹⁸ Curchin 2014, 275; Royden 1989, 303; the most striking exception is, in usual fashion, Egypt, where the census was conducted on a province-wide scale by the governing prefect every fourteen years, see Bagnall and Frier 1995.

outside the boundaries of the municipalities, which could include vast cultivated estates and rural villages, was only assessed when an irregular provincial census was undertaken.

The imperial state's reliance on communal authorities to undertake the census and collect taxes was especially problematic in Africa. Across Africa vast tracts of agricultural land, organised as single contiguous *latifundiae* and as a smaller series of adjacent estates, lay entirely outside the jurisdiction of the municipalities – these estates will henceforth be referred to as *free estates*. The quotation by Agennius Urbicus in the introductory chapter detailed how such estates were prevalent in Africa. Countless *coloni*, who for generations had lived and worked on free estates, were not citizens of any municipality, and until the passage of the *Constitutio Antoniniana* in 212 may not have even been Roman citizens.¹⁹ The prevalence of free estates in Africa is in stark contrast to Italy, the other constituent diocese within the Prefecture of Italy, where there was little to no inhabitable, workable land outside of a municipality's *territoria*. Free estates in Africa, though they were not a part of any municipality, were not without civic amenities. On many free estates a primarily non-residential civic centre developed, which offered *coloni* and other rural residents a locus for commercial and artisanal services, *nundinae* (state-sanctioned market days), hiring wage labourers, and religious services. With the consent of the landlord or the imperial authorities, depending on the estate's owner, certain civic centres on free estates established their own local magistracies and institutions for collectively pooling resources for common interests, such as temples, monuments, and agricultural infrastructure.²⁰ *Coloni* on free estates often referred to themselves as citizens of their estates, even when such citizenship had no proper legal backing. Some villages even predated the agglomeration of free estates around them and remained free from the control of both landlords and municipalities.²¹ The church was particularly attentive to the idiosyncratic geo-political distribution of people in Africa such that in the fourth and fifth centuries upwards of two-thirds of Africa's bishops, whether Catholic or Donatist, had their seats in rustic villages or on estates; evidently there was an enormous rustic population in Africa, including

¹⁹ Koptev 2012, 310.

²⁰ Dossey 2010, 93; Kehoe 1988, 188–223.

²¹ Kehoe 1988, 194–95.

coloni, whose pastoral needs could not be met by municipal sees.²² However, despite the civic-esque amenities on Africa's free estates, which provided services that were functionally equivalent to an imperially-recognised municipality, they were without a *de jure* local civic authority. Hence, the tasks of tax assessment and collection fell on the office of the provincial governor. Principate-era governors had both smaller staffs and larger jurisdictions compared to their Late Antique colleagues, making the task even harder to manage. Furthermore, uncertainties over land boundaries led to disputes over which body had the right and duty to collect taxes and impose other *munera*.

The inefficiencies, irregularities, and disputes inherent in the Principate's tax system impeded its effectiveness, particularly in Africa. It is reasonable to suppose that there were instances of attempted double assessment or taxation, wherein municipal and provincial authorities would both visit a free estate. Similarly, there were likely cases where a free estate was not properly taxed because of uncertainty regarding municipal boundaries. Even in the fourth century, after substantial fiscal reforms, Agennius Urbicus could relate how boundary uncertainties led African communes to claim that neighbouring free estates were legally part of their *territoria*, regardless of whether the estate was a private or imperial possession, and thus attempted to impose taxes and levy recruits on claimed land.²³ In the Thebaïd in the fifth-century fraud and jurisdictional ignorance led to over taxation of the village Aphrodito.²⁴ Over the course of the Late Principate a small number of civic centres on free estates were promoted to the status of *colonia* or *civitas*, investing them with an imperially sanctioned government, and therefore the local institutions necessary to conduct a census and assist in the collection of tax. Generally though, most free estates not only entered the Late Antique era without an official local government but persisted through this era without one.²⁵ Not only were civic promotions rare from the fourth century, but some free estate villages that were promoted to municipal status were actually stripped of their civic authority, reverting them to their former status.²⁶ Civic promotion was presumably never conceived as a means to streamline the

²² Dossey 2010, 126–30.

²³ Cf. Agennius Urbicus.

²⁴ Mirković 1996, 355–57.

²⁵ Not only did the empire cease granting municipal authority to villages on free estates, but municipal promotion for African towns all but ended until Justinian's reconquest.

²⁶ Ruffini 2018, 10–11; Dossey 2010, 115–17.

empire's taxation system and this was certainly not seen as a feasible approach by Late Antique emperors.²⁷ Late Antique taxation took a different path to ensuring comprehensive tax assessment and revenue collection.

To accommodate free estates within the reformed Late Antique tax system the empire redefined the scope of *domicilium* and *origo* to be legally meaningful for *coloni*, slaves, and others on free estates. Evidently during the Principate it was possible to claim *domicilium* on a free estate, but without a state-sanctioned communal government there it had little legal effect. Similarly, without a communal government to confer and recognise birthright citizenship *origo* could not have applied to free estates during the Principate era, at least not in a legal sense. In a colloquial sense it would be perfectly reasonable for a *colonus* born on an estate to call it their *origo*. Reforms in the early years of Late Antiquity changed this by investing free estates with a quasi-civic authority.²⁸ How and when the empire implemented these reforms is not adequately preserved in the surviving evidence, though it is possible to discern the effects of the reforms. The reforms did not affect the status of free estates, nor did it require or even permit the formation of magistracies, courts, or any other organ of communal government. Rather, free estates became a legal and administrative district that acted as the functional equivalent of a municipality in terms of personal status of inhabitants and their duties to the state, with the landlord acting as the *de facto* executor of imperially mandated civic functions.²⁹ Landlords of free estates had no right to create *munera* though, they were merely expected to undertake and/or dispense the duties the state assigned them. Thus, a clear legal pathway was created for allotting *munera* on free estates in Africa to *coloni* and others. *Domicilium* on a free estate now imposed real legal duties and obligations for residents. *Origo* too became meaningful in relation to free estates – a child born on a free estate to tenant parents acquired an irrevocable personal legal connection to the estate – equal to citizenship by birthright in a municipality. From these reforms a new legal descriptor for *coloni* on free estates arose:

²⁷ Dossey 2010, 122–24; Goffart 1974, 61–62; municipalities in Late Antiquity were gradually stripped of their autonomy, especially concerning fiscal affairs, which further diminished the usefulness of civic promotions for emperors with a centralising outlook.

²⁸ Koptev 2012, 311.

²⁹ Sirks 2008, 126–27.

Colonus originalis, or *originarius*: first attested in a law issued by Constantine I in 320, *colonus originalis* was a novel term that was essentially a shorthand for a *colonus* whose *origo* was an estate.³⁰ Like most Late Antique legal neologisms there is no contemporary formal definition for it, and it is only infrequently used in the Theodosian and Justinianic Codes. That it denotes a *colonus* who was born on an estate to *coloni* parents is unambiguous – occasionally the term *originalis* will be followed by a synonymous phrase to reinforce the meaning. The legal procedure for becoming an *originarius* is less clear, however. Ordinarily for municipal citizenship to be inherited via *origo* at least one parent had to be a citizen. The rules for inheritance of citizenship on a free estate were presumably different, that is if citizenship is even an appropriate term given that free estates still did not constitute a formal civic government. In any case, the children of *coloni originarii* must also be *originarii*, as their pre-existing legal association with the estate would be passed on just as municipal citizens pass on their urban citizenship to their children. New tenants on an estate presumably did not become *originarii* – in what circumstances new tenants bequeathed civic attachment to the estate to their children, hence making them *originarii* is uncertain. It seems reasonable that a tenant, once settled on an estate and while possessing a current lease, would confer the status of *originarius* onto their children.³¹ This must be the case for *coloni* parents who had a perpetual lease, but whether a fixed-term lease would be imparted is difficult to determine. Legislative changes to the fixity and inheritability of leases presumably changed how the status of *originarius* was obtained – these laws shall be considered in forthcoming sections. This emergence of this term alone demonstrates that in Late Antiquity the circumstances and location of a *colonus*' birth could be a significant personal legal characteristic in a way that was entirely unprecedented in earlier times. Furthermore, the emergence of *originarius* as a legal descriptor stands in direct contrast to the opinion of jurists that tenancies were not compulsorily inheritable.

By formalising free estates as a fiscal district equivalent to but separate from the municipalities the empire removed ambiguity in the system of both registering taxable assets and

³⁰ CTh 4.12.3 [Constantine I – 27/1/320].

³¹ Sarris 2006, 153.

collecting taxes owing and created a clear region where *coloni* would be required to submit to various *munera*. Moreover, by extending a quasi-civic authority to free estates the empire belatedly acknowledged two facts about rural life in Africa. Firstly, that generations of *coloni* and other rural workers were born and lived on farmland that was distant from, and not part of, a municipality. The personal and familial connection that many *coloni* had with the estate they lived on should not be underestimated. *Coloni* living on the *Fundus Tuletianos* in the late fifth century refer to themselves as citizens (*civis*, or *cibis* in the African Latin vernacular), a continuation of a practice begun on African estates centuries ago.³² Secondly, that the communities and communal centres established by *coloni* on free estates were the functional equivalent to the urban and suburban centres of the municipalities.

By expanding the scope of *domicilium* and *origo* and defining fiscal jurisdictions for free estates the empire provided clarification on where fiscal burdens were due, which certainly helped resolve outstanding issues of local political and fiscal jurisdiction, but it did not institute a mechanism to execute tax assessment and collection on free estates. Concurrent reforms to the census accomplished this.³³ The system of tax assessment employed by the Late Roman state was considerably more supervised and regularised compared to the Principate-era antecedent. Fundamentally, the census remained a register of taxable individuals and their assets; new methodologies were instituted to make more thorough assessments and calculations for the overhauled tax system, but most of the changes to the overall system were likely imperceptible to the empire's inhabitants. However, while the fiscal rationale behind the census presumably was not a concern for most provincials, those living in the formative years of Late Antiquity surely noticed that the census was undertaken with regular frequency, greater scrutiny, and by different officials. The Late Antique census was conducted at fixed intervals and encompassed wherever it was possible to have *domicilium* or *origo*, thereby including extra-urban regions such as free estates; assessment of free estates no longer required the specific intervention of any high official, it was automatic. From 306 onwards the census was undertaken every fifteen years by *censitores* – tax assessors in the

³² *Cibis* is attested numerous times in the Albertini Tablets e.g. Tab. Alb. 2.

³³ No law, or set of laws, sets out the fundamental operation of the census, this must be gleaned from secondary laws, surviving census inscriptions, and other evidence.

imperial civil service.³⁴ At each census the imperial *censitores* visited every region, every town, and every estate to enumerate every taxable individual and asset. Imperial tax assessors worked in conjunction with the authorities in the communes and with the landlords or officials of estates, but they were not beholden to any authority except the imperial state. The communes thus lost their autonomy over tax assessment in their territory.³⁵ Reforms to administrative underpinnings of the census were numerous. A host of new laws and rescripts issued in the fourth century set out specific fiscal procedures, abolished special privileges, and clarified the operation of the new system. For example, procedures for securing an interim tax reassessment were codified, which included the creation of a new class of imperial administrator – the *peraequator census* – who undertook this task.³⁶

The methodological core of the Tetrarchic census reforms was the institution of a comparatively universal procedure for valuing taxable individuals and assets, and then tabulating these valuations to calculate the tax burden of provinces, municipalities and free estates (i.e. wherever it was valid to have an *origo* or *domicilium*), and individuals. This system has become known in modern scholarship as *iugatio-capitatio*, so named for its two units used by tax assessors to register taxable assets in the census.³⁷ The issue of *iugatio-capitatio* and Late Roman taxation is a complex historiographical topic, on par with the colonate. The remainder of this section will examine the fundamental principles and operation of this system, as well as identifying the key challenges in understanding this system.

Iugum, or *iugatio*: a land-tax unit, it was an abstract measure of both land area and land value. The *iugum* was a graduated *ad valorem* measurement that considered land use and topography, it was not a simple measure of a fixed land area. For example, in Syria one *iugum* constituted either twenty *iugera* of sowed prime land, forty *iugera* of hilly land, or sixty *iugera* of marginal land.³⁸ Land left

³⁴ Diocletian's reforms initially instituted regular censuses every five years, which was extended to fifteen years by Constantine I c. 313-4.

³⁵ Curchin 2014, 275.

³⁶ Barnes 1993, 69–70; tax reassessment was possible under the Principate, but the process of reassessment was not systematised, so individuals had to rely on an idiosyncratic local process.

³⁷ Goffart 1974, 31–40.

³⁸ *Leges Saeculares* 121.

fallow was ordinarily exempt from assessment, however valuable land or land considered abandoned (*agri deserti*) by overzealous assessors could be valued as if it were productive.³⁹ While *iugum* was the official and legal name for this measure in a provincial context it was often converted into the prevailing local measurement.⁴⁰ Hence in Africa *centuria* is used in place of *iugum*, ἄρουρα in Egypt, or *millena* in Italy.⁴¹

Caput, or *capitatio*: a measure of taxable individuals and livestock. The *caput* is occasionally referred to as a poll tax, but this is overly simplistic. While all eligible taxpayers were assessed and registered according to the rubric of the *capitatio* being measured as a *caput* did not attract a fixed sum as poll taxes normally do, nor was the *caput* even a tax in itself. Moreover, poll taxes are levied only on people, not their livestock as well. The Principate-era forerunner of the *capitatio*, the *tributum capitis*, was a poll tax proper levied on provincials who were neither citizens nor belonged to a municipality with *ius Italicum*.⁴² The *capitatio* abolished these exemptions and transformed the *tributum* from a discrete tax into a calculation of taxable assets and human resources. Like *iuga*, how people and livestock were valued as *capita* varied across the empire; legislation passed in the late fourth century changed the rates in the east from one *caput* per man and one-half *caput* per woman to one *caput* per two or three men and one *caput* per four women.⁴³ Initially the *capitatio* was employed almost universally across the empire – there are however a few provinces, namely Egypt, wherein Diocletian’s tax reforms instituted only the *iugatio* as the measurement for tax calculations. Gradually, new laws abolished the *capitatio* in more provinces, though it was likely retained across Africa.⁴⁴

The mainstay of the Late Antique system of taxation was the *indictio* – it was the annual taxation demand that was levied on all landowners and provided the imperial state with the majority

³⁹ Grey 2007b, 369–70.

⁴⁰ Carrié 1993, 121; Goffart 1974, 34–35.

⁴¹ NMaj 7.16 [Majorian – 6/11/458] defines a *iugum* as one *millenum*, equal to ~12.5 *iugera*, and demands two *solidi* per unit; cf. Duncan-Jones 1990, 202.

⁴² The eight excerpts in Dig. Iust. 50.15 set out a variety of exempt communities scattered across the provinces. Citizens enfranchised by the *Constitutio Antoniniana* did not inherit the freedom from *tributum*, however.

⁴³ CJ 11.48.10 [Valentinian II, Theodosius I, & Arcadius – 27/3/386].

⁴⁴ CJ 11.52.1 [Theodosius I, Arcadius, & Honorius – ??/??/392] abolished the *capitatio* in the Diocese of Thrace. Cf. Jones 1957, 91.

of its revenues.⁴⁵ The comprehensive assessments and tabulations of the Late Antique census were designed to calculate how to levy the *indictio* revenues, down to the individual. The Late Roman *indictio* was largely, though not exclusively, merger of three Principate-era revenue streams: the *tributum soli*, the *tributum capitis*, and the *annona militaris*. The first two taxes have already been mentioned; the *annona militaris* was introduced by Septimius Severus as an extraordinary exaction on landowners to provide for the military when necessary, and over the course of the third-century it was levied continuously on the provincials by embattled emperors. Several other taxes were incorporated into the assessment and ordinary payment of the *indictio*, however in certain circumstances these additional taxes were either remitted or increased, often on a regional basis. Otherwise, depending on the prefecture, diocese, or even province additional levies were incorporated into the annual *indictio* demands. Diocletian regularised and systematised the *indictio* at a macro level early on in his reign, transforming a series of taxes that were increasingly characterised by arbitrary demands for goods and money with *ad hoc* timing. The *indictio* tax system of Late Antiquity was semi-progressive and distributive. The *iugatio-capitatio* system was used by *censitores* to value the assets, and therefore the taxpaying capacity, of each individual household it did not assign a tax burden *per se*. Rather, the *iugatio-capitatio* calculated what fraction of the tax burden each taxpayer was liable for, which was adjusted annually. Each year the offices of the Praetorian Prefects each drafted a budget that estimated the coming year's required revenues (monetary and goods in kind), which was collected primarily via the *indictio*. To distribute this tax burden equitably and efficiently, the tax was divided proportionately according to the sum of *iuga* and *capita* firstly among the provinces, then among communes (including free estates), then lastly among households.⁴⁶ Therefore, while every year each taxpayer paid a different sum, until the next census was conducted each taxpayer paid the same proportion of the total sum demanded through the *indictio* - barring of course minor adjustments caused by interim tax reassessments. Where the prefect's budget or treasury surpluses were insufficient to meet expenses, often in times of crisis, the empire would demand payment of

⁴⁵ The annual *indictio* along with the quinquennial cycle of censuses eventually resulted in a system of dating – the first year of the tax cycle was styled the ‘first indiction’, the second year the ‘second indiction’, and so on.

⁴⁶ Jones 1957, 93.

extraordinary taxes – called *superindictio*. *Superindictiones* tended to be targeted demands for specific revenue streams and, where possible, were levied on the wealthier classes first; the wealthy could always offset their losses by making extraordinary, and probably illegal, demands of their *coloni*. The outbreak of war with the Sassanids in 370 prompted Valens to impose a *superindictio* on recruitment taxes (*aurum tironicum*) and military supplies, both payable by rural landowners. Following the unexpected peace signed in 371 Valens remitted the *superindictio* for the following year and reduced the amount payable for these taxes for the year after.⁴⁷

The *indictio* was not a simple monolithic revenue stream. The *indictio* comprised several sub-taxes which could be individually amended or selectively raised or reduced on a prefectural, diocesan, or provincial level. These taxes were also apportioned using individual *iuga* and *capita* assessments. Certain taxes were collected monetarily, the others required payment of goods, livestock, or conscripts. Some taxes involved single payments valued at thirty *solidi* or more. If this sum was demanded from a single payer of modest means it would have been ruinous, if not impossible to pay. To ensure payment without financially ruining anyone the empire set out procedures on how large-value taxes should be distributed. Part of the process of tax assessment involved assigning humble and middling tax-payers as *consortes* or *socii*, associates, into tax-paying consortia.⁴⁸ Where the tax-item was demanded in kind the burden was paid by each associate in rotation, otherwise where the tax was commuted to money each associate paid in proportion to their tax assessment; Jones referred to this system as *capitula*.⁴⁹ The former situation was less fair as every associate paid the same regardless of their individual circumstances. For instance, suppose hypothetically the empire collected a tax of ten *solidi*, for every twenty *iuga* and/or *capita*. Someone whose assessment equalled forty *iuga* and twenty *capita* would be required to pay a sum of thirty *solidi* per this tax. A poorer contemporary, who only had ten *iuga* and five *capita*, was not required to pay this tax in full individually, but instead paid three-fourths with the remaining quarter paid by an associate assigned by the tax assessors. If

⁴⁷ Lenski 2002, 314–16.

⁴⁸ CTh 7.13.7 [Valentinian I, Valens, & Gratian – 2/6/375] sets out the procedure for dividing how recruits shall be furnished, or how the *aurum tironicum* shall be divided amongst *consortes* or *socii*. Sirks 1993, 342–45

⁴⁹ Jones 1964, 65, 615–16.

instead the tax was payable in goods and there were four payees, each with five *iuga* only, then they each paid the particular good individually once every four years. In the western empire from the mid-fourth century onwards the *indictio* began to be collected in triannual payments. Initially CTh 5.15.20 [Valentinian I & Valens – 19/5/366] mandated that *emphyteuticarii* pay their rent in triannual instalments. Soon after CTh 11.1.15 [Valentinian I & Valens – 19/5/366] extended triannual payments to anyone who paid tax in kind, and after that CTh 11.1.16 [Valentinian I & Valens – 25/10/367] extended the system to all taxpayers in the western empire.

As agricultural producers *coloni* were crucial contributors to Roman tax revenues, but *coloni* did not form a single class of taxpayer. In fact, many, if not most, *coloni* did not pay *indictio* taxes directly, nor were they directly assessed for taxes by the state. Late Antique law differentiated between two distinct classes of *coloni* for tax purposes: *censiti* and *adscripticii*. The fundamental differences between the two classes is outlined in the following Valentinianic era law (although it does not use these terms directly):

CTh 11.1.14 [=CJ 11.48.4 Valentinian I & Valens – 1/5/366-371], to Modestus, Praetorian Prefect of the East: The law defines a strict principle of taxation wherein landowners are solely responsible for tax payments on their own land, which includes land leased to a tenant *colonus*. The landowner's fiscal responsibility encompasses the *colonus* as a person in addition to the fields he has leased. Furthermore, the landowner remains the responsible party vis-à-vis taxation even if an overseer or some other subordinate agent is managing the land and contracting leases. The only exception to this rule is if a tenant *colonus* has their own private landholdings, in which case the *colonus* is a fully independent taxpayer in their own right. Such *coloni* are assessed for and pay taxes independent of the landlord, who has no fiscal duty towards the *colonus*. The size of the *colonus*' private landholdings is immaterial, as ownership of even the smallest tract of land would invoke this exception; in fact, the text of the law assumes the *colonus*' has only meagre property.

In this bipartite division the *coloni* who were taxable dependants of their landlord are *adscripticii*, and the *coloni* with some private landholdings of their own are *censiti*. *Adscripticii* were indirect taxpayers and were not independently assessed for taxation. Instead, landlords were

responsible for their *adscripticii* tenants' tax affairs. For tax purposes *adscripticii* were regarded as their landlord's dependents, which meant that the *adscripticius*, their family, crops, registerable livestock, and any other assets were added onto the landlord's personal listing in the tax register. Hence the term *adscripticius*, from *adscribo* -ere "to enrol, write after", as the entry for an *adscripticius*' taxable assets was appended to their landlord's census entry. Unlike *censiti*, *adscripticii* had no proper listing in the census of their own because they did not own landed property.⁵⁰ The tax a landlord had to pay was based not only on the *iuga* and *capita* valuation of his own family and assets, but also for the full valuation of his adscript tenants' family and assets. While *adscripticii* were not direct payers of imperial taxation some proportion of the rent they paid to their landlords would be forwarded as tax payments. Presumably landlords, or their agents, structured rental rates so that there was profit remaining after taxes were deducted from rental payments. Although imperial law forbade it, unscrupulous landlords might demand extraordinary contributions or increase rents if they felt their finances were unduly burdened by imperial tax demands.

Although the above constitution is the first specific statement in law that stipulates that landlords are the payer for taxes assessed on their adscript tenants' assets this does not mean it was an innovation of either Valentinian or Valens. Based on the long history of tenant registration in the census it is likely that landlords paying taxes for land cultivated by adscript *coloni* was an old custom;⁵¹ the Valentinianic law merely existed to restate this provision. Issuances of Roman law regularly repeat earlier legal prescriptions, and did so for any number of reasons, including but not limited to applying the rule to a new province, reiterating it for emphasis, restoring a law that had fallen into abeyance, or to remind the defiant or the ignorant of an existing law. A lengthy Novel of Justinian includes a rewording of the same taxation rules for *adscripticii/censiti*, and was issued to the same prefecture as the Valentinianic law, reinforcing that this fiscal regulation remained unchanged after at least two centuries:

⁵⁰ The funeral epitaph of the so-called Mactar Harvester (CIL 8.11824) uses the following phrasing to declare he grew up poor and landless: ...*cuius nec census neque domus fuerat*. That is, he had neither a census entry, which denoted landed property, and thus no household.

⁵¹ Mirković 1996, 357.

NJ 128.14 [Justinian – 13/6/545], to Peter, Praetorian Prefect of the East: this succinct section restates two longstanding rules: that no one shall be obligated to pay tax for land they do not own, and that a *colonus censitus* is responsible for taxes levied on his own private land as well as on his leased land. By contraposition this section also upholds the longstanding rule that *adscripticii* were neither directly assessed for nor paid taxes. Instead their landlord continued to assume the fiscal burden for their adscript tenants and their assets.

Moreover, the heading of Book 11, Title 48 of Justinian's Code – *De Agriculis Censitus vel Colonis* (Concerning census registered farmers and *coloni*) further emphasises the fundamental differences between *adscripticii* and *censiti*.

The registration of *adscripticii* as dependants on their landlord's tax records is important to the legal development of *coloni* in Late Antiquity and is a much-discussed topic in the historiography of the colonate. While both *censiti* and *adscripticii* were nominally free citizens, it was the latter class that was burdened with specific socio-legal regulations.⁵² The *condicio colonaria*, as discussed in the previous chapter, transformed the term *adscripticius* from a mere fiscal descriptor for a class of tenant into a legally binding status. Adherents of the traditional view consider the act of tenant registration a fundamental step in transforming adscript *coloni* from tenants into dependant serfs.⁵³ The following sections will explore the implications of tenant registration for *censiti* and *adscripticii* as it concerned their rights, responsibilities, opportunities, and status generally; the following discussion will only concern tax matters for *coloni* and their landlords. The registration of landless *coloni* was an ancient practice, though it only attained a set of terms in the Roman legal lexicon in the fourth century. Cicero's courtroom prosecution of the corrupt former governor of Sicily, C. Verres, demonstrates the existence of a prototypical tenant registration system the Romans inherited and retained on the island:

Unde ergo hoc intellegi potest? Ex hoc maxime, quod ager decumanus provinciae Siciliae propter istius avaritiam desertus est. Neque id solum accidit, ut minus multis iugis ararent si qui in agris remanserunt, sed etiam ut permulti locupletes homines, magni et navi aratores, agros latos ac

⁵² Sirks 2008, 123.

⁵³ A full accounting of scholars and their works that argue in favour of this position would be exhaustive, some examples include: Sarris 2015b, 178; Sirks 1993, 358–59; Mirković 1997, 99.

fertiles desererent totasque arationes derelinquerent. Id adeo sciri facillime potest ex litteris publicis civitatum, propterea quod lege Hieronica numerus aratorum quotannis apud magistratus publice subscribitur.

How can this be recognised? From this especially, as the fields in the province of Sicily that pay the one-tenth share rent are abandoned, because of that greed of yours (Verres). Nor did it merely happen that those who remained on the fields ploughed with fewer yokes, but also that many wealthy men, great and industrious farmers, abandoned their broad and fertile fields and left their entire farms derelict. It is very easy to learn this from the official records of the cities, because according to a law of Hiero the number of public land farmers is publicly recorded each year before the magistrates.

Cicero Against Verres, Second Oration 3.120

Although Cicero does not go into much detail, what is clear is that Sicilian communes kept records on tenant farmers leasing public land. Considering the tenants paid a share-rent the recorded data likely included data on the size of the rented plot(s) and how the land is used so that the rent could be properly calculated.⁵⁴ Furthermore, since tenant farmers on Sicilian public land could abscond from their fields the act of registration does not seem to have imposed any penalty, or at least the penalty for abandoning a tenancy was less grievous than tolerating the misappropriation and general corruption of Verres.

Registration of landless tenants for tax purposes gradually became a requirement across the empire, though there is very little evidence available to follow these developments. In the early third century Ulpian dictated the following norms regarding tenant registration:

Dig. Iust. 50.15.4.8 [Ulpian, *Censuses* Book 3]: after discussing the various types of assets and natural resources that landowners must declare on the census Ulpian states that landowners must declare all *coloni* and *inquilini* that lease land from them. Failure to declare a tenant attracted an unspecified penalty. This is a general opinion that is intended to be applicable to all land and all proprietors across the empire, unlike the previous example which was specific to specifically

⁵⁴ Heitland 1921, 194–96.

demarcated land in Sicily. By the early third century fiscal registration of *coloni* under their landlord's tax register entry was widespread enough that Ulpian could describe it as a general rule amongst other generic census rules and processes. However, this opinion remains Ulpian's own and does not necessarily reflect the reality across the empire. A variety of systems for registration might have proliferated across the empire during the Principate, and perhaps some provinces did not require the declaration of *coloni* and/or *inquilini*. Nonetheless, Ulpian was a respected legal thinker with a broad knowledge of legal norms, so this opinion should be taken to mean that broadly speaking in the early third century most *coloni* were registered by their landlords on the census.

From the Late Republic until the end of the Principate it is clear that landlords were required to register their *coloni* on the census. The scope of this registration is not made clear, however. Ulpian merely states that landlords are required to register landless tenants, he does not specifically mention whether the tenant's assets must be registered too. However, Ulpian mentions the requirement to register tenants amongst a much larger passage outlining census registration requirements and procedures, so it is possible Ulpian meant to imply registering a tenant involved registering their assets too. It is also not explicitly stated in any Principate-era material that a landlord is fiscally responsible for a registered tenant, however much the act of registration suggests this. The extent of the landlord's fiscal responsibility resulting from tenant registration before Late Antiquity is not clear as the first unambiguous declaration that landlords are fiscally responsible for their *adscripticii* comes from the mid-fourth century, in the aforementioned law of Valens. Even the taxable status of *coloni* in Late Antiquity is not a settled issue, despite the available legal evidence. Fustel de Coulanges argued that in Late Antiquity *coloni* were responsible for the payment of taxes assessed on them and their assets, whereas under the Principate the landowner was responsible for paying this on their behalf.⁵⁵ It is difficult to see how this argument can be sustained however when the last two (Late Antique) laws cited are considered.

⁵⁵ Fustel de Coulanges 1885, 75–77.

Imperial Revenue Streams

Not all taxes were collected through the *indictio*, nor was every tax apportioned using the *iuga/capita* system used by the *indictio*. Several other major imperial taxes were levied at idiosyncratic intervals and had their own individual eligibilities. Besides the imposts imposed by the central imperial state, communes also had certain powers to demand payments of various kinds from different classes of residents and citizens. Municipal duties fall under the rubric of *munera* however and shall be discussed shortly.

Concerning *coloni*, the rules already stated determined whether they paid imperial taxes or not. That is, a tenant with their own land was independently registered on the census and paid their own taxes, whereas *adscripticii* were dependants of their landlord and did not contribute directly. *Adscripticii* may have been free from the burden of assessment and direct payment, but they were not economically isolated. The tax structure affected their landlords, which naturally caused a flow-on effect to them. A tax increase could provoke a rent increase in response, whether legal or not, especially if the tax increase threatened the profitability of leased land or endangered the landlord's finances. In this was *censiti* were doubly affected by changes to imperial taxation – firstly as a direct payer themselves and secondly whether tax structures would affect their landlord, causing a follow-on effect on their rent.

The main taxes levied by the empire, whether through the *indictio* or otherwise, and that might impact the economic position of *coloni* follow below; the following chapter will consider when and how Late Antique legislative changes affected the tax situation for *coloni* in Africa specifically.

Aurum coronarium: an ancient practice, in which on joyful occasions, such as a great imperial victory, quinquennial jubilees, or accession, cities across the empire would compulsorily “offer” gold crowns in thanksgiving to the emperor. The *coronarium* was partially *ad hoc*, partially scheduled, and was levied from non-senatorial landholders – normally *decuriones* or similar.⁵⁶ The burden of

⁵⁶ Three fourth century laws, CTh 12.13.1 [Julian – 29/4/362], 12.13.2 [Valentinian I & Valens – 28/8/364], 12.13.4 [Gratian, Valentinian II, & Theodosius I – 10/8/379] all protected senators from compulsory contributions to the *coronarium*. The final law stresses that voluntary contributions were welcomed and accepted though.

contributing any number of *solidi* or bullion towards the *coronarium* may have impelled landlords to seek greater rents or extraordinary payments from their *coloni*.⁵⁷ CTh 12.13.3 [Valentinian I & Valens – 23/6/368-373] and 12.13.5 [Gratian, Valentinian II, & Theodosius I – 18/1/379] protects against forcible contributions from individuals (non-decurions), but this law would be difficult to enforce. It is probable that in some ways *coloni* were unwitting contributors to the *coronarium*, but as the sum levied varied, and it was not levied according to a fixed schedule, the impact is impossible to measure.

Aurum oblativum: the senatorial counterpart to the *coronarium*. Senators were protected from contributing to the *coronarium* as they were expected to contribute to the *oblativum*. The *oblativum* was collected for the same occasions that the *coronarium* was. The amount levied was left to the Senate to debate and concur on; Symmachus relates that Senate offered 1600 lbs. of gold to Valentinian II on the occasion of his decennalia, which was considerably more than was offered to his predecessors and co-emperors.⁵⁸ While ostensibly the Senate was free to vote to offer any amount it desired, in reality the complexities of politicking, namely currying imperial favour, meant that the amount “given” would ever remain substantial. A *colonus* would, of course, not be able to attain the rank of senator, and therefore this tax could not be directly levied on them. But just as decurions obliged to pay the *coronarium* might look to their tenants to ease their fiscal burdens, so too might a senator. The senatorial class was the wealthiest in the Roman socio-economic strata – the average senator was wealthier than the average decurion by a considerable margin – and therefore they were less likely to need to extract extraordinary monies from their *coloni*, but that does not mean they would not do it anyway. The same insurmountable problems with estimating the *coronarium*’s effect on *coloni* exist for the *oblativum*.

Aurum tironicum: a tax paid in lieu of military conscription. Gradually, from the later fourth century laws were passed that prevented *coloni* from being conscripted from imperial properties; after CJ 11.75.3 [Arcadius & Honorius - ??/??/397] no recruits were permitted to be conscripted from any

⁵⁷ Libanius *Oration* 18.193 states that certain unnamed cities variously contributed one-thousand, two-thousand, and even more *solidi* per *coronarium*, which was a fiscally onerous contribution. He adds that the cities competed for the dubious honour of having contributed the most, or at least more than their neighbours.

⁵⁸ Symmachus *Letters* 2.57.

of the imperial *res privata* in the west, the *tironicum* was to be paid by the *emphyteuticarius* (i.e. the landlord) instead. Prior to the passage of these laws, and still afterwards on any privately-owned property, *coloni* could be furnished as recruits by the landlord or the landowner; *adscripticii* would be called on to surrender a son to the army by the landlord, *censiti* by direct demand from the state. The value of the *tironicum* varied across the empire and over time; in Africa the *tironicum* was set by CTh 7.13.20 [Honorius & Theodosius II – 8/2/410] at thirty *solidi*. Because of the high cost of the *tironicum*, and of directly furnishing a recruit for conscription, this burden was paid either piecemeal or in rotation, by small and middling landholders according to the rules stated above.

Collatio equorum: similar to the *aurum tironicum*, the *equorum* was a monetary tax paid in lieu of supplying a livestock horse to the empire. CTh 11.17.1 [Valentinian I & Valens – 30/5/367] commuted the delivery of actual horses to a cash payment, and set a flat payment of twenty-three *solidi*, throughout the entire Prefecture of the East.⁵⁹ In the west however, livestock horses continued to be paid for this tax, except in the Diocese of Africa where CThs 11.17.2 [Arcadius & Honorius – 13/2/401] and 11.17.3 [Arcadius & Honorius – 21/3/401] commuted to payment to money. The former law set a rate of twenty *solidi* for Proconsularis, and the latter permitted a two *solidi* surtax for stabling. As a further complication, CTh 11.1.29 [Arcadius & Honorius – 21/3/401], issued at the same time as CTh 11.17.3, set payment rates of eighteen *solidi* for Numidia and fifteen *solidi* for Byzacium and Tripolitania while also forbidding stabling fees. Horses were the most expensive livestock in antiquity; the *Edict on Maximum Prices* specifies that a cavalry-class horse was worth half a pound of gold, or thirty-six *solidi*.⁶⁰ If the *Edict*'s price resembled the actual price for horses then it would have been advantageous to pay the money impost rather than furnish a horse. Again, like the *tironicum* the *equorum* was only paid in whole by wealthy landholders, lesser landholders paid it in rotation or in part.

⁵⁹ Curiously, the text of the law states that payers of the tax are “...a colonis atque ab obnoxiiis...”, or “*coloni* and others who are liable.” The usage of *colonus* in the law is likely meant to indicate ‘farmer’, or rural inhabitant generally, rather than tenants; other laws, such as CTh 11.17.2 [Arcadius & Honorius – 13/2/401], give the payers simply as provincials. It would be an unusual rule to demand only tenants pay this tax.

⁶⁰ *Edict on Maximum Prices* 32.2; the maximum price is given at 36,000 *denarii communes*, exactly half the price given for a pound of gold.

Collatio glebalis, or *follis*: primarily a tax imposed on the landed assets of the senatorial class, by the fifth century it could in some circumstances also operate as a general supplemental land tax. The *glebalis*, as instituted by Constantine I, was levied annually and was charged at three rates, of 8, 4, and 2 *folles*, according to the valuation of a senator's estates; a *follis* was equivalent to about 7 *solidi*.⁶¹ The *glebalis* was charged per individual estate according to the appraisal given by each incoming senator to the *censuales*.⁶² Landless senators were charged two *solidi* regardless, until Theodosius I instituted a fourth tier consisting of a single payment of seven *solidi* for landless or destitute senators.⁶³ Following the passage of CTh 14.3.10 [Valentinian I & Valens – 5/11/365] the *glebalis* became attached to the land even if the senator sold or otherwise alienated it, making a non-senatorial acquirer liable for the tax. Thus, while the *glebalis* originated due to senatorial ownership it instantly became an encumbrance on the land, not on the senator himself; a senator could reduce his *glebalis* liabilities at any time by disposing of landed property. *Coloni*, or a corporation of *coloni*, could become direct payers of the *glebalis* if they happened to either buy their leasehold from a senator, or forcibly receive ownership from the state. The *glebalis*, in conjunction with other taxes and duties, may have prompted some landowners to attempt to ameliorate their financial condition by seeking greater contributions from their tenants, especially where an estate was scarcely profitable after the payment of taxes. Again, it is impossible to quantify this. It is unclear whether the *glebalis* was still levied on estates that did not produce enough cash revenues to satisfy even the lowest tier of two *folles*; CTh 6.2.24 [Honorius & Theodosius II – 14/5/417] indicates that estates liable for the *glebalis* were being abandoned, which would suggest that the *glebalis* was a contributing factor in land desertion.

Collatio lustralis, or *chrysargyron*: a tax levied on *negotiatores*, which broadly included anyone who made a living from commerce, finance, or trade; farmers, including *coloni*, could in some circumstances be counted under the rubric of *negotiator*. The lustral tax was assessed on the capital

⁶¹ This refers to neither denomination of Late Roman coin that is often called the *follis*, but instead refers to a standardised purse, or bag, of money. Epiphanius *On Weights and Measures* 53 defines a *follis* as containing 125 *miliarenses*, which would be worth nearly 6.94 *solidi*, not accounting for fluctuations in bullion value; cf. Abdy 2012, 588, 594.

⁶² Barnish 1989.

⁶³ CTh 6.2.15 [Valentinian II, Theodosius I, & Arcadius – 31/8/393].

assets of individual *negotiatores* and was collected at the civic level by a municipal appointee; the method and rates of assessment are largely unknown. Jones briefly stated without any substantial evidence that assessment was made based on the *negotiator*'s capital assets and household; this position is regularly cited.⁶⁴ Both the legal and documentary evidence are too vague to make any real judgment on how the tax was calculated.⁶⁵ The tax was certainly assessed on individual *negotiatores* and was collected at a civic level by a municipal appointee.⁶⁶ The tax is normally thought to have been paid every four or five years, though Bagnall has made a compelling argument that payment was made annually; multi-year assessment for the tax was possible though. The tax could be paid in either gold or silver, though after the reigns of Valentinian I and Valens the empire increasingly expected payments in gold.⁶⁷ Numerous exemptions and tax reductions were granted to various professions, including *coloni*. Exemptions were granted on a regional or provincial basis and varied as to whether they were general in scope or exempted groupings of *coloni*, such as those who laboured on senatorial estates.⁶⁸ Although ostensibly many *coloni*, and farmers in general, were granted tax exemptions if a tax official considered a *colonus* to be engaging in commerce they could be declared a *negotiator* and have their exemption nullified.⁶⁹ Among the roster of Roman taxes the lustral tax was particularly loathed and considered unjust.⁷⁰

Collatio vestis, or *vestis militaris*: the last in the roster of civilian tax contributions for the military, the *vestis* was, as the name suggests, a tax to pay for military equipment. Like the *tironicum* and *equorum*, the *vestis* was paid in money and in kind throughout most the fourth century, before being commuted to a monetary payment in the late fourth or early fifth century, depending on the region. The *vestis* was far less costly than its other military counterparts but exhibits the same traits of

⁶⁴ Jones 1964, 431–32; the *Oxford Classical Dictionary* definition for *collatio lustralis* and the *Oxford Dictionary of Byzantium* entry for *chrysargyron* are essentially paraphrases of Jones' work.

⁶⁵ Bagnall 1996, 153–54.

⁶⁶ Bagnall and Worp 1985.

⁶⁷ Jones 1964, 431 writes that after the reigns of Valentinian I and Valens the lustral tax could *only* be paid in gold, however CTh 1.5.14 [Arcadius, Honorius, & Theodosius II – 7/12/405] clearly states “...sive de lustralis auri argente collatione...”, or the lustral tax payment of gold *or* silver.

⁶⁸ Cf. CTh 13.1.3 [Julian – 3/5/361].

⁶⁹ Atkinson 1992, 496.

⁷⁰ Libanius *Oration* 46.22–23, *Against Florentius*, melodramatically describes taxpayers recoiling from the collectors of the lustral tax. Evagrius Scholasticus *Ecclesiastical History* 3.39 relates the alleged injustice and public hatred for the tax and describes in unabashed panegyric the abolition of the tax by Anastasius.

regional variation. Laws, and indeed even general information, on the *vestis* is uncommon, especially in Africa. CTh 7.6.3 [Valens, Gratian, & Valentinian II – 9/8/377] sets out the following schedule for *vestis* payments in the east: in the Diocese of Thrace one *vestis* shall be furnished for every twenty *iuga* or *capita*, in the Dioceses of Asia and Pontus one *vestis* is payable per thirty *iuga* or *capita*, and in the Dioceses of Egypt and the East one *vestis* shall be provided for every thirty *iuga*; the provinces of Osrhoene and Isauria are to pay gold instead. Similar diversity in rates presumably existed in the west also. Where the *vestis* was payable in goods the burden of payment would have rotated amongst *consortes* in a tax association, else when it was payable monetarily it would have been paid proportionately by *consortes*. CTh 7.6.4 [Honorius & Theodosius II – 17/1/396] states that soldiers in Illyricum should henceforth receive a *solidus* from the *vestis*, and CTh 7.6.5 [Honorius & Theodosius II – 9/4/423] provides that five-sixths of the monetary *vestis* should be paid directly to the troops, the remainder going to imperial military manufactories. The *vestis* was, evidently, far less onerous than other related taxes as the full payment barely exceeded a *solidus*. Compared to the other military imposts the individual burden of the *vestis* was quite low, and by itself is unlikely to have caused undue financial strain on any landowner or tenant. Of course, in conjunction with the sundry other taxes and other expenses the *vestis* could contribute to financial difficulties, and the duty to supply attire rather than money be an untimely burden for a rural household.

Siliquaticum: a late addition to the roster of Late Roman taxation, the *siliquaticum* was a sales tax imposed by Valentinian III in 444-5. It required that for every sale both the buyer and seller must each pay a half-*siliqua* per *solidus* transacted; the effective tax rate was therefore 4.166%.⁷¹ The law that established the *siliquaticum* was only valid in the diminished western empire; it was never instituted in the east. Considering that Africa had already been conquered by the Vandals by the time Valentinian III instituted this tax it was no burden to Africa's *coloni*, and as the tax was never instituted in the Eastern empire no African would be required to pay it after Justinian's western reconquests.

⁷¹ NVal 15 [Valentinian III – 18/1/445]; Jones 1964, 205, 826.

The above listed taxes constitute, along with ordinary *indictio* imposts, the various duties the imperial state levied on provincials across the empire. While there was considerable regional variety in general every prefecture, diocese, and province contributed to these taxes (except for the *siliquaticum*, which was only paid by the rump Western Empire). However, while it is possible to enumerate the various taxes and suggest how they might affect *coloni* it is impossible to assess their real impact or quantify the amounts collected; problems with quantification have already been outlined throughout this section. In summary, the major issues include:

- I. Uncertain tax rates: tax rates were not uniform across the empire, but instead were set on a prefectural, diocesan, or provincial basis. Naturally, tax rates changed over time, and the changes were again set on a region-by-region basis. Additionally, individual liability for particular taxes also varied on a regional basis, and some taxes may not have even been collected in certain parts of the empire. Regrettably, only a small sample of actual tax rates are present in the extant evidence. For example, CTh 7.6.3 sets out a schedule of liability per *iuga* and/or *capita* for the *vestis* in the Eastern Empire there is no corresponding schedule for the west – in part or whole.
- II. Uncertain valuation of *iuga* and *capita*: tax rates alone are not enough to estimate individual most individual taxes were apportioned to individuals based on the number of *iuga* and *capita* recorded in their tax assessments, but in almost all cases the ratio of *iuga/capita* to a complete tax payment is unknown. To further compound the issue, the ratio of *iuga* to *iugera* (or the local prevailing measure, such as *centuria*) and the ratio of *capita* to individuals and livestock is largely unknown, including for Africa. The monetary payment rates for an individual *collatio equorum* payments are known for most of the provinces in Africa, but it is entirely unknown how much land, or how many taxable individuals or livestock, a taxpayer would need to own to incur a full individual payment of this tax.
- III. Arbitrary taxes: the *aura coronarium* and *oblaticium* were both largely arbitrary in the amount collected and the frequency of collection. The latter aspect of the tax can be estimated with decent accuracy by counting the number of imperial *quinquenalliae*, coronations, major victories, etc. in the fourth and fifth centuries. The amount pledged to the emperor by the Senate and the thousands of communal governments is almost a complete unknown though. Moreover, although the senators and decurions were supposed to furnish these taxes from their own wealth only it is probable that some *coloni* were surreptitiously forced to recompense their landlords.

- IV. *Superindictiones* and tax remissions: the emperor would often proclaim temporary tax increases or remissions in certain regions or provinces based on economic and military factors. There is no complete, official list of when *superindictiones* were levied, what revenues were demanded, or how much was collected. Similar, there is no list for tax remissions, which taxes were excused, and who was excused from payment. There is more legal evidence for remissions compared to *superindictiones*, as the editors of the Theodosian and Justinianic Codes thought it prudent to preserve some, but far from all, decrees temporarily annulling taxes. Because *ad hoc* decisions to increase or decrease the tax burden were a regular feature of imperial policy, and because so little is known about these extraordinary tax changes, it introduces an unknowable margin of error into any estimation of tax collection and individual tax burdens.

Perhaps the one burden that was common to every province in the empire besides the *indictio* was the civic imposition of *munera*. As defined earlier, *munera* were compulsory civic duties assigned to individuals according to where they had their *domicilium* or local citizenship. As *coloni* were labourers of modest economic means, they performed *munera sordida* – a class of *munera* that involved physical labour, such as road and building construction/repair, milling, etc.⁷² The wealthier classes, including landlords, undertook less arduous *munera*, which fell under the headings of *munera personalia* and *patrimonalia*; *personalia* were duties assigned to individuals, *patrimonalia* were duties on property.⁷³ The duties of these classes of *munera* included the provision of goods for the commune, staffing a municipal office, etc. Ordinarily, municipal authorities would decide how *munera* were doled out to local residents and citizens, however on free estates, which lacked an organised government, it must have been the landlord or his agents who assigned *munera* to resident *coloni*.⁷⁴ Additionally, while *adscripticii* were in most cases exempt from directly paying taxes to the empire they did not enjoy a similar general exemption from *munera*. However, numerous laws and juristic opinions provided a disorganised web of partial reprieves and exemptions from *munera* to different groups of *coloni*. The exemptions for *coloni* generally rested on two factors: their province of residence, and whether they were renting public or private land. Exemptions from *munera* were an acknowledgement by the empire of the *colonus*' socially crucial role as a farmer, and possibly in

⁷² Jones 1964, 451–52; van Sickle 1938, 9–10.

⁷³ Jones 1964, 724–25.

⁷⁴ Curchin 2014, 272; Sirks 2008, 126–27.

recognition of their meagre economic capacity which might impede their ability to undertake the tasks if personal expenditure was necessary.

Principate-era jurisprudence produced three varying opinions on whether *coloni* ought to be summoned for *munera*, and in what circumstances (if any) it is permissible.

Dig. Iust. 50.1.38.2 [Papirius Iustus, *Constitutions* Book 2]: Papirius refers to a lost constitution issued by Marcus Aurelius and Lucius Verus, wherein *coloni* on imperial land *could* be called for *munera* as long as the imperial treasury did not suffer as a result. Presumably the imperial treasury would suffer from decreased rents that would result from *coloni* being absent from their fields during planting, harvesting, etc. The constitution gave authority to the provincial governor, in consultation with the estate's procurator, to decide on whether the *coloni* should undertake *munera*. This constitution would permit civic and imperial authorities to exploit the labour of *coloni* during lulls in agricultural workload.

Dig. Iust. 50.6.6.11 [Callistratus, *Judicial Examinations* Book 1]: *coloni* in contrast with Papirius' assessment, Callistratus prescribes a complete ban on imperial *coloni* undertaking *munera* whatsoever. The stated reason is so that *coloni* could concentrate on cultivating the estates of the imperial treasury. The reasoning between Callistratus' and Papirius' opinions is the same, only the former decided that it would be prudent to excuse *coloni* from *munera* entirely.

Dig. Iust. 50.5.1.2 [Ulpian, *Opinions* Book 2]: *coloni* in this subsection Ulpian addresses an underhanded practice employed by decurions to minimise their *munera* duties. By taking out a rural leasehold a decurion would legally become *coloni* and enjoy diminished eligibility for *munera*. An enterprising decurion could have avoided the need to undertake farm work by either subletting or assigning an agent (e.g. a slave, client, or hireling) to work the leasehold, thereby enjoying the exemption or reduction in civic duties without accruing any further burdens. The empire unsurprisingly considered this a connivance not in keeping with the spirit of the law. The excerpt in the Digests does not specify whether decurions were enrolling themselves as *coloni* on imperial or private property but given the other two juristic opinions relate only to imperial domains it is likely

that this one does as well. Decurions were still using this method to surreptitiously avoid their duties into the fourth century, resulting in Constantine II passing a new law to combat it.⁷⁵

From these three opinions it is clear there was a disparity between imperial and private *coloni*.⁷⁶ The latter could be called to perform *munera* even if it was detrimental to their fields, whereas the former could reasonably expect that their sowing and harvesting would be uninterrupted. This distinction is especially relevant for Africa, as the size of imperial landholdings in Africa was much higher compared to most other parts of the empire. That means that in Africa *coloni* on private estates shouldered more of the burden of *munera* compared to their contemporaries elsewhere in the empire.

Late Antique law elaborated on exemptions for *coloni*, but not in a consistent manner. The key laws governing *coloni* and *munera* from the fourth century onwards are:

CJ 11.68.1 [Constantine I – ??/??/324], to Fl. Constantius, Praetorian Prefect [of the East]:⁷⁷ *coloni* on imperial estates are prohibited from being summoned for civic *munera* or from serving either on a municipal senate or as a municipal magistrate. This law gives unambiguous legal force to Callistratus' opinion, but only in the East.

CTh 11.16.4 [=CJ 11.48.1 Constantine I – 9/5/328], to Aemilianus, Praetorian Prefect of Italy:⁷⁸ among numerous other provisions, that law provides that no farmer shall be called summoned for *munera* while sowing or harvesting. Throughout the Prefecture of Italy, which encompassed Africa, *coloni* and rustics of any class were assured that crucial agricultural work would not be endangered by *munera*. While this law only provided time-specific exemptions from *munera* it is the first law to grant such exemptions for rustics who were not imperial *coloni*.

⁷⁵ CTh 12.1.33 [Constantine II & Constans – 5/4/342].

⁷⁶ Kehoe 1988, 129–31.

⁷⁷ Fl. Constantius, the addressee of this law, served as Prefect in both the east and the west, and the constitution is only dated by the fact that he is addressee. Thus, in isolation it is impossible to tell whether this law was addressed to Fl. Constantius in his capacity as Prefect of the East or Prefect of Italy. Subsequent laws issued in the west contradict this law, which suggests the law was issued to him while he was serving in the east.

⁷⁸ The Justinianic version of this constitution is heavily edited; only the provision discussed herein is retained.

CJ 11.68.2 [Constantine I – ??/??/335], to Ianuarius, *Comes* of the East: this law does not specifically concern *munera*, but orders that *coloni* on imperial estates are only suitable for farm work or keeping accounts. This effectively disqualified them from nearly all classes of *munera*, including the laborious forms of corvée *munera sordida*. The burden of these duties would fall on other rustics, including *coloni* leasing private landholdings. Again, this law is only valid in the East, specifically the Diocese of Oriens.

CJ 11.68.5 [Valentinian II, Theodosius I, & Arcadius – ??/??/384-388], to Cynegius, Praetorian Prefect of the East: this law prohibits levying special taxes on imperial *coloni* and prohibits calling imperial *coloni* to perform extraordinary *munera*. The law explains that demanding supplementary taxes and *munera* from *coloni* is “contrary to custom”.

From the above laws it is apparent that the Constantinopolitan court was more concerned with the issue of *coloni* performing *munera* than its western counterpart. The only law issued in the west granted only partial exemptions from *munera*, and the law concerned rural inhabitants broadly, not just *coloni*. For *coloni* in Africa to expect a general reprieve from *munera* they would need to rely on the continued implementation of Principate-era jurisprudence, which is possible. Hapless *coloni* who lacked knowledge of or access to the law could be summoned to perform onerous civic duties that their more well-informed or well-connected contemporaries avoided. The “custom”, presumably a legal precedent, referred to in CJ 11.68.5 could be a juristic opinion, though it is impossible to know. In any case, reliance on jurisprudence for a general exemption was only applicable for imperial *coloni*. *Coloni* labouring on private estates in Africa were therefore drafted as corvée labourers.

Few, if any, *coloni* would have possessed the property and economic resources that would render them eligible for *munera personalia* or *patrimonalia*; only wealthy locals who fraudulently enrolled themselves as titular *coloni* would meet these qualifications. Like ordinary taxation, the financial burdens that *munera* placed on landlords likely had a flow-on effect on *coloni*, specifically through higher rents and/or extraordinary demands. Numerous laws and opinions were issued to compel recalcitrant decurions and other local notables to perform their duly assigned *munera*, thus it

should not be surprising if some individuals attempted to illicitly compensate themselves or redirect the burden onto someone(s) else.⁷⁹

Beyond this, many respectable Roman towns and cities had institutions to safeguard the municipal food supply and offer cheap or free foodstuffs to the eligible needy. The commune would source these foodstuffs from farms within its own jurisdiction via *munera*. There was no ‘normal’ civic food supply scheme – some communes relied on charity to resolve food crises when they occurred, others had one or more irregular occasions for the distribution of foodstuffs, typically festivals, and these could be public or private institutions, and some other communes had permanent annual offices and duties assigned as *munera* to safeguard against famine.⁸⁰ Where municipal food supply was a public institution in a commune the supervisors of the food supply (also oil, in some places) were called *sitonai* and this office, and any other related offices, were dispensed as *munera*.⁸¹ The imperial state did not require the institution of such systems and did not regulate them and, except in cases of acute famine, neither the provincial nor imperial authorities intervened in these systems.⁸² Rome and Constantinople are the exceptions, as the empire needed to institute a complex administration and maintain sizeable infrastructure to provide for these cities’ vast populations. The particulars of civic alimentary schemes were at the discretion of the civic authorities, and thus were not codified in Roman law. However, CTh 14.25.1 [Constantine I – 12/12/315] provides a list of regulations regarding the grain supply for Carthage. Carthage was larger, more important, and more prestigious than most provincial cities, and its size and status necessitated collection of cereals from across all Proconsularis. While an ordinary commune could only compel contributions from within its own borders, the law governing Carthage’s grain supply is informative. Both individual properties (*patrimonalia*) and individual (ex)-magistrates (*personalia*) were obligated to contribute to the grain

⁷⁹ Curchin 2014, 284; van Sickle 1938, 11–12.

⁸⁰ Erdkamp 2009, 271–74; Zuiderhoek 2008, 165–66.

⁸¹ Dig. Iust. 50.4.18.5 [Arcadius Charisius, *Civil Munera*]. This civic institution antedated Rome, as the name itself is Greek – σιτόνης; cf. Finley 1973, 170.

⁸² Garnsey 1988, 257–61; the intervention of the provincial governor or the emperor was needed when the commune was unable to resolve the food crisis itself. This could be due to a lack of robust local institutions, ineptitude, greed, corruption, or a lack of resources. Intervention was not a given of course, and some communes suffered through famine without relief. Zuiderhoek 2008, 175–77; some level of euergetism was necessary to maintain civic harmony and ensure the viability of municipal and imperial oligarchical government.

supply. Sale or transfer of obligated properties transferred the duty of payment to the new owner – if the obligated property was sub-divided then each new owner paid in proportion to his share of the sub-division. Substitution of individual grain supply duties was generally not permitted; the law specifically takes aim at sitting magistrates who abused their power to reassign individual grain supply duties. Most communes would have employed either obligated properties or obligated persons, or even both, for their local food supply schemes. *Coloni* working land affected by such an obligation, or land owned by a landlord with a personal obligation, were likely to be subject to greater exactions, and risk of greater extraordinary exactions. Even *coloni* without a direct link to a communal alimentary scheme may have found their surpluses seized or compulsorily bought during a local food shortage. Records of municipal *annona*e in Africa are regrettably scarce. Carthage certainly had such a scheme, as did Sitifis, but beyond that none are known with certainty.⁸³

Autopragia

The fiscal responsibility great landlords had over their adscript *coloni*, along with their weighty socio-economic leverage, occasionally led to an imperial grant, or perhaps occasionally a unilateral appropriation, of the right of *autopragia*. *Autopragia*, or *autopractinum* as it is known in a solitary law, was the right of a proprietor or municipality to independently collect taxes and pay them directly to the imperial treasury, bypassing imperial and/or municipal tax collectors.⁸⁴ As *autopragia* represented a diminution in the power of the imperial bureaucracy to execute tax collection it was ordinarily, and properly, only granted as a special privilege by the emperor. Despite this, *autopragia* features heavily in certain theories of the colonate, which fall into two groupings:

- I. Feeble state: adherents of this viewpoint contend that *autopragia* was a symptom of widespread plutocratic usurpation of state authority. The landlords of great estates increasingly subjected their semi-servile tenants

⁸³ Fentress 1990, 125; Lepelley 1979, 500.

⁸⁴ *Autopragia* is both an obscure and vernacular term for this phenomenon, documents elsewhere refer to it with different nomenclature such as the aforementioned *autopractinum* in CTh 11.22.4 [Honorius & Theodosius II – 19/5/409], or as *αὐτόπραχτον σχῆμα* in documents from the Egyptian town Aphrodito. The usage of the term in Roman law is so rare and late that Berger does not include an entry for it in his *Encyclopaedic Dictionary of Roman Law*, for instance.

to their authority, which included tax collection. The hapless imperial state contented itself with tax returns from powerful landed lords.⁸⁵ Hardy contends that *autopragia* was a defining feature of Late Antique Egypt. Sarris, Bransbourg, and Mirković all identify the origins of adscript status in an unofficial usurpation of tax duties.⁸⁶ While there was a perennial power-struggle between the Roman state and the wealthy and the balance of power is still subject to debate, the western empire was still a commanding power through the first third of the fifth century. The plethora of laws issued designed to secure revenues and prevent *patrocinium* intruding on the state's purview or, to a lesser extent, the rights of provincials demonstrates that the empire was not content to see its authority usurped.⁸⁷ The kings of the post-Roman states in the west were more inclined to indulge plutocrats within their realms compared to their imperial predecessors, but even then the kings retained the right of refusal; Cassiodorus' archive of letters records a successful petition for *autopragia* to Theoderic's officials.⁸⁸ Perhaps only in the last decades of Roman rule in the west should unilateral usurpation of *autopragia* by landlords be expected, when the emperors could not preserve the state's authority amidst military disaster and geopolitical fragmentation.⁸⁹

- II. Devolution of taxation duties: this argument posits that *autopragia* was an imperial policy wherein landlords were impressed as quasi-official tax collectors over their *coloni*. In this way *autopragia* transformed the landlord/tenant relationship into one that resembled state/citizen. Different scholars have arrived at varied explanations to why the state would empower landowners in this way. Like Hardy, Gasco argues that *autopragia* was a key component of Egypt's economy and social organisation, except Gasco contends that it was deliberate imperial policy.⁹⁰ Segrè argues that *autopragia* was used after the tumultuous third century to stabilise provincial economies and safeguard tax collection.⁹¹ Silver contends that a key aspect of *autopragia* was that it immobilised *coloni*, incentivising landlords to assume responsibility for their tax payments by assuring them that their tenants could not leave.⁹² McConnell 2013 argues that wealthy estate owners began to derive more income from acting as *de facto* tax farmers than from collecting rent, turning Late Antique landowners into something resembling Republican *publicani*.⁹³ The main source for these argument is a flawed interpretation of CTh 11.1.14 [=CJ 11.48.4], the Valentinianic law that requires

⁸⁵ Hardy 1931, 54–72.

⁸⁶ Sarris 2004, 299–301; Bransbourg 2016, 308; Mirković 1997, 68–69.

⁸⁷ Sarris 2015, 125–29; Sirks 1993, 336–42.

⁸⁸ Cassiodorus *Variae* 12.8.

⁸⁹ Salvian of Marseilles invective against over haughty landlords etc comes from this era, cf. Goffart 2009.

⁹⁰ Gasco 1985, 13–23.

⁹¹ Segrè 1947, 127–28.

⁹² Silver 2017, 22.

⁹³ McConnell 2013.

landlords to pay taxes for land cultivated by *adscripticii*.⁹⁴ Per this law *coloni* with private possessions are ordinary taxpayers wholly independent of the landlord, and *adscripticii* are neither assessed for nor pay taxes themselves. Instead, landlords are assessed for land cultivated by their adscript tenants, and whatever assets they own, as if were under their personal cultivation/ownership. For this law to prescribe *autopragia* the landlord would need someone to collect taxes from – tenants were either fiscally independent or already taxable dependents, therefore *autopragia* was not a valid consideration for tenant *coloni*. Moreover, tenant registration was an ancient feature of the empire's taxation systems and, as argued already, does not seem to have undergone any substantial changes. If having *adscripticii* tenants conferred the responsibility of *autopragia* on landlords, then this facet of landlord-tenant-state relations would have extended back into the Principate era. The rationale for this argument is not compelling either. The empire was aware of the propensity of officials at every level to engage in corrupt behaviour for their own enrichment but was also aware of the tendency for individual taxpayers to minimise their own fiscal burdens, even if the means were illicit. It seems unlikely that many imperial officials would believe that disempowering the bureaucratically supervised tax officials in favour of thousands of independent taxpayers/collectors, each with a motive to minimise their tax payments, would secure imperial revenues.

The empire took a somewhat ambivalent attitude towards *autopragia*, alternating between granting the privilege and revoking it *en bloc*. There is limited documentary evidence for specific grants of *autopragia*, and what evidence there is all comes from Egypt. A cache of documents from the town of Aphrodito, in the Egyptian nome of Antaeopolis, demonstrates that freeholders in the town possessed *autopragia*, enabling them to pay their taxes to the provincial officials on their own initiative. The right of *autopragia* was not iron-clad however, despite the town's privileged fiscal status the nome's pagarchs attempted to tax Aphrodito anyway (this was referred to briefly earlier). Despite opposition by the locals and intervention by Justinian and Empress Theodora Aphrodito remained threatened by overzealous and capricious pagarchs.⁹⁵ Even a firm imperial grant of *autopragia* was not unassailable. Later, in the sixth century, the extant archives of the wealthy Apion family attests to *autopragia* elsewhere in Egypt. Fl. Apion II served as pagarch in the Arsinoite nome,

⁹⁴ Sirks 1993, 338–42.

⁹⁵ EJ 13.Proem addresses the widespread problem of tax fraud committed by local authorities in Egypt and attempts to remedy the situation.

ostensibly collecting taxes from estates and villages that did not possess *autopragia*.⁹⁶ References from other documents in the Apion archives demonstrate that *autopragia* existed on estates owned by the Apion family also.⁹⁷

Imperial displeasure with the scheme of *autopragia* is recorded in a sweeping law from the early fifth century:

CTh 11.22.4 [Honorius & Theodosius II – 19/5/409], to Anthemius, Praetorian Prefect of the East: this emperor's annoyance with *autopragia* is clear in this law, wherein it is considered an unjust liberality requested by dishonest landowners. The constitution abolished the privilege of *autopragia* and reverted the authority to collect taxes back to municipal decurions and provincial *apparitores*.⁹⁸ A single caveat permits *autopragia* only with the explicit permission, after due consideration, from the prefect. This law is especially notable in that it states that *autopragia* was a new scheme, and only granted at the request of individual landowners. Evidently a large number of landowners who were granted *autopragia* failed to pay their taxes of their own accord, hence the imperial ire with this scheme. The constitution's text gives no hint that landowners were unilaterally and fraudulently appropriating *autopragia*, only that landowners were failing to meet the obligations they promised in their petition.

Only two decades after Theodosius II's regents retracted *autopragia en masse* across the east Valentinian III seems to have done the opposite by passing a general grant of *autopragia* for Africa Proconsularis. This measure is the only secure evidence for *autopragia*, or something resembling *autopragia*, in Africa. The law was passed in the twilight of West Roman power in Africa, only a few years before the Vandals landed in Mauretania.

⁹⁶ Sarris 2006, 19; Hickey 2012, 14–16 suggest that it was a relation of Apion II who sat as pagarch.

⁹⁷ In P.Oxy. 16.1912 83, 27.2480 8-9; Hickey 2012, 115, 117; Mirković 1996, 356.

⁹⁸ Emperors somewhat regularly annulled special tax exemptions or privileges granted by them or their predecessors, e.g. CTh 11.1.30 [Arcadius, Honorius, & Theodosius II – 4/9/406], CTh 11.23.3 [Arcadius & Honorius – 30/6/396]. Despite these grants being imperial issues the constitutions stress that they were obtained through fraud, deceit, or begging; emperors and high officials were loath to admit mistakes.

CTh 11.1.34 [Theodosius II & Valentinian III – 25/9/429], to Celer, Proconsul of Africa: this is an unusual measure, this law seems to grant *autopragia* to all the landholders in Africa Proconsularis. The impetus for the passage of this measure was tax relief – a certain *comes* Bubulcus petitioned the imperial court on behalf of the Proconsular provincials. The florid text of the law boldly states that the landholders of Proconsularis shall never be preyed upon by civil or military tax collectors, nor be subject to corrupt rulings of a judge regarding their taxes. The law directs that after a grace period of four months landholders shall be required to personally pay their monetary (*aurum*) taxes to officials in Carthage's Capitol. Arrears forfeit the privileges granted by this law, in which case military tax collectors are empowered to recover the tax debt.

It is impossible to determine whether this law was supposed to be a permanent fixture in the empire's African tax policy, as a mere ten years after the promulgation of the law Geiseric established himself as king in Carthage, ending the empire's capacity to legislate for Africa. Indeed, the wording of the law leaves ambiguity whether its provisions were even supposed to carry over into the next year of the tax cycle. In any case, the empire saw this measure as a means of redress, presumably because it gave landowners some leeway in when they paid their taxes; this law was not a concession of power to haughty African landowners. Except for this law, there are no other surviving laws which grant *autopragia*, or anything resembling it, on such a large scale anywhere else in the empire. If the imperial state did proceed with widespread *autopragia* as a method of streamlining tax collection in the fourth and fifth centuries these laws should have persisted and been codified under Justinian. Since the Code does not contain a wealth of *autopragia* grants it should be assumed that the empire did not make a habit of general grants of the privilege. Except for this unique law, the pathway for Africa landowners to properly obtain *autopragia* was to petition the prefect or emperor. Small landholders, such as tenant *coloni* with their own private landholdings, were theoretically viable recipients for *autopragia*. Through block grants, such as CTh 11.1.34, such *coloni* could effortlessly receive *autopragia*. However, it is doubtful whether many, if any, *coloni* had the political and economic clout necessary to successfully petition the prefect or emperor for their own personal grant of *autopragia*.

The usefulness of *autopragia* is limited and should not be overstated. The key benefit of *autopragia* was in providing individuals with a greater degree of autonomy from the myriad levels of taxation officials in the imperial administration. In Egypt *autopragia* freed estates or municipalities from the interference or involvement from nome-level officials – a provincial subdivision unique to Egypt. Africa's political hierarchy was simpler, lacking an intermediary level of government between municipalities and the provincial authorities. Even without *autopragia* free estates would therefore only interact with provincial authorities or higher regarding tax matters, as would the municipalities. In Africa, only estates and smallholders subordinate to the fiscal authority of a municipality would gain substantial benefit from *autopragia*. In cases where local authorities were given to corruption and excessive fiscal demands, *autopragia* could offer welcome relief for landowners. However, the case of Aphrodito, where nome officials continued to harass locals for tax payments despite a clear grant of *autopragia* and imperial support, demonstrates that certain officials might attempt to illegally collect taxes regardless.

Autopragia did not grant taxpayers *carte blanche* in dealing with their personal tax affairs. Arrears were treated as seriously for *autopragia* payers as normal taxpayers – CTh 11.1.34, 11.22.4 both treat tardy taxpayers severely. Moreover, *autopragia* only properly concerned taxes payable in money. Taxes in kind were typically delivered by the payer to imperial granaries or storehouses rather than collected directly by state officials. In Africa, CTh 11.1.11 [Valentinian I & Valens, 31/7/365] required that, within reason, taxpayers near the frontier would convey supplies-as-tax to military stations; this law threatened torture on anyone who willingly flouted its provisions. Other similar requirements abounded across Africa and throughout the empire.⁹⁹ The benefits of *autopragia* were therefore restricted to payment of a monetary tax. Depending on where one lived, it might have been preferable to have the tax collected rather than paid directly to the treasury. Paying taxes in kind also freed the taxpayer from the burdens of monetary liquidity – if the taxpayer did not have enough cash to pay their tax then they would have needed to sell goods, that is their produce, beforehand to secure

⁹⁹ For example, per CTh 11.2.2 [Valentinian I & Valens – 23/8/364] those required to pay a tax of wine to the city of Rome were prohibited from commuting the tax to money and were required to deliver the wine themselves.

enough monies. Furthermore, the proprietors of estates distant from provincial metropolises were faced with the difficulty of delivering their tax payment to treasury officials, whereas the distance to deliver tax in kind might be much shorter. A provincial in Caesariensis or Tripolitania could be faced with regular journeys to pay tax – an arduous, costly, and potentially dangerous endeavour that was by necessity overland, as Africa is almost entirely without navigable rivers.¹⁰⁰ Wealthy landowners would doubtless prefer that an agent deliver their taxes to the imperial treasury, a luxury perhaps out of reach of middling landowners.

Legal and documentary evidence has proved that the phenomenon of *autopragia* existed on estates across the empire, however misinterpretation of the evidence has led to severe overstatements of the scope of this phenomenon to the extent that some scholars have argued that *autopragia* was a general rule on estates rather than a special privilege. In her recent book, Dossey posited that most estates in Africa had attained *autopragia*.¹⁰¹ Free estates certainly had no municipality to pay taxes to, instead paying to provincial authorities, but that alone does not constitute *autopragia*. Estates that fell within the jurisdictional boundaries of a municipality certainly did not attain *autopragia*, at least not as part of a general policy nor as a general phenomenon.

There is no compelling evidence, nor a compelling argument, to suggest that *autopragia* was a widespread facet of fiscal policy in Africa, or anywhere else in the empire, during the fourth or fifth centuries. Moreover, *autopragia* made no substantial difference to the landlord-tenant relationship as *autopragia* granted landlords neither greater nor lesser powers over their tenants. Adscript tenants did not pay taxes directly but were a taxable dependent of their landlord. Therefore, the landlord paid taxes that were assessed on their tenants and their tenants' assets. For tenants who had their own private landholdings *autopragia* was no boon to their landlords because the landlord would not have gained any additional authority over them. Tenants with their own property paid their own tax as normal, and *adscripticii* never paid taxes themselves anyway. Concerning *coloni*, *autopragia* was

¹⁰⁰ The *τραπεζίτης* of an Apion, of the aforementioned Apion family, sent 2,205 *solidi* downriver to Alexandria to satisfy tax payments, incurring the risk of loss; the risk of riparian travel was as great as traversing open country. P.Oxy 1.144; Barnish 1985, 29; Bransbourg 2016, 350–52.

¹⁰¹ Dossey 2010, 91–92, 201–2.

only relevant if a freeholding tenant possessed the privilege, and there is insufficient evidence to even guess how common this was. In any event, such a *colonus* still had to pay their taxes, just in a different way, and lacked the personal status and economic advantage that would allow them to evade their taxes. It is difficult to see how *autopragia* could be foundational to the colonate.

The previous chapters have examined the African provinces and the proliferation of tenant *coloni* within them and assessed the position of *coloni* within the imperial state and its taxation system. The general legal and documentary evidence shows that tenant *coloni* were subjected to new regulations that infringed on their liberty, as were other classes of people that were assimilated to similar conditions. These infringements were *de facto* rather than *de jure*, as formally *coloni* remained nominally free Roman citizens. The taxation system, though its operation changed substantially, scarcely affected *coloni*, or at least not in new ways. Adscript *coloni* were never directly taxed, they were always enrolled as dependents on the landlord's census entry. *Coloni* who possessed their own landholdings were the opposite, they were fully registered and assessed taxpayers.

This chapter will take these general observations and examine them within the context of Africa properly, mapping the colonate out against the mass of *coloni* described in chapter two. Legal evidence will remain a key source here, supplemented heavily by epigraphic, literary, and documentary evidence. Literary evidence provides invaluable insights into the lived conditions of *coloni*, and of the true impact of the law on their lives. Overwhelmingly, the literary evidence for the lives of Late Antique African *coloni* come from the writings of Augustine, especially from his extensive personal correspondence; an anonymous letter addressed to a certain Salvius also provides key insights. Augustine's writings demonstrate that he had a considerable, albeit biased, understanding of the lives of *coloni* and the difficulties they faced, and show that he had an uneasy understanding of the convoluted laws that affected *coloni*. Augustine did not merely observe and comment on the *coloni* he saw, but he was an active participant in their lives on numerous occasions. Augustine intervened in the lives and affairs of *coloni* in two main ways: as a Catholic bishop, and as a judge pressganged by the Roman state. As an expedient, and out of institutional respect and deference emperors had for the imperial Catholic church, imperial law mandated that bishops should hear civic cases as a judge. His interest in justice derived from his pastoral duties and religious

ideology, as well as his practical role in administering it on behalf of the state. Bishops normally only acted as judges on the agreement of both parties, but this was frequent enough that Augustine lamented that much of his time was spent adjudicating court cases.¹ Augustine had no training as a lawyer, but he was an educated man. He came from a well-off family, taught rhetoric for nearly a decade and studied Neoplatonic philosophy before turning to Christianity. He was thus well-read and inquisitive, and intimately involved in the lives and circumstances of Africa's *coloni*.

This chapter will engage in a thematic analysis of the legal and economic conditions as they existed and changed for *coloni* in Late Antique Africa. Comparisons with both earlier and later periods, and with other parts of the empire, will be interspersed where necessary for comparative purposes. The first section will examine Mancian tenure, an exclusively African system of land tenure. The next section will survey the local Africa and Italian prefectural changes to *locatio-conductio* and the *condicio colonaria*. The third section will examine the attempts of the empire to prevent unrest and criminal behaviour by *coloni*, and the results this had in the provinces. The final section will examine and hypothesis on the role of rents and taxes in generating wealth for the empire and landlords, and the ability of *coloni* to prosper in this environment.

Mancian Tenure

The enormity of estates across Africa and their considerable free tenant population required systems for managing tenancies and negotiating labour relations. What developed in Africa was an idiosyncratic admixture of imperial law, Roman agronomist theory, and, most importantly, indigenous development.² The specifics of tenancy arrangements in Africa are poorly preserved, except for a particular system that is commonly known as *Mancian tenure*. Mancian tenure developed in the first century CE from an enigmatic local law – the *lex Manciana*, which likely had antecedents in the Republican and Punic eras. The first attestations of Mancian tenure are from the Bagradas Valley in northern Proconsularis, and by the fifth century it had spread into Byzacium and Numidia also. Of the

¹ Jones 1966, 186–87; Hermanowicz 2008, 43; Lamoreaux 1995, 144–45.

² Kehoe 1988, 21–26, 71–100; Whittaker 1978, 355–59, 361–62.

tenancy systems employed in Africa only Mancian tenure can be securely reconstructed, the other systems of tenancy can only be guessed at from small fragments of evidence. Non-Mancian systems were not subsumed into a general system either as Late Antique statutes make provisions for the retention of traditional/customary tenancy practices.³ Mancian tenure though is illustrative of the conditions, concessions, and rights granted to *coloni* in Africa, which far exceed even the most generous general statutes or opinions of Roman jurists. By Late Antiquity rural tenancies and systems of governing them were well-established in Africa. The necessity or even desirability of reform in Africa, whether to impose the colonate or otherwise, must be considered, especially against the long history and successful history of using *coloni* as rural labour.

The *Lex Manciana* was, or developed into, a comprehensive suite of tenancy regulations and incentives that was unique to Africa. What would become Mancian tenure developed gradually over the first and second centuries, the progression of which was as follows:

- I. The original *Lex Manciana* originated in the mid-late first century as a private *lex locationis* or lease arrangements, on the African estates of T. Curtilius Mancian.⁴ It created a sharecropping tenancy system, wherein the *colonus* paid a third of their produce to the landlord. In return the *colonus* gained exclusive use of the land (*usus proprius*), which included heritability, of all lands cultivated.
- II. Trajanic innovations expanded Mancian tenure outside of its originating estates, granting Mancian tenure rights to *coloni* who had informally been cultivated *de jure* unallocated lands. Tenancy rights were perpetual, contingent only on continuous cultivation. Additional privileges and responsibilities were also added to the scheme.
- III. Hadrian issued the *Lex Hadriana de Rudibus Agris*, which supplemented the existing *Lex Manciana*, granting *coloni* new rights to assimilate unused lands into their existing leasehold.⁵ It also added amended and added privileges and rules.

³ CJ 11.48.5 [Valentinian I & Valens - ???/366].

⁴ Kehoe's theory remains the *communis opinio*, but it does have its detractors. Hobson 2015, 229 argues for a Republican (possibly second century BCE) origin of the *Lex Manciana*.

⁵ Kehoe 1985, 158.

- IV. Late Principate emperors upheld the provisions of Mancian tenure without exception, extended it onto new estates, and issued extensive reprieves for *coloni* who were being harangued by *conductores*. The empire understood the value and utility of Mancian tenure, and actively promoted its use.

Wherefrom Mancian derived his tenancy regulations is unknown, though the weight of current scholarship argues that it was derived from a Punic or Berber predecessor.⁶ In any case, through a series of inheritances a large part of Mancian's landed estates ended up as imperial possessions. From there the regulations were not only retained but expanded upon and instituted on other estates. A series of inscriptions from different estates in the Bagradas valley in Proconsularis attest to the gradual spread of Mancian tenure across the province, beginning under Hadrian. Simultaneously under Hadrian the provisions of the *Lex Manciana* were supplemented by the issuing of the *Lex Hadriana de Rudibus Agris*. Mancian tenure, after legislative supplementation by the *Lex Hadriana*, became a comprehensive scheme for managing estates and tenancies. It provided a broad set of regulations and privileges for *coloni*, which included:⁷

- I. Mancian *coloni* had perpetual and inheritable title to their leasehold without exception. The leasehold was functionally analogous to title to real property, for instance *coloni* could use their contract as a security for loans.
- II. Rent is paid in a sharecropping arrangement. In general, *coloni* furnish one-third of all produce to their landlord. A few products had different rules: beans were paid as a fourth share, and for every beehive the *colonus* had to furnish one *sextarius* of honey. All produce was paid as finished products, that is pressed oil, prepared grain (i.e. after threshing and winnowing), and so on.
- III. *Coloni* were authorised to cultivate *subseciva*, unused marginal land. If a *colonus* planted crops, trees, or vines on abandoned or unused *subseciva* then they gained legitimate claim to that land and it was added to their existing leasehold.⁸
- IV. Any *colonus* who neglects to work any portion of their land for two consecutive years is considered to have forfeited it. Forfeiture was not automatic however, the *conductor* or their agents were required to inform the

⁶ C. Whittaker 1978, 360.

⁷ Kehoe 1984, 215–18; 1988, 33–48; Lenski 2017, 121–27.

⁸ The right to cultivate *subseciva* must have been a privilege granted by the *Lex Hadriana*, as the section of the Villa Magna Variana inscription that treats the subject does not mention the customs of Mancian, whereas the other sections do; Kehoe 1985, 158.

colonus that they had abandoned their land and gather testimony from other resident *coloni* that the land had been abandoned. The *colonus* risking forfeiture could then defend themselves and hope to retain their land. This rule and process protected *coloni* who had left fields fallow intentionally and protected them from abuses from unfriendly neighbours or capricious landlords/agents of the landlord. A *colonus* under Mancian tenure could reduce their burden of labour by simply abandoning any additional fields they had acquired.

- V. *Coloni* were entitled to a rent-free period for all new plantings. Vines, figs, and grafts of wild olives did not attract rent for five years, and new plantings of olive trees did not attract rent for ten years. The rent-free period allowed the plantings to reach maturity and produce a viable crop; without this provision a capricious landlord could demand rent from a tree before it could bear fruit. Cereals and other annual crops were not subject to a rent-free period.
- VI. *Coloni* owe the *conductor* or estate owner between six and twelve days of *corvée* labour services annually. This comprised *operae*, which was agricultural work, and *custodiae*, which was likely supervising animals on common pastures. The landlord could not use the *coloni*'s labour arbitrarily, the type of work, number of days were fixed and rostered. For example, *coloni* on the *Villa Magna Variana* estate were required to perform three days ploughing, three days harvesting, and one day of pasture custodianship. The landlord utilised *coloni* labour to farm their own portion of the estate.⁹
- VII. *Coloni* had to pay a fixed fee for each head of livestock they pastured on fallow fields or the estate's commons. This was likely an alternative to paying rent on animal products, which would be difficult logistically, and thus ensured the landlord earned some money from the land use. Kehoe contends that this was to disincentivise *coloni* raising livestock rather than farming crops.¹⁰
- VIII. Abuses, negligence, and malicious damage were punishable by fines. *Coloni* were obliged to pay restitution for damaging another's crops, pay penalties for attempting to avoid full payment of share rent etc.

In general, most of the terms for Mancian tenure are the same across the different estates. There were some variations however, such as the different *corvée* labour requirements. The core provisions of Mancian tenure, namely share rent and perpetual leasehold, are prefaced in the inscriptions with phrasing referring to "custom", "the law of Mancian", or similar. These fundamental aspects would be instituted as is wherever the imperial authorities implemented Mancian tenure. The

⁹ Crook 1994, 160–61.

¹⁰ Kehoe 1988, 182.

other terms were variable and depended on the estate; the limited evidence available preserves only a small range of regional variations.

Mancian tenure is attested primarily from a group of inscriptions found in the Bagradas valley, with an important supplementary set of documents found in the south-east reaches of Numidia. The inscriptions collectively detail the ruleset just discussed, record imperial grants of further privileges – the publication and republication of the *Lex Hadriana* – and provide redress for *coloni* being harassed by corrupt agents.¹¹ Mancian tenure is further attested by other lesser inscriptions that simply confirm the existence and operation of that tenure system. In the early third century, a certain C. Aufidius Utilis pridefully self-described himself as a *Mancian[a]e cultor*.¹² A series of the inscriptions attest to a controversy that occurred under Commodus. The *procuratores* and *conductores* were conspiring to defraud the *coloni* and charge them excessive rents and demand excessive corvée labour; Roman soldiers were used to enforce these unjust demands. The *coloni* petitioned Commodus, who ruled in their favour. The corrupt agents were punished and the *coloni* were protected by imperial fiat.¹³ In fact, other inscriptions demonstrate that Mancian *coloni* were more than happy to self-describe themselves as such, suggesting they appreciated the value and benefits of their tenancy conditions. The following map and table lists the major epigraphic finds for Mancian tenure, namely those that provide some detail about what it entailed, along with its spatial and temporal distribution:

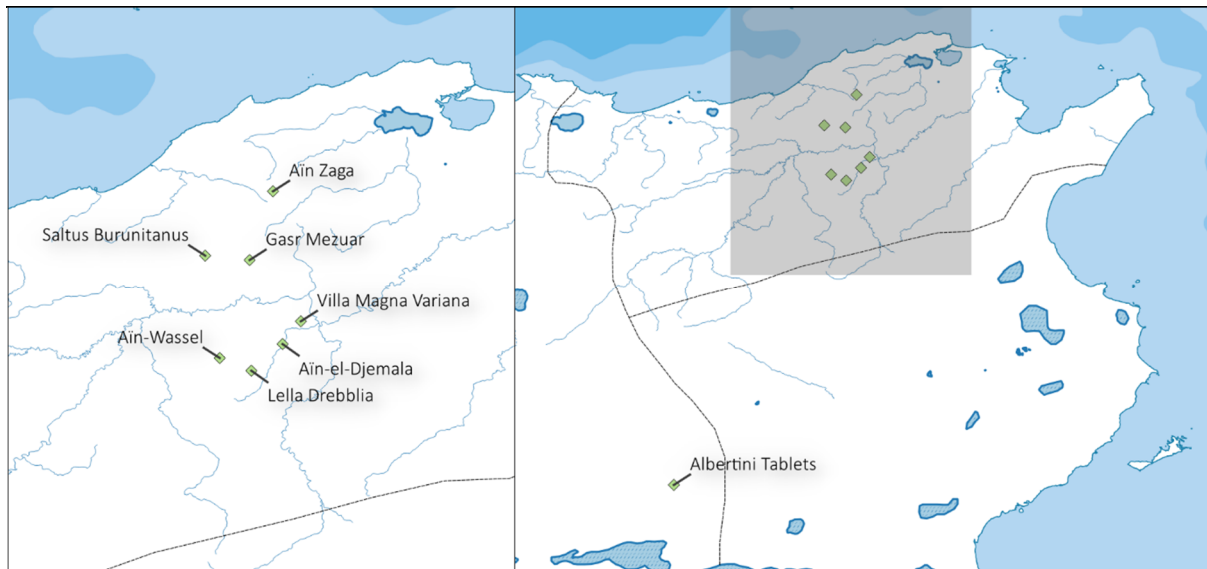
Table 6: Mancian Tenure epigraphic discoveries

Source	Location	Date
CIL 8.25902	Villa Magna Variana (Henchir Mettich)	116-7
CIL 8.25943	Aïn el-Djemala	117-138
AE 2001.2038	Lelle Drebblia	117-138
CIL 8.14428	Gasr Mezuar	181
CIL 8.15070, 14464; ILS 6870	Saltus Buritanus (Souk el-Khemis)	182
CIL 8.14451	Aïn Zaga	182

¹¹ Lenski 2017, 123–24.

¹² ILTun 629.

¹³ Kehoe 1988, 64–69; CIL 8.15070, 14464; ILS 6870, CIL 8.14451, and CIL 8.14428.



Map 8: Mancian tenure epigraphic finds

The Albertini Tablets, discovered in 1928 and named for French archaeologist Eugène Albertini, comprise a cache of personal documents dating from 493-496, during the reign of Vandal king Gunthamund.¹⁴ The Tablets were discovered in the Djebel al-Mrata in southern Numidia, not far from the border with Byzacium, and are crucial evidence for the survival of Mancian tenure into Late Antiquity. The Tablets detail, in part, a series of land sales wherein the land is unambiguously held under Mancian tenure, referred to in the Tablets as “*ex culturis suis mancianis*”.¹⁵ Until the chance discovery of the Tablets there was no evidence that Mancian tenure extended far beyond the surrounds of the Bagradas in central Proconsularis or into Late Antiquity.

The chance discovery of the Tablets demonstrated a number of important points regarding Mancian tenure in Late Antiquity. Firstly, by the end of the fifth century Mancian tenure was implemented well beyond the boundaries of Proconsularis. If the spread of Mancian tenure from the Bagradas Valley into the Djebel al-Mrata was linear then estates across Byzacium and part of Numidia would be covered by its regulations. The topography of the Tablets’ find spot is mountainous and divided into small parcels, some with only a few olive trees. The terrain is not

¹⁴ Courtois et al. 1952.

¹⁵ Tedesco 2018, 422–24; sixteen contracts specifically mention Mancian tenure.

suitable for cereal cultivation like the Bagradas estates. The implementation of Mancian tenure in a mountainous environment demonstrates the flexibility of Mancian arrangements and that it was not confined to vast, densely cultivated estates. Arid, mountainous terrain is a common feature across the African provinces and if the Djebel al-Mrata region is compatible with Mancian tenure then it is equally practicable across all of Africa.¹⁶ Secondly, Mancian tenure could and was implemented on private estates as the sales concerned in the Tablets are between private individuals.

Some of the language in the second century inscriptions has been interpreted as a guarantee to the *coloni* that their lease conditions will be maintained in the event their estate is privatised.¹⁷ Whether the lands being transacted in the Tablets were former imperial properties or private land where Mancian tenure was voluntarily implemented by the owner is uncertain, but it is clear that private landholdings could be bound by Mancian tenure. Lastly, Mancian tenure survived not only through the legal and administrative renovations of the Late Empire, but also under more than four decades of Vandal rule. The survival of private Mancian tenure well into the Vandal period is remarkable considering the dismal condition of *coloni* in the other post-Roman kingdoms. *Coloni* in the Gothic kingdoms of Italy and Spain were quickly subordinated to the authority of their landlords, reducing the lessor-lessee relationship to one analogous to slavery.¹⁸ Regrettably, although the Tablets mention that the transacted land is held under Mancian tenure but provides no specifics about what that entails. It is unclear whether in the intervening four centuries between the publication of imperial laws granting Mancian tenure throughout the Bagradas and the Tablets' land sales whether Mancian tenure was amended. However, in lieu of any evidence to suggest a substantial change in the terms of Mancian tenure it must be assumed that the conditions remained more or less the same. CJ 11.48.5 [Valentinian I – ???/366] provides a rare instance of imperial law acknowledging and respecting local customs in tenancy relations. This law declared that henceforth landlords in Tripolitania should receive their rent as rent in kind and were not to ask their tenants to pay a monetary rent. The law provides an exception however for estates wherein there was a pre-existing custom (*consuetudo*) to

¹⁶ Hitchner 1995, 138–40.

¹⁷ Kehoe 1985, 158–59; 1988, 50–51.

¹⁸ Sarris 2015, 129–32.

pay a monetary rent.¹⁹ While the law is dictating a new norm for rental payments – one that would affect new lease arrangements and therefore impinge on the freedom of the lessor and lessee to negotiate a contract to their specifications – it respected existing arrangements.

It is remarkable that in the late sixth century Manican *coloni* in the rural hinterland between Byzacium and Numidia, nearly 300km away from the centre of Vandal power in Carthage, continued to enjoy protection of their leaseholds based on a tenancy regulation system that was nearly five hundred years old. The owner of the *fundus Tuletianos* was actually buying back the leased land from the tenants, reverting it to private control.²⁰ It is a testament to the utility of Mancian tenure for both the lessor and lessee, and the utility of Roman property and contract law generally, that Mancian tenure survived for nearly half a millennium, spread at least 300km from where it originated, and survived a foreign conquest. It must be noted that Mancian tenure was not immutable. The provisions of the *Lex Manciana* never extended beyond the shores of Africa, and it was never codified in imperial law. Statutory innovations could override or invalidate any and all aspect of Mancian tenure. The Albertini Tablets demonstrate that some form of Mancian tenure endured into the late fifth century and beyond, but only close scrutiny of Late Antique law can determine whether three centuries of legislative activity diminished or extinguished the privileges associated with Mancian tenure.

Mancian tenure is also remarkable for its scope, generosity, and comprehensiveness. Individually, the provisions of Mancian tenure were not unique. What was unique was combining the sundry provisions into a single, reusable scheme. No other known scheme was as comprehensive. In the late fourth century, Theodosius I issued an edict that instituted a programme similar to the *Lex Hadriana*. This law, CTh 5.14.30 [Valentinian II, Theodosius I, & Arcadius – 25/10/386] granted perpetual tenure to anyone who brought deserted land under cultivation. The law offered a remission of rent and taxes for three years to anyone who cultivated virgin *subseciva* or bare, abandoned land, and remission of two years for anyone who took fringe land or semi-fertile tracts. Anyone who began

¹⁹ Scheidel 2000, 730.

²⁰ Wickham 2006, 269–70.

cultivating fertile or recently abandoned land was expected to pay the full measure of rent and taxation. Grants of land with an initial rent-free period were also granted elsewhere. Thisbe, a town in Achaia, established a scheme wherein *coloni* would receive a full five years rent free on municipal or temple land they leased, conditional only on continual cultivation.²¹ Theodosius II's law and Thisbe's local grant implemented only a single component of the Mancian tenure suite though. Mancian *coloni* were quite likely unique in their enjoyment of such a broad and comparatively liberal programme of rights and privileges.

Perpetual leasehold, a key component of Mancian tenure, was also neither unique nor restricted to Africa; lease arrangements elsewhere in the empire involved such grants.²² It was for this reason that Fustel de Coulanges, Rostovtzeff, Jones, and others saw the existence of Mancian *coloni* as a prototype or progenitor of the full-fledged Late Roman colonate.²³ Contrary to enduring belief about the colonate and its purportedly negative character the perpetual and heritable aspects of Mancian tenure were seen as desirable by the *coloni* themselves. It was the *coloni* after all who lobbied imperial authorities to extend the implementation of Mancian tenure. Furthermore, despite Rostovtzeff's assertion Mancian tenure was not an emulation of Hellenistic practices, nor an act of imperial genius.²⁴ The empire exploited and extended Mancian tenure, but it did not create it. Whittaker's argument that the formalisation of Mancian tenure within Romano-African law was little more than a Roman acquiescence to a system of tenure that had existed for centuries is plausible, but ultimately unprovable given the limited pre-Roman evidence.²⁵

Since Mancian tenure originated as private lease provisions it provides some insight into the kinds of lease arrangements that could exist in Africa. After all, Mancian tenure did not have a monopoly on lease arrangements in Africa. Hitchner and Mattingly posit that Mancian tenure, or some other dynamic form of sharecropping, was used extensively in semi-arid regions of Africa,

²¹ SIG³ 884; Kehoe 1988, 110–12.

²² Kehoe 1988, 105–16.

²³ Fustel de Coulanges 1885, 98–117; Rostovtzeff 1910, 353; Jones 1958, 1–2.

²⁴ Rostovtzeff 1910, 313–402.

²⁵ Whittaker 1978, 355–62.

stretching from southern Numidia, through Byzacium, and into Tripolitania.²⁶ Cherry asserts that Mancian tenure was only employed in the Bagradas estates and, curiously, around Sitifis. Seemingly he ignored the Albertini Tablets evidence that shows a southward spread from Proconsularis.²⁷ There is however no evidence, either positive or circumstantial, for Mancian tenure in the Mauretaniae nor for Tripolitania, only supposition, which is the position Hobson takes.²⁸ There is little evidence relating to the conditions of tenancies in these provinces at all. Outside of Mancian tenure, there is no complete tenancy contract or system attested anywhere in Africa, and only sparse and isolated details of lease contracts in general. Some lease contracts might have been bare arrangements to simply grant land for rent, with the particulars of the arrangement based on general law and jurisprudence – such as what was described in chapter three. Other landlords might have preferred to dictate the terms of the lease more closely. Augustine's letters demonstrate to a small degree the level of involvedness landlords and their agents had with their tenants, which shall be examined later in this chapter. Land was always more plentiful than labour in antiquity, so a *colonus* with the means to choose between Mancian tenure (or similar) or some other less generous lease terms will naturally choose the former. Private landlords who held land near estates bound by Mancian tenure would be under pressure to match the generosity of Mancian tenure in their own lease arrangements, lest their land become unattractive to prospective tenants. Transplanting capital goods and/or a family is not an easy exercise however, so the ability of a settled *colonus* to relocate should not be exaggerated.

Managing Tenancies

As established earlier, the default lease length was a fixed term of five years but could be longer or shorter depending on the wishes of the lessee and the lessor.²⁹ *Coloni* holding perpetual leaseholds constituted a sort of pseudo-emphyteutic lease, though their leaseholds were never referred to as such by Roman legal commentators, and they remained legally distinct. Imperial estates in

²⁶ Mattingly and Hitchner 1995, 194–95.

²⁷ Cherry 1998, 151.

²⁸ Hobson 2015, 232–33.

²⁹ Dig. Iust 19.2.24 [Paul *Edicts* 34], 45.1.89 [Paul *Plautius* 9], 47.2.68 [Celsus *Digest* 12].

Africa effectively became a two-tier emphyteutic lease system. Perpetual and hereditary grants were given to both the *conductores* and the *coloni*. Generations of imperial *coloni* would toil on their fields, paying rent and labour to a family line of *conductores*. Similarly, on private estates where *coloni* leaseholds also constituted a quasi-emphyteutic lease generations of *coloni* would pay rent and services to the descendants of the original landlord.³⁰ For *coloni*, a temporary lease could easily become a familial one. Although under the Principate regime arrears and other debts were not inheritable, the situation in Late Antiquity changed. Arrears could prevent the termination of a contract, preventing the *colonus* from leaving unless they paid the debt and forcing the tenancy onto a late *colonus*' heir until they paid the debt.³¹ Alternatively, a landlord could simply seize a *colonus*' assets in the event of arrears and expel them from the land. The situation in Late Antiquity became increasingly complex and unclear.

As the defining feature of the colonate was the immobilisation of *coloni* on their estates, this study shall begin with this aspect of the law. The followings laws follow on from the passage of CTh 5.7.1 – the law of Constantine that mandated the forcible recall of fugitive *coloni*.

CTh 10.12.2 [Valentinian I & Valens – 17/6/368], to Probus, Praetorian Prefect of Italy: much of this law is dedicated to prescribing judicial procedures for the proper recall of fugitive slaves. Nestled within the text are similar provisions that describe the procedure for forcibly retrieving fugitive *coloni*. The law states the desire that once a fugitive *colonus* is discovered they should be returned to their rightful location without delay. However, it then states all claims against alleged fugitives must be tried by the local provincial governor; no one can arbitrarily seize someone they claim is their *colonus*. The judge, that is the governor, must assess the claims of the plaintiff and determine whether their claims were lawful. A free person could be falsely accused of being a fugitive *colonus* and need to prove their status as a *liber plebeius* before the court. The law recognised the fiscal burden that defendants brought up on false charges faced, and thus anyone the accusers had to

³⁰ Isidore *Etymologies* 9.4.39 and Columella *On Agriculture* 1.7.3 discuss the phenomenon of short-term private leases becoming hereditary, and Columella praises the virtues of rustic labourers born and raised on the estate. Also cf. Koptev 2012, 309–12.

³¹ Mirković 1997 argues that an empire-wide phenomenon of *coloni* rental arrears produced the colonate.

pay restitution to the defendant. This required the accusers to reimburse the defendant's court fees and pay a sum equal to the estimated value of the *colonus* they were pursuing, which presupposes that there was a fugitive and the suit was not entirely fraudulent. Further, if in the course of the investigation it is revealed that someone was harbouring the fugitive that person must pay any outstanding taxes owing for the *colonus*, per the precedent set by Constantine I. There was no other punishment, which contrasts with the harsh penalties for someone who harboured fugitive slaves.

CJ 11.48.8 [Valentinian I, Valens, & Gratian – ??/??/367-375], to Probus, Praetorian Prefect of Italy: this law restates the requirement established by Constantine I that fugitive *coloni* must be returned to their rightful fields. The majority of the constitution is devoted to settling the matter of who should pay the outstanding taxes due for the fugitive *colonus* or recompense the rightful landlord for taxes paid while their *colonus* was absent. Per Constantine's law, the landowner who harboured the fugitive paid regardless of the circumstances. This constitution instated new rules for how this situation should be handled. If the fugitive *colonus* misrepresented themselves and claimed they were an unencumbered free person then they were required to pay the taxes owing for themselves. If a landowner knowingly harboured and employed a fugitive, then they were required to pay whatever taxes were owing. Further, this law also required fugitives to repay any outstanding debts to their creditors before being forcibly returned to their original residence. The text states that fugitive *coloni* almost always had debts, so until the issuance of this ruling the forcible return of *coloni* must have led to a multitude of creditors unable to pursue payment of debts owing to them.³²

CTh 5.17.3 [Gratian, Valentinian II, & Theodosius I – ??/??/386], to Florentius, *Comes Sacrarum Largitionum*: in an attempt to further enforce the law established by Constantine I (CTh 5.17.1) that prohibited *coloni* absconding from their leaseholds, this law imposed a fine on any landlord who knowingly harboured a fugitive. Previously the landlord who harboured a fugitive *colonus* would only be required to recompense the rightful landlord for the *capitatio* they had to pay for their absent *colonus*. Apparently, that alone did not disincentivise landlords from taking in

³² Sirks 1993, 362–64; 2001, 259–60.

fugitives, hence the imposition of a fine. The size of the fine is not specified and was presumably left to the discretion of the judge.

Pharr notes that part of the text is likely a Burgundian emendation, as the text contains a conditional clause that specifies that the law only applies if the *colonus* and landlord belonged to “our region” (*regionis dumtaxat nostrae*).³³ This condition only makes sense in the context of distinct neighbouring states, not the unified fourth century empire, so Pharr’s assessment is correct.

CTh 5.18.1 [Honorius & Theodosius II – 26/6/419], to Palladius, Praetorian Prefect of Italy: this law provides a comprehensive set of procedures for dealing with the long-term absence of *coloni originales*. This law then acts as a corollary to organic development of *colonus* as a personal status – there were many legal situations that had not been properly addressed via statute. The core tenets of the law are that if a *colonus* was fugitive for thirty consecutive years, twenty for a *colona*, then their status and duties were rendered null and void. That is, they could not be sued to return. A successful absence of thirty/twenty years therefore abolished the individual’s otherwise immutable status as a *colonus*. If a fugitive *colonus* died before the passage of thirty/twenty years then their then their status and duties passed onto their children, whom their landlord was entitled to recall. The late *colonus*’ children would need to successfully avoid recall for thirty years on their own to secure annulment of their status. If a *colona* was apprehended within twenty years, the terms of her recall differed according to whether she settled with a *colonus* or with an urban *plebeius*. In the former case, either the *colona* along with a third of her children, or an equal number of substitute people, were restored to the fugitive’s landlord. In the latter case the *colona* along with all her children are restored with no opportunity to offer substitutes. The law does not cover the contingency that she had not settled with a man, but it can be reasonably assumed that in any circumstance she would be recalled. The punitive nature of this law along with the prioritisation of the rights of landlords together overrode the standard legal concern about keeping families together.

³³ Pharr 1952, 116; this part of the Theodosian Code was reconstructed largely from the post-Roman Germanic law codes, and in the case of this law it was sourced from the *Lex Romana Burgundionum*, thus it is not the original text; cf. Salway 2012, 24–31.

In drafting this law, the emperor and the *consistorium* had three main considerations to address. Firstly, forcing a *colonus* to return to their lawful locale after thirty years was likely to be more economically detrimental than beneficial. Wherever the fugitive *colonus* had settled in the meantime they were presumably settled and productive, whereas their rightful landlord and estate had presumably coped without them. Secondly, and conversely, the drafters of the law, as wealthy men themselves, must have had a sympathetic sense of inequity for landlords deprived of the labour and income from their legally obligated *coloni*. Thirdly, if the law prescribed an overly liberal statute of limitations it may have incentivised *coloni* flight.³⁴

NVal 31.1 [Valentinian III – 31/1/450], to Firminus, Praetorian Prefect of Italy: passed only a few years before the Vandals completed their conquest of Africa, this law provides a comprehensive reform on the legal situation and fate of fugitive *coloni* and provides new regulations on the settlement of *coloni*. Because of the late passage of this law its impact on Africa is minimal; Roman Africa had been reduced to little more than the Mauretanian provinces by this point. The law opens with a series of impassioned complaints about fugitive *coloni* who would regularly abscond from an estate and settle on another until they had been absent from their original estate for thirty years. This was considered an unjust contrivance, and this law dictated that after the expiration of thirty years the fugitive *colonus* shall be obligated to whomever settled them the longest instead. In many cases then this change eradicated the opportunity for *coloni* to liberate themselves from the burdens of their status. A fugitive would have to avoid resettling as a *colonus* anywhere for the full thirty years. This rule applied to *coloniae* as well.

Another major concern of this law is preventing the breakup of families. This law establishes that substitutes can now be offered for male *coloni* as well, whereas the previous law only allowed substitutes for women and children. Furthermore, this law requires substitutes to be given for all fugitive *coloniae* and their children, and that children are not to be separated from their parents; what happens if substitutes cannot be found is not specified. Lastly, this law requires that any children born

³⁴ Sirks 2008, 130.

to a *colona* while she was still obligated to her landlord must be returned, unless the child is not of age in which case a substitute must be offered. Only after a *colona* successfully avoids recall for twenty years will her children be free of any legal obligation to her original estate and landlord.

Lastly, this law provides two rulings on marriages to *coloni*. Firstly, if a *liber plebeius* without an obligation to a municipality or estate marries a *colona* he assumes her status and obligations also. That is, he becomes bound to the estate in the same way she is. The law makes note that he remains free, that is he is not reduced to servility, but as a result of assuming the *condicio colonaria* he cannot depart from the estate. Secondly, if a freeborn woman voluntarily marries a *colonus* or a slave she shall assume their status, and so shall any children they have. This altered existing arrangements that preferred matrilineal descent of status concerning *coloni*, and in its place prioritised the inheritance of the *condicio colonaria* regardless of other considerations. This law also opened marriage as an avenue for imposing the strictures of the *condicio colonaria*, for men and women alike.

This concludes the relevant legislation mandating and regulating the return of fugitive *coloni* in Africa. The brevity of Constantine's foundational law left later emperors to deal with the ambiguities and issues it created. It must be noted that none of the measures just discussed were specific to Africa. They were either issued to the Prefect of Italy, making them binding in Italy and surrounds also, or to *Comes Sacrarum Largitionum*, making them binding across the entire western empire. The imperial centre evidently did not find it necessary to dictate specific measures for recalling *coloni* in Africa, but it did in other regions of the empire. This could be read as evidence for the stability of *colonus* tenures across Africa. The implementation of compulsory duties and the imposition of forcible return of fugitives in Africa was therefore comparatively mild and non-interventionist, relying solely on laws passed at a more general level. This is in direct contrast to most other regions of the empire, both western and eastern. Per CTh 4.23.1 [=CJ 11.48.14 Honorius & Arcadius – 29/6/400] all accusations against alleged *coloni* were accepted *prima facie*. The landlord did not have to present evidence to the governor before initiating recall measures as the accusation or even the physical retrieval itself was sufficient to begin proceedings. CTh 5.17.2 [Gratian, Valentinian

II, & Theodosius I – 25/10/386] required anyone in the Prefecture of the East who harboured or settled a fugitive *colonus* to pay either 6oz. or 1lb. of gold, depending on whether the *colonus* belonged to a private or imperial estate. Furthermore, CJ 11.52.1 [Theodosius I, Arcadius, & Honorius - ??/??/392] describes *coloni* in the Diocese of Thrace as “*servi terrae*” – *slaves of the soil*. Neither these measures nor comparable language are seen in the laws governing Africa, or even the Prefecture of Italy. The Letter to Salvius demonstrates some of the problems associated with maintaining *coloni* in their proper place.

Letter to Salvius: the *Epistula ad Salvium* is part of a small collection of anonymous letters appended to the Histories of *Orosius*. The unknown and unnamed author shall herein be called *Scriptor*. The letter’s addressee, Salvius, is similarly unknown beyond this letter. From the context of the letter it is apparent that both Scriptor and Salvius studied and practiced law in Rome and had since become landowners in Africa. The letter concerns Salvius’ attempt to recall what he considered fugitive *coloni* from Scriptor’s land ‘back’ to his own. Both Lepelley and Sirks have offered their own conflicting interpretations and analyses of this letter; an independent summary and analysis of its importance vis-à-vis *coloni* shall follow.

Scriptor opens his missive by criticising Salvius for intimidating his *coloni* and dismisses his attempts to recall the *coloni* as baseless. Scriptor’s *coloni* were originally from a *fundus Volusianus*, and Scriptor openly refers to the *coloni* as *Volusianenses* thereby acquiescing to that point. Salvius’ basis for initiating legal proceedings was his claim that he owned the *fundus Volusianus*, a point Scriptor dismissed as false. Scriptor was rather familiar with the *fundus* and had defended at least one resident *colonus* from the late and corrupt owner, Dionysus. Dionysus threatened a *colonus*, Porphyrius, with legal action over illegitimate claims arising from the *functio navicularia* – a kind of *munera* that was tied to the property and which imposed compulsory transshipment services.³⁵ Scriptor dissuaded Dionysius from taking legal action and noted that Porphyrius only possessed a leasehold of twenty *iugera*. Dionysius died sometime before the dispute between Salvius and Scriptor flared up,

³⁵ Whittaker 1983, 172–73.

and Scriptor admits he does not know exactly what happened to ownership of the estate but asserts that Dionysius retained ownership until he died and was not wanting for heirs. Scriptor contends that Salvius could not have become the owner of the estate, and somewhat mockingly questions whether Salvius was Porphyrius' heir, which would entitle him to only twenty *iugera* of land as a *colonus* and involve a substantial loss of social standing and prestige.

The letter then leaves a number of legal ambiguities. Scriptor is seemingly confident that he has proper claim to the *Volusianenses* now on his land, or at least believes that Salvius has no rightful claim to him. How the *Volusianenses* lost their attachment to the *fundus Volusianus* is unclear, as the text implies they are *originarii* and thus bound hereditarily to the estate. Lepelley contends that Scriptor bought the *fundus* from Dionysius, which would certainly embolden him to reject Salvius' claims.³⁶ However, there is nothing in the text to suggest a sale, or even a transfer of ownership away from the late Dionysius. If Scriptor had not mentioned that Dionysius was not wanting for heirs it could be understood that he died intestate and the *fundus* then went without an owner. If the estate were effectively abandoned, Scriptor could then somewhat legitimately take the *Volusianenses* on as his own tenants, and they could transfer their capital assets with them because in the absence of an estate owner and thus landlord they were no longer hypothecated. This case could also explain Salvius' claim to ownership, namely that he took possession of an abandoned estate and, as he believes, rightful claim to recall the *coloni*; this is Sirks' preferred interpretation.³⁷ This scenario does not match with Scriptor's statements though. Salvius' ownership of the *fundus* could be the result of a simple purchase from Dionysius' heir, who was apparently unwilling to pursue the absent *coloni*. Scriptor derides Salvius' claim to ownership, but that might simply result from him not being in possession of the facts. Lastly, Salvius needed documentary evidence to substantiate his claim to the court, which he likely had if he acquired the *fundus* legitimately.³⁸

In the end there is not enough detail to truly reconstruct the events surrounding the *fundus Volusianus* and its former *coloni*, and we only have Scriptor's interpretation of events. This affair

³⁶ Lepelley 1989, 246–47.

³⁷ Sirks 1999, 99–102.

³⁸ Sirks 2008, 124–25; documentary evidence was necessary to prevent iniquitous claims against people.

demonstrates the precariousness that attended *coloni* who relocated. The former *Volusianenses* undoubtedly thought they were free of any legal tie to the *fundus Volusianus*, as did their landlord Scriptor – or at least he thought that he was unlikely to be assailed with a lawsuit. *Coloni* were undoubtedly unaware of the precise legal intricacies that governed their movement and ability to contract a new lease. As Augustine’s Letter 65 showed some *coloni* were monolingual Punic speakers, which further disadvantaged them vis-à-vis the law. Evidently even practicing lawyers were not fully apprised of the laws attending *coloni* and their relocation. Scriptor took multiple approaches to get Salvius to abandon his lawsuit. He cast doubt on Salvius’ ownership of the *fundus*, mockingly suggested he only owned a *colonus*’ portion of the land, reminded him that only the landowner could initiate recall proceedings, and implored him personally to drop the suit. Scriptor stood to lose his labour force and possibly incur a fiscal penalty in the form of taxes owing, and possibly a fine depending on when the affair occurred.³⁹ This law is thus exemplary of the competition that could arise between landowners over agrarian labour, and the formal and informal approaches they might take to resolve them.⁴⁰

Nonetheless African *coloni*, or more specifically *coloni adscripticii*, were bound to their estates and could be forcibly returned if they left. Their tenancies were also hereditary. These rules were theoretically inflexible, however as seen with Sidonius’ letter it was not always so rigid. Seemingly only a vague legal/fiscal emendation enacted by their landlord could free a *colonus* from their juridical status and duties. However, it must be remembered that increasingly throughout Late Antiquity an increasingly large number of occupations and positions were made hereditary or subject to social restrictions. Bakers, butchers, smiths, minters, soldiers, and more were restricted in who they could marry, where they could live, and whether they had a choice in their occupation at all.⁴¹ While this phenomenon was mostly restricted to trades and professions of the *humiliores*, it came to encompass the stations of municipal government also. Decurions, a position of some prestige and

³⁹ It is unknown when the letter was written. It was certainly penned after c. 367-372, but no *terminus ante quem* can be firmly established, which makes it difficult to ascertain the exact penalties Scriptor risked incurring, cf. Sirks 1999, 94–95.

⁴⁰ Harries 2004, 188–90.

⁴¹ Koptev 2012, 312–14.

power, became hereditary and compulsory. The empire legislating that *coloni* ought not leave their posting is entirely in keeping with trends for other low-middling socio-economic ranks and offices.

The prohibition on *coloni* abdicating their fields extended into provisions prohibiting them from taking up alternative professions. A small series of laws were issued to western officials to constrain *coloni* and prevent them from vocational as well as spatial movement. These are:

CJ 11.68.3 [Valentinian I & Valens – ??/??/370], to Equitius, *Magister Equitum et Peditum*: this law declares that any slave or *colonus* of the imperial *res privata* who has fled from their rightful place and joined the military shall be returned to their rightful fields. This extends to the sons and grandsons of fugitive *coloni* and slaves.⁴² This law applied even if the fugitive has attained a high rank within the military, there was no exception. Despite the importance of military service to the empire and the empire's otherwise zealous attempts at recruiting they were unwilling to permit *coloni* to abandon their tenancies and join. This must stem from a desire to protect the contractual agreements between lessees and lessors, an unwillingness to have the *condicio colonaria* compromised with exceptions, and a need to safeguard agricultural production and by extension tax revenues.

CJ 12.33.3 [Arcadius & Honorius – ??/??/395], to Pulcher, *Magister Utriusque Militiae*:⁴³ this law directs Pulcher, and successors to his office, to not permit recruitment or conscription of *coloni* into the army. The law mentions “*coloni vel saltuenses*”, or *coloni* and inhabitants of the estates, as those who should not be enlisted. This demarcation is odd. *Colonus* cannot simply mean ‘farmers’, as that would disqualify the vast majority of the potential recruiting pool. *Coloni* must refer to farmer tenants, and *saltuenses* likely refers to other inhabitants of estates, such as *inquilini*, *actores*, or slaves, or possibly the family of the contracting *colonus*. This law extends the provisions of CJ 11.68.3, which merely prohibited *coloni* from the *res privata* from enlisting. The imperial state now considered it more worthwhile to retain *coloni* on their fields than

⁴² Jones 1958, 1–2; perhaps the first direct reference in law that the status of *colonus* was hereditary.

⁴³ This constitution is only dateable by cross-referencing when Pulcher held this office. The city of issue is not cited either. Further, per PLRE 2.929 it is unknown whether Pulcher served in the east or the west.

have them serve in the military. Both laws presumably prejudice only the titular *colonus*, that is whoever was responsible for the lease itself. The titular leaseholder and their heir(s) were barred from military service, but their male relatives were not.

CTh 8.2.5 [=CJ 10.71.3 Arcadius & Honorius – 25/3/401], to Hadrianus, Praetorian Prefect of Italy: this law directs that *tabularii* – registrars or accountants – should be recruited solely from the population of free men, except for *coloni*. A *colonus* who was appointed as a *tabularius* suffered no penalty except dismissal, whereas a slave was punished by being scourged and handed over to the empire. The reason stated for not enrolling *coloni*, or slaves, in this position is that they are subject to the power of a private *dominus*, their landlord, and therefore cannot be entrusted with public records. Free, independent citizens were expected to forgo their own duties and responsibilities to serve the state, however while *coloni* were free citizens they owed their landlord service and therefore serving as a *tabularius* would disadvantage the landlord also. This law presumably only applies to *adscripticii*, who were subject to their landlord, whereas *censiti* were not. Any landlord who allowed their slave or *colonus* to serve as a *tabularius* was also punished with torture.

Again, it must be stressed that the artificial socio-economic immobility imposed on *coloni* was not exclusive to them as a group.⁴⁴ Numerous other trades and groups were similarly affected. In chapter three CTh 12.1.33 [Constantius II – 5/4/342] was discussed, which prohibited decurions from enrolling as *coloni* to avoid their compulsory civic duties. CTh 12.19.1 [Honorius & Arcadius – 29/6/400] forbade *ministeria*, skilled artisans, in the Gallic prefecture from abandoning the cities for a rustic life and profession. Laws of this sort abound from the fourth century onwards. The laws just discussed act to insert *coloni* into the imperial state's desired socio-economic schema.⁴⁵ Additional regulations were heaped on *coloni* as the imperial state was cognisant that regulations affecting *coloni* affected their ability to carry out their tenancy obligations and thus had subsequent effects for their landlord. Landlords, as property owners, were naturally prioritised by Roman law and administration.

⁴⁴ MacMullen 1964, 51–52; the implementation of this policy for *coloni* was unusually rigid.

⁴⁵ Older scholarship interpreted this as a kind of quasi-caste system, but as Jones 1970, 418; Ward-Perkins 2008, 199–201 stress the laws and policies of Late Antiquity facilitated social mobility for certain groups and professions. Rigidity was not uniform amongst different groups.

As the previous three laws have demonstrated, this was not always negative. Prohibitions on joining the military (freely or not) or being forcibly enrolled as a *tabularius* allowed *coloni* to ensure that their farms remained viable and fruitful. This was beneficial to the livelihood of the *colonus* and their family, beneficial to the landlord as they were guaranteed uninterrupted rents (other factors notwithstanding), and beneficial to the imperial state as it ensured a steady supply of taxes and foodstuffs. Pragmatism governed the actions of the imperial state; social mobility was not a consideration.

The imperial administration was more interested in retaining *coloni* on their ‘proper’ fields than anything else. The empire did occasionally issue new rulings adjudicating disputes about the workings of the *locatio-conductio* system. Unlike the third century rescripts that were studied in the previous chapter these rulings are less circumspect in that they give a definite ruling. Most of these laws were issued to pan-imperial officers and therefore have a general remit, but in the final law in the forthcoming survey it is possible to see how the empire treated issues that were specific to regions in Africa.

CTh 2.30.1 [Constantine I – 2/6/315], to the Provincials: this law addresses and outlaws a practice wherein tax enforcement officials would confiscate capital assets and slaves from farms with tax debts. The assets seized were taken as a *pignus*, a kind of security. *Pignus* is similar to *hypotheca*, which are both kinds of security, only *pignus* involves the creditor physically taking possession of the security.⁴⁶ Constantine emphatically banned this practice and decreed that any civic official who unilaterally seized a *pignus* from a tax debtor should be sentenced to death by the provincial governor. The impetus behind this decision is more fiscal than out of concern for equity, as depriving a farmer of their equipment or slave workforce is only going to impede their ability to monetise their harvest and thus pay off their tax debt. This practice would in most cases worsen the tax debt. This law explicitly protects *coloni censiti*, who could have a direct tax debt to their municipality or to the imperial state. This also implicitly protects *adscripticii* from being carried off

⁴⁶ Dig. Iust. 13.7.9.2 [Ulpian *Edict* Book 28]; Berger 1953, 631.

themselves as the *pignus*, or having their property confiscated as *pignus* to motivate their landlord to settle their tax debt.

CJ 11.48.15 [Honorius & Theodosius II – ??/??/412-414], to Probus, *Comes Sacrum Largitionum*: tax collectors are forbidden from seizing *coloni* to satisfy a tax debt. The stated reason is that *coloni* must remain on the land cultivating it. The brevity of the law provides little insight into the exact practices being employed by the tax collectors, but it seems that unlike CTh 2.30.1 [Constantine I – 2/6/315], where the seizure of *coloni* as a human *pignus* was temporary, this measure was perhaps permanent. *Coloni* in this law could be used in the generic sense of ‘farmer’ as there is nothing in the law that precludes this interpretation or suggests that the law concerns tenants specifically. This law therefore protected farmers and all classes of *coloni* from being removed because of their own tax debt, or that of their lessor.⁴⁷

CJ 4.26.13 [Honorius & Theodosius II – 11/7/422], to Johannes, Praetorian Prefect of Italy: this constitution restates an ancient legal principle that no one can be held liable for loans issued to their slaves, dependents, or agents. This prevents the creditor of an indebted *colonus* or *inquilinus* from harassing their landlord for payment. Only if the landowner specifically requested the loan be furnished to their dependent then they were considered akin to a guarantor and could be held liable in the event of arrears or insolvency of the debtor. Furthermore, a *colonus* can only offer their own property as a security for a loan with the permission of their landlord, because the landlord possesses a *hypotheca* over the *colonus*’ property. The text of the law refers to the *colonus*’ property as *peculium*, which normally refers to property held by a son, slave, or other dependent with the father’s or master’s consent. Because this law covers *coloni*, slaves, and agents without distinction it was convenient for the law’s drafters to refer to the *colonus*’ hypothecated property as *peculium*, even if it was not strictly accurate.⁴⁸ This law therefore reinforced the longstanding separation of responsibilities between lessors and lessees.

⁴⁷ Kehoe 2015, 104–6.

⁴⁸ Koptev 2009, 271–78; Mirković 1997, 69–71.

CTh 2.20.2 [=CJ 8.15.8, CJ 11.48.17 Honorius & Theodosius II – 15/7/422], to Iohannes, Praetorian Prefect of Italy: this ruling states that a lien can only be granted over an item(s) of property with the consent of the owner. The text specifically enumerates *coloni* as an example of someone who cannot impose a lien on the property of their *dominus*, that is, their landlord. This reinforced longstanding jurisprudential thought on the matter. By extension an *emphyteuticarius* or other lessee of a whole estate could not use any part of the estate as a security for a loan. Similarly, while lessors obtained a lien – *hypotheca* – on the property of their *coloni*, they could not burden that property a second time for their own ends. A lessee could not borrow using the lessor's property as a security and vice versa. Interestingly, this rescript is entered in the Justinianic Code twice. The edition contained in book eight is identical to the fully stated Theodosian version. The edition in book eleven covers only the prohibition on *coloni* creating a lien on their landlord's property, indicating the importance Constantinopolitan jurists put on preventing this specific action.

None of these laws sought to drastically redefine any aspect of the property or contractual relations between tenants and landlords. They are, in fact, rather conservative. The legal thinking of the various configurations of the *consistorium* and Late Roman imperial court maintained demarcations between the property of the *colonus* and their landlord, and maintained distinctions between fiscal liability. *Coloni* were not liable for the tax affairs or debts of their landlord, and similarly the landlord was not liable for any debts their *coloni* incurred. These rulings reflect continuity from the preceding legal eras, both from the Tetrarchic and Principate eras, which defined these distinctions. Neither party in the tenancy arrangement could unduly prejudice, seize, or otherwise burden the other's property except where prescribed by longstanding law. It is important to note that legal texts began to refer to a *colonus'* property as *peculium*, which became increasingly common from the fifth century onwards. While this choice of terminology alone did not affect the real legal status of the property it is indicative of a gradual change in thinking that considered *coloni* increasingly akin to slaves. This development will continue to be considered as this section progresses.

CJ 11.63.1 [Constantine I – 9/3/319], recipient unlisted; issued in Carthage: this law addresses a series of complaints raised by *emphyteuticarii* about their *coloni* illicitly increasing the size of their leaseholds and using water excessively and illicitly. The text notes that *coloni* were permitted to cultivate unused land, but only if they planted olive trees or grape vines, in which case the land was added to the *colonus*' leasehold. This privilege is reminiscent of the *Lex Hadriana* addendums to the Mancian tenure system, only more restricted. An ordinary Mancian *colonus* was not restricted on what they could grow on unused land; *subseciva*, as marginal land, was better suited to trees and vines, but a Mancian *colonus* could also claim prime land that had been abandoned or unassigned.⁴⁹ The restriction on only growing grapes or olives may be part of an attempt to limit the applicability of this privilege to *subseciva* only, partially rolling back the privileges extended by the *Lex Hadriana*. The *emphyteuticarii* likely preferred to dispense of prime land themselves, as it was more easily monetised. An *emphyteuticarius* could plant their own crops and take advantage of corvée labour in working it, use it as a commons and charge fees for pasturage, or lease it out to a new *colonus*.

Regarding the water, the *coloni* were accused of drawing or diverting too much water to their fields. Constantine evidently took the *emphyteuticarii*'s side, as he decreed that they should determine the proper apportionment of water. *Coloni* were to be granted enough water to irrigate their fields gratis and pay a fee for any overages. Water rights were important in Africa and were taken seriously by Roman authorities in Africa.⁵⁰ The wording of this law indicates Constantine understood the need for the equitable distribution of water, and he attempted to implement a system that would ensure fair use. An unscrupulous landlord could exploit this rule by allocating too little water to the *coloni*, forcing them to pay for necessary water overages. The actions of an ignorant or careless landlord could create the same issue for their *coloni*.

While the text of this law addresses various complaints raised by *emphyteuticarii*, the wording does not address them directly, hence this law is not a rescript. The unspecified addressee of

⁴⁹ Kehoe 1988, 81, 86.

⁵⁰ Leone 2012, 125–28.

this law was probably a high ranking imperial official – perhaps the prefect, *vicarius*, proconsul, or similar. The law was issued while Constantine was resident in Carthage, so it is possible he heard the complaints of the *emphyteuticarii* first-hand, hence the somewhat preferential treatment the law gave them over the *coloni*. The publication of this law does demonstrate that *coloni* were neither cowed nor feeble.⁵¹ Not only did the *coloni* on these estates feel confident enough to occupy additional lands and use water freely, but there was enough legal uncertainty about their rights to take these actions that the emperor had to be consulted.⁵²

Undoubtedly these two laws are only a small selection of a much larger corpus of rescripts and edicts that were issued to office holders in Africa concerning matters of tenancy. Some, perhaps many, were not gathered by the compilers of the two codes, and many that were collected would have been discarded because they addressed repetitious issues, or those that did not have general significance. Rulings issued by provincial governors, the diocesan *vicarius*, and the Praetorian Prefect have similarly not survived regrettably. What these two laws demonstrate is that the imperial state worked within the existing legal framework of tenancies. The law on dispensing surplus lands and water rights on emphyteutic estates sought an equitable resolution without disadvantaging either the tenant or landlord. Constantine's ruling could have disadvantaged *coloni* if the landlord was prejudicial, corrupt, or incompetent. Nonetheless, Constantine attempted to adjudicate fairly on the issue – his ruling unambiguously attempted to ensure all *coloni* received an equitable water share. How water rights functioned on private estates is uncertain as that law only concerned emphyteutic estates. Distribution of water may have been solely at the behest of the landlord. Unfortunately, these two laws provide limited insights into the imperial treatment of African tenancies, but nothing about them suggests that the imperial state wanted to redefine how tenancies operated in a substantial way.

The conservatism of African tenancies, and the conservatism of legal and literary terms used in concert with tenancies, should be contrasted with other parts of the empire. In the last years of the

⁵¹ Lenski 2017, 130–31.

⁵² Bruun 2015, 144–45.

fourth century the Constantinopolitan court issued the following law concerning *coloni* in the Thracian provinces as part of a broader fiscal reform in the region:

1. Et ne forte colonis tributariae sortis nexibus absolutis vagandi et quo libuerit recedendi facultas permissa videatur, ipsi quidem originario iure teneantur, et licet condicione videantur ingenui, servi tamen terrae ipsius cui nati sunt aestimentur nec recedendi quo velint aut permutandi loca habeant facultatem, sed possessor eorum iure utatur et patroni sollicitudine et domini potestate.

1. However, should permission seem to be granted to *coloni* to go wherever they choose, after being freed from the bonds of tribute, they shall be bound by the law of their *origo* and although they appear free per their legal status they shall be considered the slaves of the soil on which they were born, and shall have no right to change their abode or go where they will, and the landlord shall have the power of both patron and master.

Code of Justinian 11.52.1.1 [Theodosius I, Arcadius, & Honorius – 392-5 CE]

The situation this law created for *coloni* in Thrace is far more restrictive than what Augustine details for Africa's *coloni*. Augustine does not describe *coloni* as servile and his phrasing implies that the superior power of landlords stems solely from their position as a property owner. The Thracian law however not only gives full statutory sanction to the subordination of *coloni* to their landlord, who is now master their master, but also puts rigid restrictions on their freedoms of movement and vocation. Despite this, the law nonetheless states that Thracian *coloni* retain a theoretical legal freedom, meaning they are not properly servile in a legal sense.

In the mid-fifth century Salvian penned *On the Government of God*, a Christian philosophic text that is similar in many respects to Augustine's *City of God*. Salvian's work continues countless invaluable references to life in Late Antique Gallia, including an episode wherein he describes how peasant freeholders were driven by desperation and destitution into enrolling as a *colonus* on an estate:

43. ...cum domicilia atque agellos suos aut peruationibus perdunt aut fugati ab exactoribus deserunt, quia tenere non possunt, fundos maiorum expetunt et coloni diuitum fiunt.

44. ...quia tueri amplius vel sedem vel dignitatem suorum natalium non queunt, iugo se inquilinae abiectionis addicunt, in hanc necessitatem redacti ut extorres non facultatis tantum, sed etiam condicionis suae ... et rerum proprietate careant et ius libertatis amittant.

45. *Nam quos suscipiunt ut extraneos et alienos, incipiunt habere quasi proprios; quos esse constat ingenuos, uertuntur in servos.*

43. ...when they (peasant smallholders) cannot retain possession because ruin pervades their dwelling and little fields or they flee, being driven into exile by tax collectors, they seek out the estates of great men and become *coloni* of the wealthy.

44. ...those who are not able to protect their property or the dignity of their birth any longer surrender themselves to the abject yoke of an *inquilinus* (tenant). This necessity reduces them to exile not only from their property but also from their own [legal] status... and they lose their ownership of property and lose the right of liberty.

45. For those who they (the wealthy) receive as foreigners and *alieni* they begin to hold them as their own. It is accepted that those who were born free are now changed into slaves.

Salvian of Marseille *On the Governance of God* 5.43-45⁵³

Salvian's characterisation of rural affairs in Gallia is entirely negative and pitiable. What Salvian described was a general process wherein ruined peasants enrolled as new *coloni* on the estates of wealthy landlords and over the course of their tenancy suffered gradual degradation of their personal status; presumably pre-existing *coloni* in Gallia suffered the same fate, as they would have been equally powerless to resist a powerful landlord. Even without the loss of individual freedom Salvian considers a *colonus* the natural inferior of even the meanest peasant on account of being a propertyless renter, reaffirming an enduring Roman social prejudice. Salvian also maintains a distinction between slaves and *coloni* but implies that the end-result of enrolling as a *colonus* was reduction to a state of quasi-slavery. In this way, the fate of Gallic *coloni* is closely comparable to their contemporaries in Thrace, though the means differ. According to Salvian peasants were forced into becoming *coloni* and then declined into slavery because of the overwhelming pressures imposed on them by the rapaciousness of Roman taxation, by unscrupulous plutocrats, and endemic warfare, not because of statutory fiat as in Thrace.

⁵³ Following the example of Goffart 2009, 270–71, some of the repetitive and/or emotive sentences have been stripped from this excerpt.

The conservatism of the imperial laws with respect to African tenancies persisted into the Byzantine era. In early 534 CE Gelimer, the last Vandal king, withdrew from his mountain stronghold and surrendered to Belisarius, completing the Constantinopolitan conquest of Vandal Africa. Title 27 of the first book of the Justinianic Code, collectively issued on 13 April 534, reconstituted Roman governance in Africa. While the legal material reconstituting civic government in Africa is extensive the material on *coloni* is not, which is striking. Africa had been separate from Roman rule for nearly a century, and before that it was ruled by the western empire. Vast amounts of law that emanated from Constantinople were never dispatched and applied within Africa. The publication of Justinian's Code did introduce a swathe of hitherto unknown legislation into Africa, but neither Justinian nor his successors took any direct steps to "modernise" the African colonate to bring it into line with what was generally being practiced elsewhere in the empire. Seemingly, existing conditions in Africa were allowed to prevail, and that the imperial court was content with slow, incremental changes based on an *ad hoc* implementation of post-Theodosian Byzantine law. The only extant legislative measures taken by a Byzantine emperor with respect to African *coloni* were two laws by Justinian I that granted amnesty to *coloni* who fled their leaseholds during the Vandal era; considering that the Vandals reigned in Africa for nearly a century the 'fugitives' in question could have been the descendant of a *colonus* who left their leasehold:

ACD 6 [Justinian I – 6/9/552], to Paulus, Praetorian Prefect of Africa: this law constitutes part of the imperial reorganisation of Africa following the conquest of the Vandal kingdom, which was evidently still ongoing nearly twenty years after the war's end. The law decrees that *coloni* who fled from their estates during the Vandal period shall not be recalled by the former landlord. Fugitive *coloni* therefore were permitted to continue living whatever life they had made for themselves. For the period after the conquest the prohibition on *coloni* fleeing and the right of a landlord to retrieve fugitives is reasserted in accordance with long-standing laws.

ACD 9 [Justinian I – 22/9/558], to John, Praetorian Prefect of Africa: this law is effectively a more forceful version of the previous law, issued six years prior. Evidently Vandal-era fugitives, this time including clergymen, were still being harangued by unlawful reclamation suits by

unscrupulous landlords. Lawyers acting on behalf of landlords are stated to be citing general laws on fugitive reclamation while purposefully ignoring the provisions of ACD 6. To prevent further harassment of lawfully liberated *coloni* Justinian not only reiterated that they are not to be disturbed by reclamation attempts, but also imposed a weighty penalty of five pounds of gold on anyone who attempted to do so.

The Vandal and Byzantine eras deserve far more study, but it is apparent that tenancies based on a model first established in either the late Republican or early Principate era endured. The sheer robustness of the African tenancy system deserves considerable credit for this accomplishment. As Roman governance disintegrated in Europe and was replaced by a plethora of Germanic kingdoms the legal standing of *coloni* deteriorated. In Gothic Spain and perhaps elsewhere in the post-Roman west *coloni* became truly servile; in later Visigothic law references to *coloni* disappear entirely, replaced by *servi* instead.⁵⁴ In the east legislation and governance took a different path compared to the west. The Constantinopolitan court was more direct in imposing restrictions, and by Justinian's reign the eastern colonate was more repressive and stricter than its western (or African) counterpart ever was.⁵⁵ The mild colonate in Africa that was largely a continuation of what existed during the Principate survived the conquest of two states, and the scant legal evidence available from Byzantine Africa shows that Justinian and his administrators intended to preserve the ancient system of tenancy in Africa.

Crime, Revolt, & Heresy

No region in the empire was completely tranquil. Africa experienced sectarian crises, violence, and crime. This first set of laws concerns punishments meted out for crimes committed on leaseholds. Under normal circumstances *coloni* would suffer the same punishment that any other low status *plebeius* would, however the imperial state detailed extraordinary penalties for when leased property was involved. Furthermore, the imperial state consistently considered whether a *colonus*

⁵⁴ Sarris 2015b, 129–32.

⁵⁵ Sirks 2008, 142–43.

acting against the law was acting on their own initiative, or compelled by their landlord, as shall be seen:

CTh 9.21.2 [=CJ 9.24.1 Constantine I – 20/11/321], to Januarinus:⁵⁶ this law contains a number of punitive measures designed to prevent the counterfeiting of money. Amongst its provisions, it prescribes a penalty of exile and confiscation of property for any landowner, whether urban or rustic, caught counterfeiting. It then prescribes capital punishment for any *colonus*, *incola*, slave, or *actor* (overseer) who engages in counterfeiting or harbours a counterfeiter. The differing punishments for the propertied and propertyless are one of many manifestations of the disparate applications of justice for *honestiores* and *humiliores*; *coloni* belonged to the latter category. Roman authorities also considered it particularly egregious for a renter to abuse the lessor's property, especially to use it for criminal purposes. The harsh penalties prescribed by this law are thus not an indictment of the status of *coloni per se*; other laws that aimed to counter the problem of counterfeiting prescribe similarly harsh punishments.⁵⁷ This law stands out because it contains particular provisions for *coloni* and related groups.

CTh 7.18.8 [Gratian, Valentinian II, & Theodosius I – 27/2/391], to Flavianus, Praetorian Prefect of Italy: amongst a list of penalties and deterrents for harbouring military deserters this law prescribes the death penalty for any *colonus*, other tenant, or agent of a landlord who is caught harbouring deserters without the knowledge of the landowner. No punishment is specified if a *colonus* harboured a fugitive on instructions from their landlord, however. Those of middling rank and status were condemned to corporal punishment if they harboured a fugitive on their property, whereas someone of advanced rank and wealth was required to furnish either ten recruits for every deserter they harboured, or fifty pounds of silver – approximately 250 *solidi*.⁵⁸ The authors of the law stated that the harsh punishments were intended to deter others from harbouring deserters.

⁵⁶ What rank or office Januarinus held is unknown.

⁵⁷ CTh 9.21.5 [Constantius II – 18/2/343] sentences counterfeiters of *solidi* to death by burning; CTh 9.23.1 [Constantius II – 8/3/348] condemned anyone caught melting down money to death; customary pardons issued to criminals on Easter did not include counterfeiters, e.g. CTh 9.38.7 [Gratian, Valentinian II, & Theodosius I], Sirm. 8 [Valentinian II, Theodosius I, & Arcadius – 22/4/386], etc.

⁵⁸ CTh 13.2.1 [Arcadius & Honorius – 19/2/397] set the exchange rate at five *solidi* per pound of silver; Hendy 2008, 481.

Compare this law with CTh 9.21.2 [Constantine I – 20/11/321], which prescribed capital punishment for any *colonus* or other tenant/agent who harboured or abetted a counterfeiter.

CTh 7.18.9 [Arcadius & Honorius – 26/4/396], to the People: like the preceding law, this law attempts to address the ongoing problem of people harbouring military deserters. This law takes a somewhat different approach, however. It required any landowner or lessee of imperial land (i.e. an *emphyteuticarius*) who were hiding military deserters on their land to pay a fine of two pounds of gold and furnish the imperial army with two conscripts, as well as turn over the deserter. The law granted a grace period of four months wherein landowners and *emphyteuticarii* could report deserters on their land without penalty. If someone was found harbouring deserters on their land, they were denied the opportunity to defend themselves in court. Curiously, this law makes no allowance for whether the landowner or *emphyteuticarius* was even aware that there were deserters on their land. If a *colonus* or agent of the landlord was harbouring a deserter on their own initiative the landlord was punished all the same. Similarly, this law imposes no penalty on *coloni* or agents who harbour deserters if they were acting independently. The penalty prescribed in the previous law might still be applicable, but per this law the landlord would also be considered guilty and punishable. Furthermore, because the hapless landlord was denied the right to a defence, they could not plead innocence and hope to evade punishment because their *colonus* or similar acting without their knowledge.

CJ 11.75.3 [Arcadius & Honorius – ??/??/397], to Minervius, *Comes Rerum Privatarum*: this law clarifies the military recruiting situation, at least for the emphyteutic property of the imperial *res privata*. This prohibited any recruitment from emphyteutic estates, whether someone was a leaseholding *colonus* or not. Rather than furnishing conscripts for the army, *emphyteuticarii* shall instead pay an equivalent price – the *aurum tironicum*, which per CTh 7.13.20 [Honorius & Theodosius II – 8/2/410] was set at thirty *solidi*. Some of this burden would undoubtedly be shifted onto the *coloni*.

CTh 7.18.17 [Honorius & Theodosius II – 29/2/412], to Constantius, *Magister Militum*:⁵⁹ after the previous few laws ordering the forcible return of deserters and the punishment of whoever harboured them, this law attempts to correct and prevent abuses that arose from those orders in Africa. Military tribunes had been tasked with locating deserters and penalising abettors, however they had become corrupt. The law does not specify the nature of their abuse(s), except that they caused vast damage in Africa and profited from their misdeeds. Presumably they were exploiting their ability to charge fines and forcibly recruiting rustics in some way. By doing so landholders would be fined large sums or flogged, and *coloni* would either be conscripted into the army or executed; in every case other *coloni* suffered. To remedy the endemic corruption amongst the tribunes Honorius decreed that the office should be permanently abolished, and anyone who attempted to revive the office should suffer capital punishment. This law does not detail a replacement scheme for locating deserters, so either that portion of the text was deleted or it was left to the Constantius and his subordinates to devise. This law is specific to Africa, but it seems unlikely that the other regions of the empire were not affected by similar corrupt officials. Perhaps the military tribunes charged with finding deserters were an office unique to Africa, or perhaps the Africans were more proactive and successful in reporting the abuses they suffered to the imperial court.

NVal 6.1 [Valentinian III – 20/3/440], to Sigisvuldus, *Comes* and *Magister Utriusque Militiae*: this law was published amidst the growing military crisis in the western empire, in which the empire was suffering from both shortfalls in recruitment and an increase in desertions. Valentinian thus dictated that any landowner, urban or rustic, caught harbouring military deserters would be forced to return the deserter to the army along with three conscripts. The law does not specify where the landowner was to obtain these conscripts. Presumably they could be male relatives, slaves, clients or dependents, or *coloni*. *Coloni* should be considered especially likely if deserter was concealed on a rustic estate. Furthermore, if a *colonus*, *conductor*, *actor*, or another similar agent or dependent of the landowner was involved in concealing the deserter then they will also be conscripted into the military

⁵⁹ The text of the law gives Constantius' title as only *magister militum*, however he inherited the loftier titulature and office his recent predecessors – *comes et magister utriusque militum*; PLRE 2.321.

along with the other three conscripts. However, if a *colonus* or agent concealed a deserter without the landowner's knowledge then they received the death penalty, following the established judicial precedent. Previously the law had preferred to retain *coloni* on their estates, especially if they lived on an imperial estate. The crisis facing the empire was so dire that the imperial court flaunted decades of precedent and prioritised manning the army over other long-standing considerations.

There is a clear policy of antipathy towards tenants and agents who misuse their master's property for ends the empire considered particularly antisocial. The imperial state only considered *coloni* culpable if they acted on their own initiative. If a landowner or their agents directed a *colonus* to act illegally in harbouring fugitives or criminals then they were considered solely liable, the *colonus* was not prosecuted as an accomplice. The state only strayed from this policy with Valentinian III's law due to the numerous crises facing the western empire. The harsh treatments meted out to *coloni* were concomitant with the socio-legal dichotomisation of basic statuses of *humiliores* and *honestiores*.⁶⁰ *Coloni* ranked as *humiliores*, and the humblest *humiliores* at that, and were therefore subject to practically unrestrained corporal and capital punishments. While landowners were not necessarily *honestiores*, the drafters of the laws erred on the side of caution and assumed that they were, and they were subject to lesser penalties, usually monetary. Occasionally the empire had to contend with the unintended consequences of its attempts to enforce the law. The law to Constantius shows a clear failure in local military policy, and the punishment prescribed is inflexibly harsh; *coloni* were not alone in suffering the vengeance of the state. The effectiveness of enforcement is questionable, however. In Late Antiquity the state erred towards corporal and capital punishment as a preventative measure, knowing that enforcement of the law was a difficult and often impractical endeavour.⁶¹

These small-scale crimes were dwarfed by the scale and importance of the Donatist schism, which racked the African provinces throughout Late Antiquity. Heresies and minor schisms were commonplace though Donatism is remarkable for its widespread popularity and endurance. The

⁶⁰ Hillner 2015, 43, 138; Bauman 1996, 6.

⁶¹ Hillner 2015, 58, 67, 91; Harries 2004, 93–94.

empire and the Catholic church took numerous steps to suppress the Donatists and while they were effective, they failed to completely eradicate the movement. Donatism was a nativist African Christian movement that developed in the wake of the Diocletianic persecutions. The origins of the schism concerned *traditores*, Christians who abjured their faith when faced with persecution by the empire. The Donatists believed that *traditores*, as apostates, could not administer the sacraments or minister for the Church, and thus they rejected the authority of their Catholic counterparts. Though the impetus for the original schism faded with time the Donatist Church did not waver or falter, not by their own actions at any rate. There is an extensive and growing literature on the Donatist schism that should be consulted, hence this shall suffice for an introduction. The Donatist Church boasted a broad support base from across the African population, which included *coloni* and landlords. Estates were a crucial battleground between Catholic and Donatist factions, as shall be seen. Some estates were endowed with a Donatist church and bishop, others with a Catholic equivalent, and some even had both. An estate owned by Melania the Younger and later donated to the bishop of Thagaste had two resident bishops – one Catholic, the other Donatist.⁶² On especially large estates or diverse estates this may have been common. Estates were a crucial battleground between the two churches for the adherence of their inhabitants. The manoeuvrings of both churches had the potential to impact the lives of *coloni*, but as this thesis is primarily concerned with legal matters the main interest is the empire's response to Donatism.

From the Donatist controversy sprung an equally controversial and persistent peasants' movement – the *circumcelliones*. Contemporary accounts of the *circumcelliones*, their actions, and their intentions vary considerably, and all come from unsympathetic sources. Optatus' account of *circumcelliones* assaulting itinerant landlords was brought up in chapter one. Later in this chapter Augustine's account of the *circumcelliones* as uninhibited revellers will be discussed. Elsewhere though, Augustine charges groups of *circumcelliones* with public disruption in the vainglorious hope of being martyred, or states that they committed ritual suicide.⁶³ Catholic writers associated the

⁶² Gerontius *Life of Melania* 21.4; Dossey 2010, 93.

⁶³ Augustine *Letters* 185.3, *On Heresies* 69.3.

circumcelliones with heresy, excess, violence, and fanaticism; hence the judgment of them as religious extremists and terrorists.⁶⁴ Like Donatism, there is an extensive and growing body of modern literature on the *circumcelliones*, much of which has overturned older thinking on the subject. In particular, certain twentieth century scholars argued that the *circumcelliones* were largely indigenous Africans and allied with Firmus and Gildo in a kind of proto-nationalist solidarity, but this argument is not substantiated by any contemporary evidence.⁶⁵ Modern scholarship understands the *circumcelliones* as rustics, who were largely wage labourers, who committed violence for sectarian reasons.⁶⁶ Although the *circumcelliones* were originally and mostly Donatist there may have been a smaller number of Catholic *circumcelliones*, given the fluidity between the Donatist and Catholic churches.⁶⁷ The *circumcelliones* either inhabited estates or roamed across the farmlands of Africa and were witnesses to the conditions and injustices there, which might have encouraged recruitment, but it was not the motivation behind the emergence of the movement. The *circumcelliones* were first and foremost a religious movement, not a labour movement. Of course, rural poverty could encourage disaffected peasants to radicalise and join the ranks of the *circumcelliones*. In his polemical *Against the Donatists*, Optatus recounts how Donatist unrest in Numidia led to unilateral abandonment of debt by debtors, and how creditors who pressed their claims were met with threats and violence. Landlords (*domini*) who travelled in the country at this time were harassed on the road, pulled out of their vehicles, and forced to run on foot in front of their slaves.⁶⁸ This passage has been read as evidence of rural slavery in Africa, however it is more likely that itinerant landlords were attacked by either indebted *coloni*, or by sympathisers, namely the much maligned *circumcelliones*.

Augustine exchanged correspondence with Donatist contemporaries, and parishioners concerned about the schism. The key letters are as follows:

⁶⁴ Beaver 1935, 124–28; Frend 1952, 172.

⁶⁵ Shaw 2011, 54–60.

⁶⁶ Shaw 2011; Miles 2016, 10–12; Dossey 2010, 171–94; Pottier 2016; Pottier argues that the *circumcelliones* became impromptu defenders of the Donatist church and community as it faced increasingly fierce persecution.

⁶⁷ Dossey 2010, 186–87.

⁶⁸ The slaves that took the lord's place in his vehicle were his personal attendants, not farmer-slaves.

Letter 35: This letter, addressed to the Donatist bishop Eusebius, with whom Augustine had previously written, addresses various concerns Augustine had with Donatist converts disturbing the peace amongst his Catholic rustics. The first of Augustine's complaints was about a former Catholic subdeacon from Spain, a certain Primus, who was dishonourably dismissed from the church for indiscretions with some nuns, who had resided on a church estate. Augustine alleges that Primus then fled to Africa and was rebaptised into the Donatist church along with the aforementioned nuns, and thereafter joined a band of *circumcelliones*. Augustine downplays any association between the *circumcelliones* and rural disquiet; they do not seem to be aggrieved farmers turned bandits. He implies that the *circumcelliones* were inspired by uninhibited revelry, and the licentiousness of the Donatist church facilitated this. In this letter the *circumcelliones* are cast as libertines, not rebels. Furthermore, he contrasts the ready admission of Primus into the ranks of the Donatist church with the claim that unfrocked clergy who want to return to the Catholic church are admitted as the lowliest penitents, further emphasising the dissoluteness of his doctrinal rivals.

The next complaint raised by Augustine concerned the daughter of a *colonus*, who had been a Catholic catechumen and was proselytised by the Donatists and defected to their church. Augustine evidently had interactions with her father, and states that her conversion went against the wishes of her father, and without his permission also. The girl's father wanted to forcibly return her to the Catholic church and even threatened violence against her, which Augustine forbade. Augustine did not want the girl to return to the Catholic church unless it was of her own volition. This episode is demonstrative of the power dynamics of a *colonus* household. The father clearly thought his paternal authority extended to religious matters and felt justified in using violence to enforce this authority. His daughter though felt confident in defying her father, and the Donatist who brought about her conversion seemingly had no reservations about disturbing the family's religious unity.

Augustine's disdain, whether prejudicial or not, for the Donatist church is readily apparent. He treats Eusebius politely and collegially but remonstrates against his co-religionists as amoral hedonists and a haven for lapsed, outcast Catholics. Notably he does not charge them with any sort of violence. Estates feature several times in the letter, both in Spain and in Africa. Estates were clearly an

important doctrinal battleground for both the Catholic and Donatist churches, and the efforts of both their clergy and their zealous laypeople occasioned unrest there. As the next letters will demonstrate, certain estate owners were active in disseminating their preferred sect amongst their *coloni*. The episode with the *colonus*' daughter demonstrates that *coloni* were not passive and could have strong religious convictions of their own, which could cause conflict within the family itself.

Letter 58 (c. 401): This letter was written to thank and praise Pammachus, a Romano-African senator and owner of landed estates in Numidia. Until recently, the *coloni* on Pammachus' estates had been Donatists, and had likely been Donatists for some time as Augustine states that the estate lay in the heartland where Donatism emerged as a distinct sect. Whether Augustine's historical understanding of the origins of Donatism are accurate are irrelevant, the point remains that Pammachus' estate was within what was understood as thoroughly Donatist territory. Augustine makes little reference to the methods Pammachus used to convert the *coloni*, but his glowing praise indicates that he was supportive of whatever means he took. What Augustine does mention is that the *coloni* were stirred by their respect for Pammachus, allegedly perceiving that he was an upright man with a keen eye for the truth, hence he inspired mass conversion amongst his *coloni*. This simplistic retelling undoubtedly elides many key details and conceals that there was likely some coercion involved. As subsequent letters will show the quasi-forcible conversion of Donatists to Catholics was not always peaceful. Generally, Augustine did not condone violence, so he is unlikely to have been so laudatory if Pammachus was violent. Coercion rather than outright force could have been employed; throughout his tenure as bishop Augustine became increasingly liberal in his acceptance of forced conversions to Catholicism.⁶⁹ Augustine laments that few landowners were pious enough to oversee the proper religious adherence of their tenants. This is both a rhetorical flourish to flatter Pammachus, and likely also a genuine lament that more landowners were not taking an active interest in countering the Donatist movement on their landholdings. Pammachus was evidently roused by his own religious zeal, as Honorius' strict anti-Donatist laws (to be discussed shortly) that would have penalised him for inaction had not been issued yet. Pammachus' pro-Catholic proselytisation and Augustine's call for

⁶⁹ P. Brown 2000, 227–28.

emulation is indicative of the impact that the landed upper classes could have on their tenants and shows that landowners were convinced that they were ethically and legally justified in influencing their tenants' religious affiliations.

Letter 65 (c. 402): this letter was addressed to the Donatist bishop of Calama and landowner Crispinus. Sometime before Augustine drafted this letter Crispinus converted the entire *colonus* population of his estate, which Augustine calls Mappala, to Donatism via rebaptism. Augustine chided him for this and warned him that he was contravening the law and furthering the disunity of the Church. Augustine opened his invective and arguments against Crispinus by reminding him that he was risking a fine of ten pounds of gold, but then pivots to an argument grounded in Christian rhetoric; the directness and reproachfulness of this correspondence should be contrasted with the meek and deferential letter sent to Eusebius, also a Donatist bishop. After, Augustine contended that Crispinus took advantage of the *coloni*'s ignorance and implores him to allow the *coloni* to hear the Catholic message so they could make an informed choice of which sect to adhere to. Interestingly, Augustine notes that the *coloni* of Mappala spoke Punic and implies that they did not know any Latin. The *coloni* of Mappala may have been unaware that Donatism was censured by the empire, and therefore were unaware that they were joining an illicit church. The empire occasionally took leniency on *coloni* on account of their supposed ignorance. In the sixth century amidst the Constantinopolitan state's effort to eradicate Samaritanism NJ 144.2 [Justin II – 18/5/572] exempted Samaritan *coloni* from punitive legislation, preserving their right to cultivate, appoint heirs, and so forth.⁷⁰ Donatist *coloni* certainly were not spared from the empire's persecutory tendencies, but Augustine's writings certainly demonstrate that *coloni* were not highly regarded for their knowledge or worldliness. While this letter is one-sided, it may be true that Crispinus compelled in some way the conversion of his resident *coloni*. This raises questions about the actions of Pammachus, whom Augustine naturally praised. Pammachus' efforts may have been less upright than Augustine's panegyric might suggest. Augustine strongly suggests that Crispinus compelled or otherwise coerced his *coloni* into adherence; it is reasonable to assume a Donatist would accuse Pammachus of the same. Imperial law

⁷⁰ Rabello 1997, 725–33, 739.

notwithstanding, *coloni* could find their own religious beliefs and convictions challenged or persecuted if they inhabited an estate owned by someone with strong religious convictions; non-Christian *coloni* must have been particularly vulnerable.

Despite Augustine's somewhat conciliatory approach to dealing with the Donatists the church at large and the imperial authorities wanted to see the heresy crushed. Thus, the empire enacted punitive laws as measures taken against the Donatist schism. Heresies, as they were so judged by the imperially-sponsored orthodox Catholic church, were a perennial issue in Late Antiquity, but none affected Africa more than Donatism. Lenski counted and summarised 122 imperial communications (which include letters, reports, embassies, rescripts, decrees, mandates, and edicts) issued between c. 312-419.⁷¹ For most of the fourth century the imperial state vacillated between outright hostility and uneasy toleration of the Donatists, generally erring for the former however. By the early fifth century imperial and Catholic antipathy for the Donatist church had come to a head. Honorius' court resolved to suppress the Donatists and issued a number of laws to that end. Two of these laws contain provisions that specifically address the matter of Donatism on estates, and Donatist *coloni*. The imperial state legislated extensively on religious matters in a vain attempt to enforce orthodoxy, however the laws rarely contained provisions that directly targeted *coloni*. Honorius' anti-Donatist measures are curious outliers:

CTh 16.5.52 [Honorius & Theodosius II – 30/1/412], to Seleucus, Praetorian Prefect of Africa:⁷² Honorius' court, frustrated with their inability to contain the Donatist heresy in Africa, issued this harsh and sweeping set of measures in an attempt to crush Donatism. The law offered a grace period in which Donatist adherents could convert to Catholicism without penalty, after which any recalcitrant Donatist clergyman or layperson faced a heavy fine based on the following schedule:

Illustres: 50lbs of gold

Spectabiles: 40lbs of gold

Senators: 30lbs of gold

Clarissimi: 20lbs of gold

⁷¹ Lenski 2016, 197–219.

⁷² The office of Prefect of Africa is an anomaly and was short-lived; cf. PLRE 2.987-988.

Priests: 30lbs of gold

Principales: 20lbs of gold⁷³

Decurions: 5lbs of gold

Negotiatores: 5lbs of gold

Plebeians: 5lbs of gold

Circumcelliones: 10lbs of silver

The fines were clearly designed to be crippling to deter anyone from remaining within the Donatist church. There is no clear category for *coloni*. If they were assessed as plebeians they were penalised five pounds of gold, equivalent to 360 *solidi*. These fines were levied on individuals, not families, so a Donatist husband and wife faced two separate fines. However, additional clauses might mean that *coloni* were not assessed with a fine, the wording is ambiguous. Firstly, *conductores*, procurators, and similar who oversaw Donatist *coloni* were required to surrender them for punishment or receive a fine themselves.⁷⁴ Secondly, Donatist *coloni* who persisted in their faith after receiving the fine were punished by repeated floggings, as were slaves. The *colonus*' landlord/slave's master could spare them the pain of corporal punishment by accepting an additional fine themselves. Ordinary African provincials suffered complete confiscation of their property if they did not recant their Donatist faith. Confiscating a *colonus*' property posed two problems. Firstly, confiscating a *colonus*' property would leave them wholly unable to perform their agrarian duties, which obviously means they would be unable to pay rent and contribute to the imperial *annona*. Secondly, the *colonus*' property was held as a *hypotheca* by the landlord, so in addition to destroying the *colonus*' livelihood it would leave the landlord unable to secure recompense from their now destitute tenant. This presupposes that the *colonus* in question is an *adscripticius*, which is a reasonable interpretation. *Coloni censiti* were not subject to their landlords in the same way and were not subject to the managing officials of imperial estates. They would be penalised in the same way an ordinary *plebeii* were. Additionally, any landed estates belonging to the Donatist church, or to a Donatist clergyman, were also seized by the empire was granted *en bloc* to the Catholic Church; *coloni* inhabiting a Donatist estate would suddenly find themselves with a new landlord. Interestingly, the schedule of fines prescribes a specific fine for *circumcelliones*, as if they were an ordinary social ranking. This however stems from the imperial state's understanding of the *circumcellion* movement as an

⁷³ *Principales* were the chief official in a municipality, cf. Berger 1953, 651.

⁷⁴ Lenski 2016, 218.

exclusively Donatist phenomenon. Listing *circumcelliones* as a distinct category was a lawyer's expedient to easily impose a crippling fine on a burdensome group, the law's drafters did not intend to demarcate *circumcelliones* as a group akin to the others listed in the schedule of fines. It also demonstrates that the imperial authorities considered it more pressing to suppress the Donatist *circumcelliones* compared to the perhaps more benign Donatist *coloni*.⁷⁵ Further, it recognises that *circumcelliones*, who were likely understood as itinerant wage labourers or religious ascetics by the imperial court in addition to a category of mild brigand, had economic resources that were even more meagre than a *plebeius*, and thus assigned them a smaller but still crippling fine.⁷⁶

CTh 16.5.54 [Arcadius & Honorius – 17/4/414], to Julianus, Proconsul of Africa: the previous law targeting the Donatist church was issued to the short-lived office of the Prefect of Africa, whose authority over Proconsularis was tenuous at best.⁷⁷ This law was targeted specifically at Africa Proconsularis and while it uses the previous law as a template its treatment of *coloni* is markedly different. Like the previous law, this edict also sets out a schedule of fines, though none of them apply to *coloni*. In fact, the lowest rank group of persons to be assigned a fine are decurions. It is unclear what punishment was intended for *negotiatores* and *plebeii* in Proconsularis. Instead of a monetary fine, *coloni* were punished in the first instance with flogging and if they persisted in their adherence to Donatism then they were fined a third part of their property. Again, this law uses the term *peculium* to describe the property of *coloni*, though again it is in a sentence that also treats the punishment of slaves; Donatist slaves also suffered flogging. Confiscation of a *colonus'* property contrasts starkly with the previous law. Restricting the penalty to a third of the *colonus'* property was designed to be punitive and dissuasive without completely crippling the *colonus'* ability to farm and therefore contribute to the *annona* and local supply. Proconsularis was the wealthiest province in Africa with greater opportunities for wealth creation even for *coloni*. It may have been the view that

⁷⁵ Shaw 2011, 644–46.

⁷⁶ Lenski 2013, 237–43.

⁷⁷ As an offshoot of the Prefect of Italy, Proconsularis would similarly be beyond the ordinary jurisdiction of the Prefect of Africa.

coloni in Proconsularis would be able to withstand a loss of capital assets better than their contemporaries elsewhere in Africa could.

Additionally, this law imposed on landowners, *conductores*, and *emphyteuticarii* the burden to root out Donatism on their estate(s). Upon the discovery of Donatist adherents or Donatist conventicles on an estate the owner or overseer was informed and given the opportunity to quash the heresy. The law implores estate owners and managers to reform Donatist *coloni*, which presumably included the aforementioned corporal punishment, or else expel them – giving unusual license to evict *coloni*. Failure to do so left the estate owner or manager liable to fines. A *conductor* or *emphyteuticarius* of an imperial estate was fined the sum of their annual rent to the *fiscus*. For private estate owners and lessees of other estates the fine was equivalent to the annual rent received from their *coloni*.

Lastly, the law forbids anyone from harbouring Donatist fugitives, and penalises those who do with a complete confiscation of their property and exile. Unusually, this law does not distinguish between different classes of person; ostensibly anyone sheltering a Donatist would receive the same punishment. Furthermore, ordinarily *coloni* and agents of a landlord were punished according to whether they were acting on instructions or their own initiative, this law imposes the penalty regardless.

As with the previous discussion on laws that dictate penalties for *coloni* who commit crimes, so too with the suppression of Donatism were *coloni* treated harshly. This was determined by a *colonus*' low status as a *humilior*, and their exceptional treatment is due to their status as a tenant. Once more there is a novel legal association of *coloni* and slaves, in that they are treated similarly. This arises from their similar condition in that they owed duties to a *dominus*, though the *colonus* owed via contract whereas the slave owed duty from mere status. Like with *peculium* the situation was similar enough for the imperial drafters to simply condense treatment of the two groups into combined clauses, occasionally adding addenda for either group. These laws blur normal distinctions between *coloni* and their landlords, and between *coloni* and the state. No prior law demanded, or even allowed, a landlord to dictate a *colonus*' religious affiliation. Additionally, ordinarily the state was

hesitant to allow a *colonus*' property to be confiscated but considered the eradication of heresy a priority. That only a partial confiscation showed that the imperial court remained aware of the importance of *coloni* as primary producers and did not seek to destroy their livelihood and ability to produce. While *coloni censiti* were presumably fined as ordinary *plebii* it is uncertain whether landowners were responsible for dissuading them from heresy also. The punishments given to Donatist *coloni* were harsh they were not the only socio-legal group targeted. All levels of the social stratification received some harsh penalty. Furthermore, Honorius' court only resorted to these severe measures after decades of failure at rapprochement or discouragement.⁷⁸ Even these measures failed to properly contain the Donatist church, as Augustine continued writing anti-Donatist letters and treatises until 419.⁷⁹ Recalcitrant Donatists simply refused to accede to imperial demands, demonstrating an acute weakness in the empire's ability to enact its policies.

The crushing of the Donatist church had an unintended, but unsurprising, side-effect: it triggered rural discontent amongst formerly Donatist *coloni*. Augustine describes in two letters a revolt at Fussala, a town in Numidia. 'Revolt' is perhaps an exaggeration. In actuality, the crisis at Fussala involved general dissent and occasional violence caused by the appointment of Catholic clergy and the controversial bishop Antoninus, followed by a specific protest by *coloni* on a *fundus* within the territory of Fussala.

Letter 209, & New Letter 20* (c. 422-423): In the wake of Honorius' suppression of the Donatist church Augustine and his fellow Catholic colleagues had the difficult task of integrating Donatists and Donatist churches into the Catholic church. The Donatist inhabitants around the town of Fussala rioted against the Catholic clergy sent to administer their region, and many Donatists fled the area – including *coloni*.⁸⁰ After this affair Augustine appointed a new bishop, Antoninus, to the region, hoping he would stabilise the area. Instead, Antoninus aggravated the situation by abusing his authority, further alienating the Fussalans. After considerable effort and controversy Augustine eventually succeeded in removing Antoninus from his see. A local council of bishops was tasked with

⁷⁸ Lenski 2016, 186.

⁷⁹ Augustine *Letters* 204 to the Donatist bishop of Thamugadi, Gaudentius, was the last that he penned.

⁸⁰ Pottier 2016, 160; open violence between the two churches was rare, even after Honorius' formal ban.

investigating him and while they dismissed most charges against him, they nonetheless recommended that he not be reappointed as bishop. Antoninus appealed to the Primate of Numidia, who decreed that his dismissal should be stayed and that he should retain authority over a reduced area. Antoninus was not satisfied with this decision and argued for the addition of another locality to his episcopal authority – the *fundus Thogonoetum*. The reaction of the *coloni* on the *fundus* was swift. They threatened in writing to quit the estate *en masse* unless Augustine and their landlord intervene to prevent the reappointment of Antoninus. This protest effectively thwarted Antoninus' ambitions and in response he departed for Rome so he could appeal directly to the Pope. Augustine wrote the latter letter, Letter 20*, while the crisis was still unfolding so it is unknown how it was resolved.

The apparent flaunting of the law has caused some consternation within scholarship, given that Constantine I ordained that *coloni* who meditated flight could be forcibly detained nearly a century before the Fussala crisis, and subsequent legislation bolstered this requirement. Lepelley proposed that it may be necessary to reconsider Late Roman law, suggesting that Late Antique constitutions were similar in character and force to Principate-era jurisprudence.⁸¹ Lancel simply questioned the veracity of Augustine's account as it seemingly conflicts with the letter of the law.⁸² Whittaker suggested, without much conviction, that the prohibition on *coloni* fleeing may have somehow been optional.⁸³ A major revision of our understanding of Late Roman law is not necessary, however. The actual stated exodus of peoples from Fussala occurred amidst the anti-Catholic unrest. The fugitives were not exclusively *coloni*, and *coloni* may have comprised only a small fraction of the fugitives. Moreover, Augustine relates that the Catholic clergy originally sent to Fussala were variously assaulted, crippled, and murdered. Some of the fugitives would have been fleeing from culpability for their actions. Whilst the Fussala crisis was ongoing and Antoninus resisted being unseated Augustine opined (in Letter 209) that a civil and military response might be imminent. Despite the tumultuous events imperial authorities did not get involved, and thus had a minimal capacity to enforce the law. Augustine was concerned about the ramifications of imperial involvement

⁸¹ Lepelley 1983, 336–37.

⁸² Lancel 1983, 275.

⁸³ R. Whittaker 1997, 303.

as he wanted to minimise violence and prevent the permanent alienation of the Donatist population at Fussala.⁸⁴

The later affair on the *fundus Thogonoetum* undoubtedly concerns *coloni* fleeing from their estate, but when Augustine wrote his letter it remained a protest and a threat. If the *coloni* on the *fundus* knew about the prohibition on arbitrary exit, then they considered the risks worthwhile. With tensions high it may have been thought needlessly provocative or outright dangerous to threaten already aggrieved *coloni* with judicial penalties. There is of course another possibility – the *coloni* were not legally bound to the estate. Mancian *coloni* were able to reduce their landholdings or abrogate their lease at will if they wanted. Whether Late Antique legislation extinguished this privilege is indeterminate, though the preservation of existing payment customs in Tripolitania (per CJ 11.48.5 [Valentinian I – ??/??/366]) shows that the empire could respect pre-existing lease arrangements. If the *coloni* on the *fundus Thogonoetum* laboured under a Mancian-esque contract it is conceivable that they could legally threaten to depart without hindrance, just as their Mancian peers had done in the Bagradas several centuries earlier.⁸⁵ Lastly, if the *coloni* on the *fundus* did not know that they were forbidden from fleeing then their ignorance (and the fact that the revolt progressed as far as it did without imperial intervention) is a damning indictment on the ability of the empire to make the law known, and indicates that *coloni* living near to a major city in a fairly developed and prosperous province were ignorant of a fundamental aspect of the colonate.

Augustine's letters and sermons were not the minutes from a courtroom, or of the imperial *consistorium*. Augustine was not an obsequious servant and apologist of the empire. He wrote to and argued with imperial officials on behalf of what he considered the public and spiritual good.⁸⁶ Augustine was not a social revolutionary, however. For the most part, Augustine accepted and justified the socio-legal stratification of Roman society. The low status of *coloni* and their treatment

⁸⁴ P. Brown 2000, 237–39; Augustine that imperial involvement would necessitate executions for violence against the Catholic church and for enduring adherence to Donatism, which would both prevent the Fussalans from repenting and provoke further violence elsewhere in Africa.

⁸⁵ Kehoe 1997, 220–21.

⁸⁶ Cf. Shaw 2015.

per the law were largely consistent with his moral and religious philosophy.⁸⁷ He did recognise injustice, and he did not shy in combatting it. A modern reader should not expect Augustine to decry the legal system governing the lives and tenancies of *coloni*, but cruel or capricious exercise of authority was a concern for him. Interestingly, disputes or problems that *coloni* had with civic, provincial, or imperial governance and/or law never rank amongst the problems raised in these writings. Sectarian issues, corrupt landlords, brigandage, poverty, and the vagaries of everyday life appear in these writings, but not Roman governance. Imperial authorities did raise issues for *coloni*, as evidenced by Commodus ruling in favour of Mancian *coloni* against corrupt agents.⁸⁸ Similar issues do not appear in Augustine's writings, or in other literary evidence relating to Africa. Where the law is concerned it when the law itself is in question. Salvius and Scriptor were enmeshed in a civil dispute over rightful claim to the *fundus Volusianus coloni* and Augustine queried over the legality of selling *coloni* into servitude. Augustine had a lengthy series of questions about who could be sold into slavery and when, and *coloni* were one of the groups he was inquiring about. This is not proof that the law was an insignificant factor in the lives of *coloni*, only that it was very much a secondary concern. A *colonus*' relationship with their landlord, environmental factors, violence and unrest, and religious adherence were more pressing issues, and more likely to have an impact on a *colonus*' day-to-day affairs than the law. These writings do suggest that amongst even learned provincials there was a considerable amount of ambiguity and uncertainty in how the law was understood.

The life of a *colonus* was hard, the conditions of their existence often lay beyond their control, and their economic situation is best described as poor. That did not mean though that their conditions were mean to the point of abject poverty and destitution. Some *coloni* enjoyed better conditions than others, but those conditions were always fragile – subject to the whims of the law, rent and taxation, the environment, familial circumstances, and war. *Coloni* were not passive and did not necessarily acquiesce to injustice or abuse. Where the law or the church could not help them African *coloni* did threaten or execute violence, and wilfully broke the law and the expectations of the *condicio*

⁸⁷ Deane 1963, 221–43; coercion and fear of punishment were considered essential by Augustine in maintaining an orderly society.

⁸⁸ Pottier 2016, 151.

colonia – as shall be seen. At no point in the history of Late Antique Africa did the *coloni* rise *en masse* in revolt though. *Coloni* could become a venerable armed force if necessary. The failed revolt against Maximinus Thrax by the Gordians was undertaken by *coloni* armed by their landlords. Even though the *colonus* militia failed to defeat the imperial army the threat was recognised, and laws were issued prohibiting landlords arming their tenants.⁸⁹ Disobedience was the preferred tool of the *colonus*. The revolt at Fussala was far from the only time *coloni* used a threat of abandonment as leverage. Mancian *coloni* in the Bagradas Valley threatened Commodus directly unless they received redress and Commodus ruled in their favour. A group of tenant *coloni* in Lydia made similar threats when similarly threatened.⁹⁰ *Coloni* were not necessarily helpless or passive.

None of the notable armed rebellions in Africa can be securely linked to any sense of rural discontent or dissatisfaction. Shaw characterises the pattern of military appointees in Africa rebelling against the emperor as a symptom of the rampant intrigue and politicking that plagued the later Roman Empire.⁹¹ The imperial court was suspicious of the sitting *Comes Africae* and paranoid about maintaining the invaluable *annona*, and these concerns manifested as a sort of paranoia. Domitius Alexander, Firmus, Gildo, and Bonifacius felt compelled to rebel before the allegations and rumours spreading in Rome led to their arrest or execution. Their revolts were not ideological in any sense, and any support they had or gained from *coloni* or other rustics was entirely tangential to the purposes of their revolt. That is certainly not to say that peace and contentment reigned in the African countryside, as Augustine's letters shall detail that was far from the truth. What can be confidently asserted however is that whatever dissent festered in the African country it did not have the concerted strength or support to manifest as a widespread rebellion capable of causing an existential threat to Roman governance or the *status quo* of land management. The would-be usurpers and instigators of rebellion within Roman Africa were all powerful, wealthy men with substantial landholdings. None of them would have benefitted from upsetting the *status quo* regarding land management or tenancies.

⁸⁹ Lenski 2013, 243–45; various efforts were taken to prohibit the wealthy retaining *bucelarii*, against ownership of weapons, and against arming tenants. Many of these probations were (re)iterated on a regional basis, suggesting that the empire reissued laws against private militias whenever the problem arose.

⁹⁰ Kehoe 1988, 105–16.

⁹¹ Shaw 2011, 37, 51.

Berber tribes within the borders of Roman Africa operated under the same laws and many Berber magnates were also great landowners. Within both the Donatist and Catholic churches there were numerous estate owners, and both churches also owned vast tracts of land. Both churches worked to prevent *coloni* and other poor provincials being exploited or abused, but this did not involve a push for systemic change. There was no support for land reform or tenancy reform, at least not in favour of *coloni*, amongst the plutocratic and ruling classes. The *circumcelliones* should not be downplayed, but they were foremost a religious movement. They did not constitute a peasant uprising like the *bagaudae* in Gallia did.⁹²

Rent, Tax, & Prosperity

Land ownership was the primary vehicle for wealth accumulation in the ancient world.⁹³ Certainly some Romans made their wealth as merchants, from exploiting mines, from banking, and so forth but for the most part fortunes were earned and kept through possession and exploitation of *latifundia* or similar. Even Romans whose primary business lay outside landed property had an interest in land nonetheless; for the senatorial class land ownership, especially in Italy under the Principate, was effectively a requirement.⁹⁴ Similarly, most middling and poor Roman provincials survived, and hoped to prosper, on the back of agricultural labour.

Before proceeding, it is worth briefly considering the lives and history of Africa's *coloni* from more than a legal and administrative point of view. An estimate of the *coloni* population in Africa and

⁹² For groups of *bagaudae* allying with foreign powers to achieve political goals cf. Thompson 2002, 30–32, 162; Birley 1980, 32–33. Cf. Aurelius Victor *On the Caesars* 39 for general brigandage and violence.

⁹³ Pliny the Younger *Letters* 3.19 wrote that his investments were almost exclusively in rural property.

⁹⁴ The property requirements of Roman senators and the expectations and prohibitions on their business opportunities changed over time. Augustus raised the property qualifications for membership in the Senate to 1,000,000 *sestertii* (250,000 *denarii*); cf. Cassius Dio *Roman History* 54.17.3. During the credit crisis under Tiberius the Senate decreed that all senators should secure at least two-thirds of their capital in landed estates in Italy; cf. Tacitus *Annals* 6.16–17. Pliny the Younger *Letters* 6.19 wrote that provincial senators were expected to acquire landed property in Italy. While ancient prohibitions on senators profiting from mercantile activities, banking, and similar were extinct by Late Antiquity the cultural expectation, as well as economic reality, meant that most Late Antique senators continued to derive their wealth from land.

their inestimable importance to the machinations of Roman imperial governance have already been stated, but that says little about their lived experiences.

Tenant *coloni*, as primarily propertyless farmers, occupied an unenviably low position in the Roman socio-economic hierarchy. This has already been established broadly in the previous chapters, especially regarding the *condicio colonaria* and the *ius colonatus*, which both regarded people of that social station as lowly and scarcely superior to slaves. *Coloni* were nonetheless free individuals, and had largely uninhibited access to the law and to the economy, at least during the period under consideration; the chief limitation on a *colonus*' ability to transact was the landlord's *hypotheca* on their capital assets, which prevented them selling them or using them as equity. *Coloni* certainly sought access to local markets, as *coloni* and their other rustic contemporaries regularly petitioned imperial authorities for the right to hold *nundinae* – markets held, contrary to ordinary Roman practice, roughly every fortnight.⁹⁵ Further, there is ample evidence of *coloni*, in Africa and abroad, employing legal services and petitioning imperial officials, including the emperor. In the second and third centuries organisations of *coloni* collectively paid for and built quasi-communal structures for their own use.⁹⁶ Some of these were practical, such as marketplaces or temples, others monumental, such as statuary dedications to benefactors or the emperor. This type of collective euergetism did not persist into Late Antiquity *per se*, but it is not the case that *coloni* necessarily languished from want of urban amenities. In the fourth century *coloni* retained by right their olive and wines presses and similar, but also gained new amenities, which included pottery kilns, smithies, churches, and even bathhouses.⁹⁷ The Late Antique resurgence of the terracotta fine ware industry in Africa gave *coloni* affordable access to red slip ware for their domestic use.⁹⁸ The economic condition amongst *coloni* was certainly not uniform. Some *coloni* were quite well-off, and even had their own domestic slaves.⁹⁹

⁹⁵ Dossey 2010, 112–13; Shaw 1981, 45–46.

⁹⁶ Kehoe 1988, 197–99.

⁹⁷ Tab. Alb. 31 records the sale of an olive press to a *colonus*; Augustine *On the Care of the Dead* 12 records a smith located on a *fundus*; Rathbone 1991, 196 records a lease of a bathhouse.

⁹⁸ Wilson 2013, 237–42; red-slip fine ware production originally peaked in the middle third century, crashed thereafter, and recovered, peaking again around 500. *Coloni* had limited access to red slip ware in earlier eras, however. Late Antique African fine ware was produced in vast quantities and was exported throughout the littoral western Mediterranean.

⁹⁹ Jones 1964, 808–12

Like with many aspects of a *colonus*' life, their landlord's managerial style, sense of economy, and personal philosophy had considerable bearing on what amenities were available to them on the estate. Generally, the plutocratic classes in Roman society did not think it appropriate for the low, labouring classes to consume luxuries or have a surfeit of consumer goods available to them. Conversely though, some landowners considered it a point of pride to have their estate rival a town in civic comforts, and to have their *coloni* resemble townsfolk. The artist who designed the so-called Dominus Julius mosaic did not think it out of place to depict *coloni* not in roughspun tunics or similar, but in apparel that would not look out of place in a wealthy town. While art does not necessarily have to imitate life, the mosaic's depicts other realistic scenes of rustic labours, so it should not be disregarded as a guide to the material goods enjoyed by *coloni* on a more affluent estate.¹⁰⁰ Certain forms of largesse were more accepted than others. John Chrysostom advocated that landlords build churches on their estates for the religious benefit of the resident *coloni*. Chrysostom was less enthusiastic about providing luxuries, which he argues would only cause tensions between the lessor and the lessee.¹⁰¹ Freeholding *plebeii* on the other hand might not have had such ready access to these amenities.

Given the variability of conditions and circumstances it is impossible to define a standard for the material conditions of Africa's *coloni*. Suffice to say *coloni* of all types existed on a broad spectrum that ranged from penury to comfort and relative luxury (certainly not rivalling the moneyed classes, but comfortable for a landless labourer). *Coloni*, as a general rule, were deprived of neither capital nor credit. The collective euergetism displayed on the civic centres of estates in the second and third centuries demonstrates their ability to pool fiscal resources for capital works.¹⁰² Credit was readily available to *coloni*. Landlords, moneylenders, bankers, the church, and friends were all potential competing creditors.¹⁰³ Freeholders had access to the same list of lenders, minus landlords of course. Lending to *coloni*, and *coloni* defaulting on those loans, was sufficiently common that the

¹⁰⁰ Dossey 2010, 92–93.

¹⁰¹ John Chrysostom *Homilies on the Acts of the Apostles* 18.4–5.

¹⁰² Kehoe 1988, 71–100.

¹⁰³ Barnish 1985, 16–18, 32; Jones 1964, 866–69.

empire had to protect landlords from liability, and prevent creditors from seizing a *colonus*' essential assets; these protections were extended by both eastern and western emperors.¹⁰⁴ Further, the prohibitions on *coloni* selling assets without the consent of their landlord demonstrates an imperial acknowledgement of the value of a *colonus*' moveable assets, and the potential risks to a *colonus*' production and capacity to pay rent and/or tax if they were sold. Certain classes of *coloni*, such as Mancian *coloni*, were able to leverage their own leasehold as equity. Churches and churchmen were a preferred lender as they were formally barred from usury, and those that obeyed the prohibition and chose to extend loans did so at 0% interest. Church institutions of this kind outlasted the Roman Empire. In the sixth century Mazona, bishop of Visigothic Emerita, established an interest-free church bank for the poor with an investment of 2,000 *solidi*, along with other alimentary programmes.¹⁰⁵

While the agrarian wealth in Africa was created by tenant *coloni* and their freeholding contemporaries, much of the surplus wealth went to wealthy landholders and to the imperial treasury. Literary and documentary evidence records several rental incomes for various African estates. One of Augustine's sermons concerned alleged impropriety in leasing a church property and the incomes it earned:

Sermon 356: This sermon, and the preceding sermon, together comprise a public commentary by Augustine about clerical scandals and impropriety.¹⁰⁶ At the end of a lengthy sermon that broached many topics, Augustine addresses two controversies regarding an estate (*villa*, in Augustine's words) owned by a monastery within his diocese. This estate, located at Victoriana, was donated to the monastery by a certain Eleusinus. The first controversy regarded the donation itself; some locals alleged that a local priest, Barnabas, bought it from Eleusinus through underhanded means. Augustine dispels this rumour by stating he was a witness to the donation. The second controversy also concerns the priest Barnabas, who had accumulated some personal debts. According to his detractors Barnabas sought to obtain management of the Victoriana estate for a decade so he

¹⁰⁴ CTh 2.30.2 [=CJ 11.48.17 Honorius & Theodosius II – 15/7/422], CJ 4.26.13 [Honorius & Theodosius II – 11/7/422], NJ 32, 34 [Justinian I – 15/6/535]; these liability protections extended to all agents of a landowner, not just their *coloni*.

¹⁰⁵ Deacon Paul *Lives of the Fathers of Emerita* 5.3; King 2006, 191–93.

¹⁰⁶ Kondro 2011.

could use the proceeds to pay off his debts. Augustine counters by stating that while Barnabas did have debts, he did not seek management of the estate. Instead, Augustine personally paid off some of his debts and then sought out a tenant for the estate. Only one prospective *conductor* came forth who offered a rent of forty *solidi* per annum, which was unduly low and thus Augustine rejected the offer. In the interim Augustine charged Barnabas with management of the estate but assured the congregation that he is still looking for a *conductor* who will pay a fair rent. Then, after explaining the truth of the situation Augustine cites Matthew 5:11-12 to discourage further murmuring and harmful rumours.

A rent of forty *solidi*, even though it was deemed unacceptably low, was not an inconsiderable sum. Assuming this rate was a fair rate for the rent payable by the *conductor* to the owner (i.e. the monastery), the actual income must be at least four or five times higher. For example, an *emphyteutic* landlord of a Mancian estate received one third of the estate's produce as rent and paid some proportion of this as their own rent. If such a landlord paid half their rentals as rent themselves, then the landowner received one-sixth of the estate's wealth annually. Hence, the Victoriana estate might have produced between 200-300 *solidi* annually, to be dispensed amongst *coloni*, the *conductor*, and the monastery. It is apparent then that this estate was beyond the capability of a single *colonus* household to manage, and it is apparent that Augustine was attempting to lease out the estate *en bloc* to a managing *conductor*. The second rumour against Barnabas implies that he wanted to be the estate's *conductor* for ten years, demonstrating that fixed-term leases of estates were still in existence in Late Antiquity. It is not clear whether Augustine was seeking an emphyteutic or fixed-term *conductor*. The difficulty in finding a willing tenant for the estate likely stems from the fact that there was more land available than workers; the extent of unoccupied imperial land was discussed in chapter two, and there were a further 13,000 abandoned *centuriae* in Numidia.¹⁰⁷

The annual wealth of a few other estates is recorded. According to the *Liber Pontificalis* Constantine I donated to Sylvester I, Bishop of Rome, and the Catholic Church generally substantial

¹⁰⁷ NVal 34.2 [Valentinian III – 13/7/451].

landed property, which included seven estates in Africa.¹⁰⁸ The combined annual revenues of the imperial gifts totalled 4,485 *solidi*, for an average of 640 *solidi* per estate. The most profitable estate was an oil plantation in Numidia, which was assessed at 810 *solidi* per annum. This property was the only one where the product was specifically listed, the others were simply described as estates. Even the smallest estate in Constantine's donation dwarfs the forty *solidi* in annual rent offered to Augustine's diocese for the Victoriana estate, as mentioned in Sermon 356.

Land ownership and the export of agricultural surplus remained profitable well into the Byzantine and Rashidun-Umayyad era, though undertaking quantitative comparisons is not feasible with the current evidence. The Arab campaigns into Africa provides some insights into the wealth of Byzantine Africa. In 647 Abdallāh ibn Sa'd led the first major Arab expedition into Byzantine Africa that reached as far west as Sufetula.¹⁰⁹ After suffering a string of defeats the Romano-Africans surrendered a heavy tribute to ibn Sa'd in exchange for his withdrawal. Arab sources disagree on the amount paid to ibn Sa'd, though it is unanimous that the payment was considerable.¹¹⁰ Beyond this single campaign, the number of documented, *solidus*-rich coin hoards from seventh-century Africa attests to the fearfulness of the era and the need to safeguard wealth, but also to the fact that the landed aristocracy was still doing brisk business.¹¹¹ Ninth-century Arab historian Ibn 'Abd al-Ḥakam adds an anecdote wherein upon receiving the tribute ibn Sa'd inquired as to the source of their wealth and the Romano-Africans told him it came from exporting olive oil to the Byzantine heartlands. Before departing on the campaign ibn Sa'd was serving as the governor of Egypt. Thus, per al-Ḥakam's narrative the Romano-Africans were able to pay a tribute that was impressive to the governor of a rich and productive province. There is of course clear exaggeration to the story, especially in the claim that the Byzantines had no olive oil of their own, which is plainly not true. Al-

¹⁰⁸ *Liber Pontificalis* 34.15.

¹⁰⁹ Rashidun forces had already captured Egypt, Cyrenaica, and eastern Tripolitania at this point, though the majority of old Roman Africa remained nominally under Byzantine control.

¹¹⁰ Kaegi 2015, 143–44. Banaji 2016, 117 gives the tribute as either 2,160,000 or 2,500,000 *solidi*, depending on how the Arabic terms are treated.

¹¹¹ Conant 2012, 334–36.

Ḥakam understood, and wanted to express, that the wealth of Byzantine Africa in the mid-seventh century was noteworthy.

In general, there is little useful evidence available for reconstructing real tax rates and the actual tax money received by the imperial treasury. Within the law codes there is however a direct reference to the amount of monetary taxes levied on Numidia. Amidst the ruin and chaos of the Vandal conquests Valentinian III issued his thirteenth novel, which was replete with relief measures for what remained of Roman Africa. One of its provisions contained tax remissions for the beleaguered province. Valentinian reorganised the assessment and collection of tax in Numidia by reducing the ordinarily complex, multi revenue stream taxation system into a single payment. For at least the first year of the new tax system the empire required that only an eighth of it be paid. Although the reduced tax consisted of a single payment, the law itemized it nonetheless. It consisted of 4,200 *solidi*, 800 shares of the *annona militaris*, and 200 shares of the *capitus*. The *annona militaris* and the *capitus* were both military stipends, the former was the standard payout issued to all Roman soldiers to cover annual expenses, and the *capitus* was a supplementary payment provided to cavalrymen for their additional expenses. Originally both the *annona militaris* and the *capitus* were paid in kind, but by the fifth century they were commuted to monetary payments. The valuation of the *annona* and *capitus* differed on a provincial basis, but the rates for Numidia were set at four *solidi* each in the same novel that established this emergency taxation rate.¹¹² The overall payment of tax in Numidia per this schema is as follows:

Figure 3: Imperial taxation in Numidia per NVal 13

$$\begin{aligned}
 &4,200 \text{ solidi} \\
 &+ 4,800 \text{ solidi (1,200 shares of } annona \text{ militaris)} \\
 &+ 800 \text{ solidi (200 shares of } capitus) \\
 &= 9,800 \text{ solidi (emergency tax payment)} \\
 &\times 8 = 78,400 \text{ solidi payable annually in Numidia (full payment)}
 \end{aligned}$$

¹¹² Elton 2018, 95–96; Jones 1964, 676–77.

The text of the law states that this sum should be levied from the holders of private and emphyteutic land, meaning it was levied on only the rustic population of the province. Directly administered imperial estates also contributed nothing to this tax. There are further complications with utilising this law. In 442 the western empire reached a peace settlement with the Vandals that involved ceding parts of eastern Numidia along with Proconsularis and Byzacium.¹¹³ How much of Numidia was left to the empire is unknown; Constantine/Cirta, which lay in the longitudinal centre of the province, remained with the empire as section nine of Valentinian's edict reconfirms its privileges. Anything to the east of that city could have fallen into the Vandal sphere. Therefore, the tax payable by the imperial Numidians represents only an unknowable fraction of the full Numidian population, and of the full Numidian landholdings. Supposing the division of Numidia was exactly equal, per this law the empire could expect to receive 156,800 *solidi* from a united Numidia. Numidia's land area was around 126,600 *centuriae*, meaning that the treasury could expect $1\frac{1}{4}$ *solidi* per *centuria*. Of course only a fraction of this land was both arable and cultivated, but this tax rate is strikingly low. Per Majorian's seventh novel, issued in 458, two *solidi* were payable per *iugum* in the rump Prefecture of Italy. The edict details that in Italy, a *iugum* could also be reckoned as a *millena*, which was equivalent to 12.5 *iugera*. This must be an approximate conversion, as it does not account for the quality of the land or its usage. Suppose a quarter of Numidia's total land area was cultivated by private or emphyteutic landlords, then one *solidus* was payable for every forty *iugera*. Even with this generous estimation of Numidia's cultivated area the effective tax rate in Italy was three times higher than in Numidia. Overall, Italy's topographical and climactic differences generally permit a denser level of cultivation than Numidia, but certainly not enough to justify a tax rate three or more times greater. Of course, Italy as a whole had not recently suffered a devastating military campaign and occupation like Numidia had. Valentinian responded to the crisis in Africa and his capitulation to the Vandals by dictating a new, flat rate payable for Numidia, and instantly reduced that amount to one-eighth for the first year. After some immediate recovery, Valentinian and his advisors must have decided that 78,400 *solidi* was a reasonable expectation from a still damaged rump province. The

¹¹³ Victor of Vita *History of the Vandal Persecution* 1.13; Merrills and Miles 2009, 63–65.

ordinary rate of taxation in Numidia must have been many times higher than Valentinian's reduced rate. Additionally, the rate set by Valentinian is not only reduced in value but in complexity. Ordinary taxation consisted of multiple revenue streams that were assessed at different rates and might be collected individually. How much tax a landowner paid, and how much of this burden was foisted onto their *coloni*, is largely unknowable.

If every province contributed as much tax as an undivided Numidia might (that is, 156,800 *solidi*, double what was defined in NVal 13) then the two imperial treasuries would collectively net nearly twenty million *solidi* annually, with the western empire receiving around eight million *solidi* in annual tax revenues. This is of course an overly simplistic calculation that ignores pertinent details such as population, land use, natural resources, etc. Revenue of this scale was more than sufficient to supply the army; the upkeep of the ~31,000 troops cost the treasury around 270,000 *solidi* annually.¹¹⁴ If Jones and Treadgold are right and the combined size of the Late Roman army was in the vicinity of 600,000 men then the cost of military salaries alone would total five million *solidi* annually or more. Military equipment, administrative salaries, *opera publica*, and vanity projects also drained the treasury. The churches of San Vitale, San Apollinare in Classe, and San Michele in Afrisco in Ravenna together cost perhaps sixty-thousand *solidi*.¹¹⁵ Using a raw conversion that does not account for any intervening price changes, the cost of Julius Caesar's imperial forum might have cost as much as the equivalent of 1,800,000 *solidi*.¹¹⁶ Direct payments of monetary taxes were only one part of the imperial revenues acquired from Africa. The *annona civica* was perhaps the greater part of imperial

¹¹⁴ The value of military *annona* and *capitus* have already been established. Late Antique emperors regularly paid out donatives to the army, which were ritualised accessional and quinquennial payments (with exceptions). Ammianus Marcellinus *Histories* 20.4.18, Procopius *Secret History* 24.27-9, Zacharias of Mytilene *Chronicle* 7.8, and Constantine VII Porphyrogenitos *On Ceremonies* 1.92 set the value of the accessional donative at nine *solidi*, the quinquennial donative at five *solidi*. Burgess 1988 catalogued the occasions for dispersing donatives and found between 360-430 a total of 286 *solidi* were dispersed to African troops, or four *solidi* per year on average. That leaves the annual military expenditure for Africa:

$$\begin{aligned} & 24,100 \text{ foot soldiers} \times 8 \text{ solidi (donatives and annona)} \\ & + 6,688 \text{ cavalry} \times 12 \text{ solidi (donatives, annona, and capitus)} \\ & = 273,056 \text{ solidi annually} \end{aligned}$$

¹¹⁵ Barnish 1985, 5-7.

¹¹⁶ Suetonius *Life of the Divine Julius* 26; Pliny the Elder *Natural Histories* 36.103. These sources report a cost of as much as one hundred million *sestertii*. Four *sestertii* made one *denarius*, and twenty-five *denarii* made an *aureus*. During Julius Caesar's life an *aureus* weighed ~8.2g, whereas a *solidus* weighed ~4.5g.

revenues from Africa.¹¹⁷ The market value of wheat sent to Rome annually was around 750,000 *solidi*; this does not include the marketable value of the other products sent.¹¹⁸ The loss or remittance of taxes from Numidia alone cost the ailing western empire thousands of *solidi*, and therefore potentially thousands of troops, and hundreds of tonnes of foodstuffs.

It is difficult to ascertain how the Roman taxation system functioned in Africa with respect to *coloni* at anything greater than a generic level. Despite the apparent centralisation and standardisation of taxation under the Late Antique imperial state the system exhibited considerable regional variations, and the passage of novel laws only added to the regional disparities, thus tax documents from other regions of the empire are not necessarily admissible evidence for Africa. Landowners would undoubtedly factored in the amount they would pay in taxes when setting rental rates for new *coloni*, or for revising rental rates whenever possible, but the tax burden an individual landowner might have paid can only be guessed at. How extraordinary taxation, such as *superindictiones*, affected *coloni* is entirely speculative. Legally, landlords were constrained in their ability to alter rental rates, but as Augustine's Letter 247 shows *coloni* could be charged rent excessively; in that case the *coloni* protested and may have won justice, but if the additional exactions demanded were smaller the *coloni* may not have risked protest. Some *coloni* were awarded tax exemptions by the state, and some categories of landholding were also awarded tax exemptions – whether these exemptions resulted in slighter rents for *coloni* is again entirely speculative but was certainly not expected by law. In the discussion in the preceding chapter the eligibility of *coloni* in the western empire for these imperial exactions and *munera* was left somewhat ambiguous. *Adscripticii* certainly were not liable for or were assessed for regular taxation, but they may have had to pay other taxes and perform *munera sordida*. Juristic opinion on the matter was divided, and the only imperial ruling dictated that *coloni* were only ineligible for *munera* during times of sowing and harvesting.¹¹⁹ The owner of the land that *coloni* leased and inhabited was certainly taxed, and their tax affairs at least had an indirect

¹¹⁷ Hopkins 1980, 103–5.

¹¹⁸ Around two-thirds of Rome's food supply came from Africa, enough for half a million people. The market value, using averaged prices (see Appendix A) comes to:

$$500,000 \times 3 \text{ modii per month} \times 12 \text{ months} = 18,000,000 \text{ modii}$$

$$18,000,000 \text{ modii} \times 0.042 \text{ solidi per modius} = 756,000 \text{ solidi}$$

¹¹⁹ CTh 11.16.4 [=CJ 11.48.1 Constantine I – 9/5/328].

effect on *coloni*. The following series of laws provides a series of exemptions from taxation and *munera* for different classes of estate throughout Africa:

CTh 11.16.1 [Constantine I – 27/8/319], to Catullinus, Proconsul of Africa: this law dictates estates belonging to the *res privata* in Proconsularis should only pay ordinary taxes and duties. Extraordinary taxes and summons for *munera* are thereafter prohibited, and any official who attempts to exact extraordinary services shall be subject to an undefined punishment. This reduced the tax burden on *conductores* and *emphyteuticarii*, possibly reducing the rental burden on *coloni* over time, and preventing landlords from demanding additional contributions. It also kept *coloni* from being excessively called away from their farmsteads for civic duties. It is however restricted to the *res privata*, excluding most *coloni* from these provisions. This lasting reprieve from extraordinary duties was perceived as beneficial, as CTh 11.16.2 [Constantine I – 21/5/323] implements the same law in the Italian province of Aemilia and Liguria, directly citing the Proconsularis law as a precedent.

CTh 11.16.5 [=CJ 11.75.1 Constantius II – 25/1/343], to Italicus [Governor of Numidia]:¹²⁰ This law dictates that lessees on the estates of the *res privata* in Numidia are exempt from *munera* entirely and are also exempt from all ordinary and extraordinary taxes. These exemptions cover both *coloni* and *conductores*, which was doubly beneficial for *coloni* as it meant their landlords could not justify raising rents to account for imperial taxation. Over time this law would have a deflationary effect on rental rates. Existing rates are unlikely to have been reduced, though prospective new *coloni* could reasonably expect or negotiate for a more favourable rental rate compared to *coloni* inhabiting other classes of estate in Numidia.

CTh 11.1.10 [Valentinian I & Valens – 17/5/365], to Dracontius, *Vicarius* of Africa: this law specifies that owners of “rich or abandoned *centuriae*” (*opulentas desertasve centurias*) must pay the full amount of tax assessed on that land. In this context *centuria* is likely meant in the sense of a taxable land unit, that is the local African implementation of *iugum*, rather than the measurement of

¹²⁰ Pharr 1952, 306 stated that Italicus’ position was unknown, and that was true at the time. PRLE 1.466-467 describes an Italicus who was *consularis* (governor) of Numidia in 343.

land area. Because the text refers to *centuriae* it is not referring to peasant smallholders, as regardless of the definition a *centuria* was a substantial amount of land. The purpose of this law is undoubtedly to encourage both cultivation of valuable land, and to compel landowners to actually pay taxes assessed on their lands. This law could have two outcomes on *coloni* in Africa. Firstly, *desertas* can mean uninhabited, but it can also mean wasteland, meaning any land exhausted from overuse or made unfarmable through environmental change. A landowner being taxed for exhausted, unusable land may have tried to compensate by shifting more of their tax burden onto *coloni* farming their other lands via increased rents and exactions. Alternatively, land left fallow could erroneously be considered *agri deserti* by overzealous tax officials; the ten-year cycle between censuses left ample time for land to cycle in and out of cultivation.¹²¹ Per this law though land left fallow was still considered taxable, and thus landowners would be motivated to offset their tax bill by setting or adjusting rents from their other lands. Secondly, a landowner with rich but unoccupied land would be encouraged to find tenants to work the land, potentially giving prospective *coloni* an advantage in negotiating lease conditions.

CTh 13.1.8 [Valentinian I & Gratian – 26/4/370], to Claudius, Proconsul of Africa: this law excuses *coloni* settled on estates of the *res privata* from paying the *collatio lustralis*. As defined in the chapter on taxation, the *collatio lustralis* was a tax levied on *negotiatores* – businessmen, broadly speaking. In the case of *coloni* it would have been levied on the sale of produce; non-agrarian products were not exempt, therefore any artisanal wares or similar would still be subject to taxation. As established by CJ 11.48.5 some *coloni* were required, or at least permitted, to pay their rent in money, not produce. In order to furnish a monetary rent *coloni* would need to sell some of their surplus. Moreover, while a *colonus* might be able to transact some purchases using produce as barter there were doubtless occasions when actual money would be needed. Again, selling surplus was the obvious means for a *colonus* to earn money. Being freed from the burden of the lustral tax provided *coloni* with a slightly greater net income. Presumably *coloni* on private estates were still required to pay the lustral tax on any sales, produce or otherwise. This measure provides a small incentive for

¹²¹ Grey 2007b, 363–64.

imperial *coloni* to remain on their estate, and for prospective *coloni* to seek out an imperial rather than a private leasehold.

Note however that this constitution was issued to the Proconsul of Africa, limiting its applicability to Proconsularis alone. *Coloni* elsewhere in Africa would still be required to pay the lustral tax for any sales, produce or otherwise. Additionally, the tax exemption in Proconsularis is for the explicit benefit of imperial *coloni*. Peasant smallholders as well as landlords, whether *conductores* on imperial estates or private landowners, were still liable for the tax also. Exemption from the lustral tax was not a benefit unique to imperial *coloni* in Proconsularis though. Three other constitutions extend exemptions to *coloni* elsewhere in the empire:

- I. CTh 13.1.3 [Julian – 3/5/361], to the Senate: Julian provided *coloni* and *rustici* full exemption from the lustral tax – including on non-agrarian products. The law’s remit was limited to *coloni/rustici* on senatorial estates in the western empire, however. On the first point, throughout the text of the constitution the second-person is regularly used (e.g. “*Rusticanos colonosque vestros...*”), referring to the senators. If a general exemption for all *coloni* was intended then less specific language would have been used. On the second point Julian was at war with Constantius II, reigning emperor in the east, when this law was published. Constantius would hardly admit a law from someone he considered a rebel, therefore initially at least Julian’s measure can only have been implemented in the west – including Africa.
- II. CTh 13.1.10 [Valentinian I – 5/2/374], to the *Vicarius* of Italy: granted exemptions from the lustral tax for all *coloni* and *rustici* throughout Italy. This law was possibly drafted with CTh 13.1.8 in mind, as it opens by referring to “*coloni* of the estates of the *res privata*...” before mentioning “other *rustici*” seemingly as an afterthought. African *coloni* obviously saw no benefit from this law, as it only applied to Italy.
- III. CTh 13.1.13 [Gratian, Valentinian II, & Theodosius I – 8/11/384], to Postumianus: in a rather sweeping act the lustral tax on agricultural products was waived for all categories of farmer, including *coloni*. Where this law applied is difficult to determine as little is known about the addressee, Postumianus. In 384 there was no known office holder with that name in either half of the empire. In 383 however a Postumianus is thought to have occupied the office of Praetorian Prefect of the East, and perhaps sometime earlier he may also have served as Prefect of Illyricum. Throughout the 380-90s another Postumianus is recorded as acting as an advocate and emissary in the west; these two Postumiani were possibly the same person. The evidence for the latter Postumianus does not record him holding any public office however, and Macrobius notes that

he was practicing law in Rome while the former Postumianus is thought to have been serving as Prefect.¹²² Considering the former Postumianus served in high office in the east and this constitution was issued not long after he vacated said office it is probable that he was this law's addressee, and that this law originated in the east.

After CTh 13.1.18 was published no further law granted *coloni*, or any *rustici* for that matter, any exemption from paying the lustral tax. Within Africa only *coloni* on senatorial landholdings and those on imperial landholdings in Proconsularis enjoyed the lustral tax waiver, and for the latter the waiver only included their surplus produce.

Nonetheless, freedom from the lustral tax must have been a welcome relief. Joshua the Stylite reports that the city of Edessa alone paid 140lbs. (10,080 *solidi*) for the lustral tax every four years before Anastasius abolished the tax in its entirety in 498.¹²³ For merchants or craftsmen of middling wealth contributing to this tax could be financially devastating, thus Joshua also reports mass rejoicing in Edessa when the tax was abolished.¹²⁴ Edessa was a large city in ancient terms. Estimations on the average contribution of an Edessan *negotiator* range from between 0.375 *solidi* (a *tremissis*) and 0.57 *solidi* (slightly more than a *semissis*) annually.¹²⁵ If an African *colonus* was considered a *negotiator* by the assessors of the lustral tax even the half of the lower figure might represent a severe financial imposition.

All the laws just examined ease the fiscal burden on *coloni* somewhat; none of the laws prescribed an increase in tax rates, and remissions were not matched by seeking to make up the difference by taxing other groups more heavily. The laws overwhelmingly favour *coloni* who leased land from the *res privata*, and to a lesser extent *coloni* on senatorial estates. *Coloni* who inhabited private landholdings did not benefit from the empire's tax relief measures at all. There is a clear reason for reducing the tax burden on *res privata coloni* – safeguarding the *annona*. *Res privata* lands were essential in securing Rome's food supply, and it was more beneficial for the empire to guarantee

¹²² PLRE 1.718-9; if the two Postumiani were the same person then he can hardly have been an effectual Prefect while not only living outside his prefecture but also engaged in other business, which suggests that these Postumiani were different people; the PLRE comments that they may have been the same person nonetheless.

¹²³ Pseudo-Joshua the Stylite *Chronicle* 31.

¹²⁴ Ibid.

¹²⁵ For the lower range cf. Jones 1964, 871; Hendy 2008, 175, for the higher range cf. Bagnall 1996, 153.

the flow of foodstuffs than it was to extract monetary taxes, as taxes could have taken away resources needed by the *coloni*'s ability to fully exploit their leaseholds. In other laws discussed there is also a discernible tendency to treat *coloni* on the *res privata* more favourably than their contemporaries on private landholdings.

Only laws with some direct bearing on *coloni* in Africa were selected for discussion here. Numerous other laws prescribed tax remissions for landholders, or remissions generally, throughout the empire. The lacunose eleventh title of the fifth book of the Theodosian Code contains several such laws. General remissions of taxes were issued periodically also, which Jones dutifully catalogued.¹²⁶ These remissions could span years, even decades. It is reasonable to assume that there were more laws that remitted arrears and introduced other temporary taxation relief measures that were not codified. The imperial state was flexible in granting reductions or alterations in taxes to specific groups or regions based on need or petition.¹²⁷ *Coloni* therefore not only benefitted from the easing of burdens from the laws just discussed, but also from more general forgiveness of arrears. This benefitted them directly if they had a personal tax debt, and also if their landlord had debts, as forgiveness would remove any need for the landlord to pressure their *coloni* to assist in payments. Earlier in this section laws prohibiting tax collectors from seizing a *colonus*' capital assets were discussed. A *colonus* that was not pressured to pay their tax debts could find themselves in good luck if the emperor decided to annul outstanding debts.¹²⁸

Like taxation, the rent payable by *coloni* can largely only be guessed at. However, estimations of rent are somewhat more reliable. For Mancian sharecroppers, the proportion payable as rent is known for certain – one-third. The amount paid by a sharecropper in an ordinary year can be used as a guide to estimate what a fixed rate rent might be. Crop yields can be reconstructed with a reasonable degree of certainty, and there is enough pricing data to obtain an idea of how much money *coloni*

¹²⁶ Jones 1964, 467.

¹²⁷ Silver 2017, 6–7.

¹²⁸ Ziche 2006, 133–34 considered that only the socially powerful had the necessary clout to defer tax payments for long enough to benefit from general remissions, however the imperial state constrained tax collector's ability to force *coloni* to pay, possibly allowing them to also benefit.

could sell their crops for. Using this data, it is possible to calculate a *colonus*' finances with a reasonable degree of confidence.

Consider then two hypothetical *coloni* and their respective financial situation over a period of five years. The first, Flavius Donatus, is a Mancian *colonus* who pays a share rent. The second, Aurelius Felix, is a regular *colonus* who pays a fixed monetary rent. Both *coloni* have a family of five, including themselves. For these calculations assume that both *coloni* have identical farms, and annually sow twenty *iugera* of wheat, harvest three *iugera* of grapes for vinting, and produce olive oil from a grove of seventy olive trees; the grove itself is about twice as large but due to olive tree's tendency towards biennial fruiting only half the trees are productive in a given year.¹²⁹ The grapes and trees are interspersed amongst the wheat fields and on adjacent *subseciva*.¹³⁰ Both *coloni* depend on wheat for sixty percent of their daily calories, requiring 2.5 *modii* per person per month. Each member of the family consumes 300 *sextarii* of wine annually,¹³¹ or just under one *sextarius* daily. Each member of both households consumes 36 *sextarii* of olive oil annually; this use accounts for cooking and consumption, oil lamps and hygiene.¹³² Other caloric and nutritional requirements are met by unstated amounts of fruit and vegetables grown in the *colonus*' kitchen/market garden, and from milk, eggs, and meat. Fl. Donatus, as a sharecropping Mancian *colonus*, pays a third of all finished products as rent. After paying this rent and accounting for household consumption he sells his surplus produce for a monetary income. Aurelius Felix pays an annual rent of twelve *solidi*. After accounting for household consumption Felix sells his produce and pays his rent from the earnings and retains the rest as his annual income.

These calculations make two assumptions about the payment of rent. Firstly, the *colonus* family makes no changes to their consumption habits in years with a poor yield. If any crop was insufficient in a particular year they made up the difference by buying from the market. Secondly, the

¹²⁹ D. Mattingly 1996, 219–20.

¹³⁰ Kehoe 1988, 15–16 argues that a family of five would require about twenty *iugera* to make rent payments, have enough food, and have enough seed for the next planting.

¹³¹ Jongman 2006, 114–15; van Limbergen, Monsieur, and Vermeulen 2017, 358–59; Marzano 2013, 93–94 all suggest daily consumption averaging around one *sextarius* per day, with differences accounting for sex and age.

¹³² Approximately equal to the twenty litres estimate put forth by Hitchner 2010, 72–73; D. Mattingly 1988b, 21–22.

landlords are unflinching in their demands for rent payments. Felix's landlord did not consider rent remissions for poor years, and Donatus' landlord demanded exactly one third of each product, even if it would cause a shortfall.

Yields and prices are standardised according to the below table. Where yields vary in the calculations it will be as a percentage of the standard yield.

Table 7: Standard yields and prices

Product	Standard Yield	Standard Price ¹³³
Wheat	20 <i>modii Italici</i> per <i>iugerum</i> ¹³⁴	0.042 <i>solidi</i> per <i>modius</i>
Wine	1,504 <i>sextarii</i> per <i>iugerum</i> ¹³⁵	0.0025 <i>solidi</i> per <i>sextarius</i>
Olive Oil	4 <i>sextarii</i> per tree ¹³⁶	0.025 <i>solidi</i> per <i>sextarius</i>

In the forthcoming calculations the standard prices are static, they do not change in relation to the size of the harvest. Realistically, the market price a *colonus* could expect for their surplus produce would have been affected by many factors. The economic maxims of supply and demand and the price inelasticity of demand for food are important factors but are not considered here. Poor harvests resulted in small surpluses and therefore higher prices, and conversely a bountiful harvest led to a well provisioned market and therefore lower prices. Market connectivity is a substantial factor in determining prices. Peripheral areas, especially those distant from major roads or the coast, had lower local prices and greater transport expenditures. Prices in major cities were invariably higher than in the country, and the higher urban prices helped offset the cost of transport.¹³⁷ Further, *coloni* who sold to wholesalers were going to be paid less than the market value. Considering these factors, and others, would be unnecessarily comprehensive and require more data than is available. Instead, assume that

¹³³ See Appendix A for price data and averages.

¹³⁴ 20 *modii* was established in chapter two as the average yield for wheat per *iugerum*.

¹³⁵ Duncan-Jones 1982, 39–47; Marzano 2013, 93–94.

¹³⁶ D. Mattingly 1994a, 93–98; averages for African tree yields are used.

¹³⁷ Temin 2013, 39–52, 70–91; Temin 2013, 39–52, 70–91.

fluctuations in the yields of the two hypothetical *coloni* are due to factors localised to their tenancies alone; the greater environment and economy around them is otherwise unchanging.

With the parameters for the calculations defined, the yields, deductions, and surpluses for Flavius Donatus and Aurelius Felix over the five-year period are set out in the following two tables:

Table 8: Fl. Donatus rent balance sheet

Fl. Donatus, Mancian <i>Colonus</i>		Wheat (20 <i>iugera</i>)	Wine (3 <i>iugera</i>)	Olive Oil (70 trees)
Year I (Ordinary)	Total Production	400 <i>modii</i>	4,512 <i>sextarii</i>	280 <i>sextarii</i>
	Deductions	-133 (rent) -100 (seed) -150 (consumption)	-1,504 (rent) -1,500 (consumption)	-93 (rent) -180 (consumption)
	Saleable Produce	17 <i>modii</i>	1,508 <i>sextarii</i>	7 <i>sextarii</i>
	Monetary Value	0.7 <i>solidi</i>	3.8 <i>solidi</i>	0.17 <i>solidi</i>
	Total	4.67 <i>solidi</i>		
	Balance	+4.67 <i>solidi</i>		
Year II Mild Drought (-10% wheat and wine yield)	Total Production	350 <i>modii</i>	4,060 <i>sextarii</i>	280 <i>sextarii</i>
	Deductions	-83.3 (rent) -100 (seed) -150 (consumption)	-1,353 (rent) -1,500 (consumption)	-93 (rent) -180 (consumption)
	Saleable Produce	-13 <i>modii</i>	1,207 <i>sextarii</i>	7 <i>sextarii</i>
	Monetary Value	-0.5 <i>solidi</i>	3 <i>solidi</i>	0.17 <i>solidi</i>
	Total	2.67 <i>solidi</i>		
	Balance	+7.34 <i>solidi</i>		
Year III Bumper Olive Oil (+200% Olive Oil Yield)	Total Production	400 <i>modii</i>	4,512 <i>sextarii</i>	560 <i>sextarii</i>
	Deductions	-133 (rent) -100 (seed) -150 (consumption)	-1,504 (rent) -1,500 (consumption)	-187 (rent) -180 (consumption)
	Saleable Produce	17 <i>modii</i>	1,508 <i>sextarii</i>	193 <i>sextarii</i>
	Monetary Value	0.7 <i>solidi</i>	3.8 <i>solidi</i>	4.8 <i>solidi</i>
	Total	9.3 <i>solidi</i>		
	Balance	+16.64 <i>solidi</i>		
Year IV (Ordinary)	Total Production	400 <i>modii</i>	4,512 <i>sextarii</i>	280 <i>sextarii</i>
	Deductions	-133 (rent) -100 (seed) -150 (consumption)	-1,504 (rent) -1,500 (consumption)	-93 (rent) -180 (consumption)
	Saleable Produce	17 <i>modii</i>	1,508 <i>sextarii</i>	7 <i>sextarii</i>
	Monetary Value	0.7 <i>solidi</i>	3.8 <i>solidi</i>	0.17 <i>solidi</i>
	Total	4.67 <i>solidi</i>		
	Balance	+21.31 <i>solidi</i>		
Year V Drought (-25% all yields)	Total Production	300 <i>modii</i>	3,384 <i>sextarii</i>	210 <i>sextarii</i>
	Deductions	-100 (rent) -100 (seed) -150 (consumption)	-1,128 (rent) -1,500 (consumption)	-70 (rent) -180 (consumption)
	Saleable Produce	-50 <i>modii</i>	-12 <i>sextarii</i>	-40 <i>sextarii</i>
	Monetary Value	-2.05 <i>solidi</i>	+1.9 <i>solidi</i>	-1 <i>solidi</i>
	Total	-1.15 <i>solidi</i>		
	Balance	+20.16 <i>solidi</i>		

Table 9: Aurelius Felix rent balance sheet

Aurelius Felix, ordinary tenant <i>colonus</i>		Wheat (20 <i>iugera</i>)	Wine (3 <i>iugera</i>)	Olive Oil (70 trees)
Year I (Ordinary)	Total Production	400 <i>modii</i>	4,512 <i>sextarii</i>	280 <i>sextarii</i>
	Usage	-100 (seed) -150	-1,500	-180
	Saleable Produce	150 <i>modii</i>	3,012 <i>sextarii</i>	100 <i>sextarii</i>
	Monetary Value	6.15 <i>solidi</i>	7.5 <i>solidi</i>	2.5 <i>solidi</i>
	Total Value	16.15 <i>solidi</i>		
	Rent	-12 <i>solidi</i>		
	Surplus	4.15 <i>solidi</i>		
Year II Mild Drought (-10% wheat and wine yield)	Balance	+4.15 <i>solidi</i>		
	Total Production	350 <i>modii</i>	4,060 <i>sextarii</i>	280 <i>sextarii</i>
	Usage	-100 (seed) -150	-1,500	-180
	Saleable Produce	100 <i>modii</i>	2,560 <i>sextarii</i>	100 <i>sextarii</i>
	Monetary Value	4.1 <i>solidi</i>	6.4 <i>solidi</i>	2.5 <i>solidi</i>
	Total Value	13 <i>solidi</i>		
	Rent	-12 <i>solidi</i>		
Year III Bumper Olive Oil (+200% Olive Oil Yield)	Surplus	1 <i>solidus</i>		
	Balance	+5.15 <i>solidi</i>		
	Total Production	400 <i>modii</i>	4,512 <i>sextarii</i>	560 <i>sextarii</i>
	Usage	-100 (seed) -150	-1,500	-180
	Saleable Produce	150 <i>modii</i>	3,012 <i>sextarii</i>	380 <i>sextarii</i>
	Monetary Value	6.15 <i>solidi</i>	7.5 <i>solidi</i>	9.5 <i>solidi</i>
	Total Value	23.15 <i>solidi</i>		
Year IV (Ordinary)	Rent	-12 <i>solidi</i>		
	Surplus	11.15 <i>solidi</i>		
	Balance	+16.3 <i>solidi</i>		
	Total Production	400 <i>modii</i>	4,512 <i>sextarii</i>	280 <i>sextarii</i>
	Usage	-100 (seed) -150	-1,500	-180
	Saleable Produce	150 <i>modii</i>	3,012 <i>sextarii</i>	100 <i>sextarii</i>
	Monetary Value	6.15 <i>solidi</i>	7.5 <i>solidi</i>	2.5 <i>solidi</i>
Year V Drought (-25% all yields)	Total Value	16.15 <i>solidi</i>		
	Rent	-12 <i>solidi</i>		
	Surplus	4.15 <i>solidi</i>		
	Balance	+20.45 <i>solidi</i>		
	Total Production	300 <i>modii</i>	3,384 <i>sextarii</i>	210 <i>sextarii</i>
	Usage	-100 (seed) -150	-1,500	-180
	Saleable Produce	50 <i>modii</i>	1,884 <i>sextarii</i>	30 <i>sextarii</i>
	Monetary Value	2 <i>solidi</i>	4.7 <i>solidi</i>	0.75 <i>solidi</i>
	Total Value	7.45 <i>solidi</i>		
	Rent	-12 <i>solidi</i>		
	Surplus	-4.55 <i>solidi</i>		
	Balance	+15.90 <i>solidi</i>		

For comparative purposes, the annual incomes of the two *coloni* is summarised in the following chart:

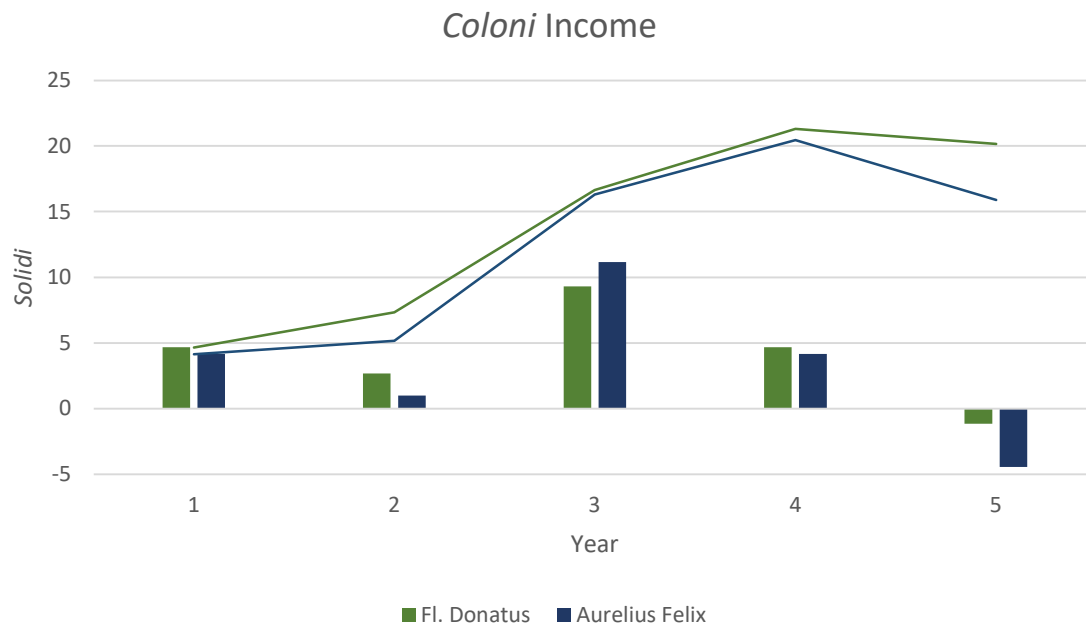


Figure 4: Estimated *coloni* income over a five-year period

From this data it is apparent that overall Fl. Donatus, as a Mancian sharecropper, had a slight advantage over his peer. However, in a year with an especially bountiful harvest, Aurelius Felix had a distinct advantage. His rent was fixed, and therefore he could keep and sell a greater proportion of his crop. His surplus value in the third year was 20% greater than his Mancian contemporary; it was not unheard of for an olive crop to triple in select years, which would increase Felix's monetary advantage. However, Fl. Donatus ended up with substantially more money at the end of the five-year period owing to the flexibility and risk sharing of the sharecropping arrangement. When Donatus suffered a bad crop, his landlord also suffered from a smaller rent. Ostensibly, when Felix suffered from a mediocre or poor crop it did not affect his landlord. In the drought-ridden fifth year, Felix's crop only netted him 60% of his total rent, which required him to make up the difference from his savings (or else go into debt). If the drought were widespread and affected the region as a whole it might work to Felix's advantage if the rise in prices offset the overall decrease in yield.¹³⁸ However, a more substantial drought or other misfortune could reduce Felix's yield to the point where he would

¹³⁸ Erdkamp 2009, 52–53.

have no surplus whatsoever and thus no way to make money. Legally he was entitled to petition his landlord for a rent remission, but his landlord was also allowed to seek recompense by demanding more rent in a bountiful year. The overall fiscal impact on Felix would be similar. Returning to Donatus, even with the sharecropping arrangement he still produced too small a cereal crop in the fifth year to adequately feed his family and pay his share rent. In this scenario his landlord strictly enforced the one-third rent and Donatus made up the difference by buying extra wheat from the market, but in reality Donatus could offer a greater proportion of wine or oil in order to retain more wheat, or else he could weather his bad luck and simply have less bread that year. Like Felix though, a more severe drought or another similar calamity could be ruinous. If his wheat crop fell by 50%, he would not have enough for his own needs, much less paying any rent. Moreover, unlike Felix he had no legal entitlement to seek a rent remission; a compassionate landlord might grant one anyway. CJ 4.65.18 [Diocletian & Maximian – 21/9/290] shows that landlords were willing to petition the emperor to avoid giving their tenants a rent reprieve.

Which system is preferential depended on the temperament of the landlord and the ability of the *colonus* to secure their rights. A sharecropping arrangement better insulated a *colonus* from a capricious landlord, but a fixed-rent system allowed a *colonus* to eke greater profits from boom years. The desirability of Mancian tenure is obvious – it provided the security and risk sharing of sharecropping with generous terms that allowed the *colonus* to grow and shrink their leasehold according to their means. Mancian *coloni* could, with substantial effort, derive a respectable profit. In general though, the monetary surpluses a *colonus* earned allowed them to buy equipment, domestic wares, hire occasional wage labourers, and perhaps purchase the occasional luxury, but did not afford them the opportunity to substantially improve their station in life. Wage labourers were not cheap to hire but became necessary when the size of the crop outstripped the *colonus*' ability to harvest it and process it themselves. Paid labourers also required food, drink, and lodging, which further cut into the *colonus*' thin margins; a small farm might avoid the need for hired labour, or *coloni* might rely on

communal labour to save costs.¹³⁹ Even if a *colonus* managed an average income of five *solidi* annually, it would take seventy-two years of uninterrupted saving to afford the fine imposed by CTh 16.5.52 that penalised Donatists. Even five *solidi* is above average for both Fl. Donatus and Aurelius Felix, who both had generous plots of cereal crops, vines, and olive trees. A poorer *colonus* household would get by with even less. Additionally, a *colonus*' income had to provide for their entire household. By comparison, a Roman infantryman in the early fifth century earned about eight *solidi* annually, which did not cover expenses such as food.¹⁴⁰ A low-ranking military officer in Byzantine Africa earned ten *solidi*, again not covering living expenses.¹⁴¹ While *coloni* did not have to worry about purchasing food ordinarily, even a prosperous tenancy such as Donatus' and Felix's would struggle to match the salary paid to a soldier.

An uncaring or indifferent landlord was not the worst encumbrance a *colonus* could face. Landlords and their agents could be corrupt. Already we have seen how Mancian *coloni* protested the mistreatment of Commodus' agents, and how the Fussala *coloni* fought against the appointment of the corrupt Antoninus. Direct records of the corruption and rapaciousness a group of *coloni* endured is recorded in a letter of Augustine.

Letter 247: this letter was addressed to a certain Romulus, a landholder near Hippo Regius who *actores* (overseers) had forcibly collected the rent from the resident *coloni* twice. Augustine was acutely aware of the details of this affair. Throughout the letter he referred to personal interactions between himself and Romulus, Romulus' refusal to speak with Augustine about this matter personally, and Augustine related details about interactions between the *coloni*; Romulus' agents Ponticianus, Valerius, and Agnesis; and Romulus himself. Per Augustine, the *actor* Ponticianus

¹³⁹ Agricultural wage labour was not cheap. A single labourer during harvesting could cost between 1.5-3 *modii* of wheat daily, cf. Shaw 2013, 82–88. Labour services could be bought or bartered for at *nundinae*, even amongst *coloni* cf. Kehoe 1988, 216.

¹⁴⁰ NVal 13.3-4 [Valentinian III – 21/6/445] set the value of the *annona militaris*, the primary source of military pay, and the *capitus*, a supplementary pay for cavalymen, at four *solidi*. Imperial accessions and quinquennial anniversaries were the occasional for the payment of a donative worth five *solidi*, which averages to a payment of approximately four *solidi* per annum, cf. Burgess 1988. For the commutation of supplies in kind to monetary payments see Jones 1964, 629–30.

¹⁴¹ CJ 1.27.2.23-34 [Justinian I – 13/4/534]; *semisales* were the lowest ranked officer in the army and received an annual salary of 1.5 *annonae militares* and 1 *capitus*, totally 10 *solidi*.

demanded payment from the *coloni*, which they duly paid as they thought he was acting on Romulus' orders. Later, a second *actor* demanded the rent, which the *coloni* were obliged to pay also. Romulus made no attempt to resolve the situation himself, so presumably one or more of the *coloni* asked Augustine to intervene.

Romulus tried to shift the blame onto Ponticianus and the *coloni*, as he claimed that Ponticianus acted on his own initiative and that the *coloni* should not have obeyed him. The second demand for rent was apparently legitimate, and it was through the *coloni*'s carelessness and gullibility that they were defrauded; Romulus was unwilling to do anything to alleviate the situation. Through Augustine's questioning it became apparent that the *coloni* were generally expected to obey the *actores*, and that Romulus issued orders to the *actores* verbally; Ponticianus' demands must have seemed legitimate to the hapless *coloni*. Augustine was unconvinced by Romulus' defence, and recommended to him that in future the *actores* should always present a written letter penned by Romulus as proof that the commands were legitimate; this may be a practice Augustine knew was employed on other estates.

How this matter was resolved is not recorded. It is demonstrative of the precarious situation of *coloni* and the relative ease with which they could be exploited. The *coloni* knew they had been wronged, and sought Augustine's intervention for relief after, presumably, unsuccessfully petitioning their landlord. Whatever the outcome, justice for *coloni* was slow and reactive, and this was not an isolated incident. For example, in the second century Mancian *coloni* in Proconsularis had to petition Commodus for relief from corrupt *procuratores*, and Mancian tenure was generally a more secure and robust system than private *coloni* enjoyed.¹⁴² Augustine has no misapprehensions about the life and lot of a *colonus*. He correctly recognises that rent alone was an onerous burden and having to pay double was outright ruinous. The rental payment may have been a partial payment, such as the triannual taxation payments asked of property owners, which would still be taxing. Augustine may have amplified the plight and poverty of the *coloni* to elicit pity or guilt from Romulus (and perhaps amplify Christian tenets such as humility), but the exaggeration cannot have been too great. Lastly,

¹⁴² Kehoe 1988, 64–69; C. Whittaker 2000, 532–33.

this letter provides some insight into how estates were governed. Romulus relied on an informal and *ad hoc* distribution of responsibilities that eased his administrative burden, but resulted in ambiguities about proper authority and facilitated corrupt behaviour by the *actores*; even if Romulus was lying and Ponticianus did not act improperly it is not an implausible situation, and similar events could have occurred elsewhere. Augustine recommended a more robust and official methodology that required official dissemination of commands and responsibilities. While advice proliferated from agronomists, fellow landowners, and even churchmen, it was ultimately up to the landlord to decide how to govern their estate, and it was up to the *coloni* to discern what commands were lawful and when to protest on their own behalf.

The life of a *colonus* was always fragile. A few consecutive bad harvests risked impoverishing or even starving a *colonus* household. Conversely, a few rich harvests could provide a *colonus* household with unusual plenty and surplus monies. Both destitution and comfort amongst *coloni* are both readily apparent in the legal, literary, and archaeological evidence. Besides environmental factors, the affordability of rent was the most influential determiner for whether a *colonus* could maintain a humble, perhaps comfortable, life or lapse into poverty.

VI

Conclusions

Throughout the course of Late Antiquity the legal conditions governing the lives and conditions of *coloni* shifted more and shifted faster than they had in any preceding era of Roman history. The legal evidence demonstrates clear infringements on the rights of tenant *coloni* to relocate, make full use of their property, and choose a destiny other than farming. Despite these regulatory impositions and their legal branding as a *colonus* per the *condicio colonaria* their *de jure* status as a free Roman citizen was not affected. The real impact of these measures was perhaps less extreme. Mancian *coloni* seem largely unaffected by the changing state of their contemporaries in Late Antiquity. Heritable and perpetual tenancies were part of their contractual arrangement for centuries, and this was a prized aspect of it. Constantine declaring that *coloni* had to stay on their estates was not ground-breaking for them. This seemingly rigid demand was not so rigid anyway. The *coloni* on the Fussala estate were evidently either unaware of the prohibition on their leaving or did not care enough about it. In either case their threat was taken as credible by Augustine and presumably the other actors in the dispute. Sidonius outlined a simple plan to unburden a *colonus* of their status. The ability of the empire to effectively intrude on the lives of so many citizens in such a way is questionable.¹

The reasons for scrutinising the lot of *coloni* so closely is largely historiographical – it seemed to early scholars of the colonate problem that bound *coloni* must be the Late Roman antecedent of medieval serfdom. To many modern scholars the colonate was emblematic a despotic state crushing its subjects with authoritarian dictates. *Coloni* were far from the only group or profession to succumb to the pressures of Late Antique imperial governance. As we have seen, Honorius forbade urban Gallic artisans from leaving their cities and taking up a livelihood in the countryside. A career as a foot soldier or cavalryman in the army could become a hereditary occupation and became burdened with an increasingly labyrinthine series of region-specific rules, regulations, privileges, and

¹ Harries 2004, 80; Sirks 1993, 331–69.

punishments.² Just as *coloni* were granted various tax exemptions depending on where they lived and worked soldiers too could earn exemptions from taxation, for themselves and their families. Scholars could discuss a purported *militate*, or a *ius militatus*, for soldiers, a *decurionate* for municipal officials compelled into hereditary service, or even a *panifecate* for compulsory bakers. None of these groups are as prominent in the law codes though, and the governance around their status is less ambiguous. The enduring scholarly interest in Late Antique *coloni* and the colonate is largely due to the peculiar treatment of *coloni* in the law codes, and the general socio-economic importance of farmers and farming, both in the immediate context of Late Antiquity and as a *longue durée* concern. Baking as a profession and the laws that governed it, for instance, is less impactful than farmers and the socio-legal governance of farming, after all.

Nonetheless, for all the evidence consulted herein there is little to suggest any considerable changes to the social or economic conditions of *coloni* in Africa triggered by novel legislation, from the accession of Diocletian to the establishment of Geiseric as the king of Africa. The life of a *colonus* was by no means easy or comfortable. It involved a life of hard agricultural labour and always carried the risk of ruin from poor harvests, inclement weather, disease, injury, or any other myriad reason. In addition to subsistence farming, *coloni* had to satisfy rent payments and potentially treat with a capricious or corrupt landlord. *Coloni* could be summoned by the state to perform *munera sordida* and paid various taxes depending on which province they inhabited and from whom they rented their lands. None of these difficulties were new to *coloni* in Late Antiquity, they could equally commiserate with their Principate-era forebears about their hardships. In a hypothetical meeting between a second century African *colonus* and their descendant in the fourth century there is a high probability that they would not discern any noticeable changes in their lifestyle or conditions. The second century *colonus* might notice that his descendant enjoyed a slightly higher standard of material wealth and would certainly notice their Christian faith. Despite the hardships of rustic life a few lucky and enterprising individuals managed to substantially better their condition. Throughout Late Antiquity there is no sign that the imperial state heaped new troubles or restrictions on *coloni* in Africa, and it certainly never

² Elton 2018, 92–93; Liebeschuetz 2015, 75–77.

seemed to be the intent of the empire to stifle them. In some small ways the empire actually alleviated some of their burdens. The imperial state was never the primary cause of trouble for *coloni*. The weather, soil condition, brigands, sectarian strife, or corrupt or overbearing landlords were more pressing externalities, as seen in the literary evidence.

Without a doubt, *coloni* who inhabited a Mancian leasehold in Proconsularis or an adjacent province enjoyed the greatest legal and contractual conditions, and likely also the best material conditions (on average). They received the most exemptions from taxation and *munera* and were the first to be protected from arbitrary abuses. After Mancian *coloni*, those with an ordinary contract on the imperial *res privata* enjoyed the next best conditions. *Coloni* who inhabited ecclesiastical, municipal, or private property were endowed with no particular privileges or exemptions. *Coloni* on senatorial estates benefited from an exemption from the *collatio lustralis* but were otherwise equal in status and privilege to *coloni* on private landholdings. The way rent was calculated and paid also impacted the potential prosperity of *coloni*. Mancian *coloni* were sharecroppers, as were an indeterminate number of other *coloni*. Managed correctly, a sharecropping system was safer and more profitable in the long-term for *coloni* and landlords alike.³ The rent comparisons between the fictional Fl. Donatus and Aurelius Felix demonstrated that a sharecropping arrangement was generally beneficial in the long-term and when measured against the variability of yields, but this was purely a matter of contract. The only time the imperial state intervened with regards to rents was to prohibit excessive payments, and to require Tripolitanian *coloni* to pay in kind.⁴

It is interesting to compare *coloni* to the other major class of agricultural rentiers – *emphyteuticarii*. The relative lack of mention of *emphyteuticarii* throughout is not for want of interest. Compared to *coloni* there are few laws that concern *emphyteuticarii*, their leases, and their legal status. *Coloni* and *emphyteuticarii* were similar in many respects, and in Africa the similarities were greater still, as a considerable number of African *coloni* held their lands on an explicit permanent, hereditary basis via Mancian tenure. With the growing expectation that *coloni* and their descendants

³ Kehoe 1988, 155–62.

⁴ Koptev 2012, 323–26; the Byzantine state restricted *coloni* from bringing lawsuits against their landlord, except where illegal seizure of property or excessive rents were involved.

would inhabit the same fields forever the leases came to resemble *emphyteusis*, but the two categories of lease remained legally distinct. *Emphyteuticarii* were accorded privileges and spared the disadvantages imposed on *coloni*. The difference in treatment and consideration of the two groups of renters stems from their different socio-economic positions. In Late Antiquity the primary difference between *emphyteuticarii* and *coloni* (with a perpetual leasehold) was scale. The former tended to lease tracts of land that would constitute an estate, whereas the leaseholds of the latter were those that could be farmed by a single *familia* (in the Roman sense, including slaves and any other dependants), supplemented by occasional labour hire. To lease an entire estate required considerable financial resources that precluded a *colonus* from transitioning into the role of an *emphyteuticarius*.

The fundamental basis of rural tenancies, and thus the fundamental legal construct that governed the lives of *coloni*, remained the *locatio-conductio rei* contract. In some ways a tenancy contract acted as real property. Mancian *coloni* could borrow using their leasehold as a security, and *coloni* could sell their contract, either to another *colonus* or back to the landholder, which is what happened on the *fundus Tuletianos*, as detailed in the Albertini Tablets. The Albertini Tablets also document that *coloni* rented plots that were exceptionally small, with one plot containing just two olive trees. Presumably *coloni* would not lease additional land that was too far away from the rest of their leasehold, but it was an option. The Late Antique laws governing *coloni* were largely subsidiary accretions designed at resolving specific administrative, fiscal, social, military, religious, or interpersonal issues that arose. The major legal innovation that had a lasting impact on *coloni* was the creation of the *condicio colonaria*.

None of the provinces in Africa provided good candidates for agricultural reform, as it would jeopardise the *annona* supply chain, the upkeep of the African army, and considerable other tax revenues. Reform and restructure of farming, land ownership, and tenancies in Africa offered little potential for gain, but instead offered severe penalties if mishandled. There was no need to shore up an ailing system in Africa. Revolts in Africa were uncommon and were not the result of rustic discontent. The revolts against the sitting emperor in the prosperous coastal regions were attempts at usurpation or personal aggrandisement. The violence of the *circumcelliones* is often exaggerated, and

even the crisis at Fussala resulted in minimal actual violence. The sitting emperor could easily be overthrown if he caused Rome to starve. Similarly, by disrupting the livelihood of the countless thousands of *coloni* in Africa the emperor could incite a provincial revolt. It would not be without precedent – the heavy-handed martial rule of Maximinus Thrax provoked Gordians I and II to revolt, and they had the backing of the rural labourers behind them. Furthermore, with imperial estates and administrative offices being so prolific in Africa the empire already had an established mechanism for governing swathes of land in Africa without needing to pass new laws.

Therefore, in Africa, the colonate was less of an institution and more of a system of loosely interrelated laws. These laws sought to preserve security and provide continuity. In this way Fustel de Coulanges, Banaji, Sirks, and Sarris are partially right – the colonate in Africa did rely heavily on centuries old legal traditions and institutions. However, it is also clear that the empire did play a big role in instituting the Late Roman iteration of these institutions, and there has been no indication in the evidence surveyed that the colonate in Africa came from anything but imperial emendations to the *locatio-conductio* system. Indebtedness of *coloni*, foreign barbarian settlement, elevation of slaves – none of these features in the surveyed evidence. Mancian *coloni* fit in with the Late Roman colonate because it shared some similar provisions about perpetual and inheritable tenancies, but it does not seem to have inspired the creation of the colonate. Carriè's view perhaps best fits the imposition of the colonate in Africa. It was imposed at the imperial level to merely safeguard the fiscal system; this also satisfied Wallon's observation that the colonate should have a common origin. The colonate in Africa lacks imagination and ambition in most regards. It kept *coloni* working on their fields, it adjudicated disputes between tenants and landlords and between tenants and the state, it doled out punishments where *coloni* disobeyed, and – exceptionally – it was used as a hammer to crush Donatism.

The laws that were passed with respect to Africa were very much like the rescripts issued by third century emperors, or the jurisprudential rulings of the previous era. The African colonate was designed to safeguard the productivity of Africa. It largely did this by attempting to create a legal and economic environment that was conducive to *coloni* working their leaseholds. This would then secure

the *annona civica* for the city of Rome, payment of taxation to the treasury, and supply to the army. For emperors concerned with ecclesiastical matters, namely Honorius, the African colonate also sought to secure the supremacy of the empire-backed Catholic church by suppressing the maligned Donatist church. That the greatest outburst of *coloni* unrest in Late Antique Africa occurred due to sectarian tensions is important. *Coloni* did not violently rise up over intolerable conditions, indebtedness, or any other factor that might be expected. The *circumcelliones* exploited an underlying sense of discontent, but again this was fuelled by sectarian tensions. African estates may not have been entirely tranquil, but they were not so bad that the *coloni* felt the need to rebel against their landlords or the state. It was unnecessary for the imperial state to impose harsh measures on Africa's *coloni*. For landlords, it sought to ensure that lawful tenants honoured their contractual and legal obligations, and dissuaded *coloni* from abusing common property, assets, or lands they were not entitled to. Finally, for *coloni* it sought to ensure that they were protected from abusive or capricious landlords and would guarantee them farmland and livelihood. The colonate in Africa was not radical – it was thoroughly conservative. Even as the Vandals traversed the African provinces and Roman governance crumbled estates populated with *coloni* prospered and endured as they had for centuries. A *colonus* in Late Antique Africa had the same chances of poverty or prosperity that their Principate-era forebears did.

VII

Appendices

Appendix A: Commodity Prices

Regrettably, price data from Africa is all but non-existent for consumer products. The following tables sample what is assumed to be ordinary price data from across the empire for the following products: wheat, wine, and olive oil. Prices from periods of abundance or scarcity are intentionally avoided to avoid skewing the average. There are, of course, serious problems with attempting to calculate an average price for agricultural goods considering the volatility of ancient agriculture and the number of largely unknowable variables involved with cost. Prices are generally higher in large cities compared to the country, not all provinces are equally suited for all kinds of agricultural leading to disparities in production and price, local rents and taxes could affect prices, and patterns of consumption are not going to be consistent across cultures and provinces.¹ Nonetheless, average prices provide a useful albeit tenuous guide to the value of products and the ability of *coloni* and other farmers to make a living growing and selling them. All prices have been revalued against the *solidus* and either the *modius Italicus* or the *sextarius* for consistency.

Table 10: Wheat prices

Location	Date	<i>Solidi per Modius</i>	<i>Modii per Solidus</i>	Reference
Sicily	77 BCE	0.047	21	Cicero <i>Against Verres</i> 3.189
Palestine	15	0.036	28	Tenney 1933, 181–83
Pisidian Antioch	80	0.04	25	AE 1925.126b
Egypt	3 rd c.	0.055	18	Rathbone 1997
Empire-wide	301	0.067	15	<i>Edictum de Pretiis</i> 3.1
Antioch	361-2	0.022	30	Julian <i>Beard-Hater</i> 41
Egypt	541	0.025	26	SB 6.9051
Nessana	6 th c.	0.022	30	PNess 64, 65, 69
Average		0.042	24	

¹ Hopkins 1980, 118–19; Rathbone 2013, 305–10; Temin 2013, 36–55.

Table 11: Wine prices

Location	Date	<i>Solidi per Sextarius</i>	<i>Sextarii per Solidi</i>	Reference
Italy	1 st c.	0.004	251	Duncan-Jones 1982, 46–47
Italy	1 st c.	0.0026	376	Ibid.
Empire-wide	301	0.008	125	<i>Edictum de Pretiis</i> 2.9 ²
Egypt	6 th c.	0.002	500	PCol 8.245
Egypt	6 th c.	0.0025	403	PSI 10.122
Egypt	6 th c.	0.0024	423	PMich 15.743
Egypt	6 th c.	0.0017	588	PCairo 67145
Egypt	606–8	0.002	494	SB 1.4505
Egypt	613	0.0019	510	SB 1.4504
Egypt	7 th c.	0.004	234	PWisc 1.11
Average		0.0025	390	

Table 12: Olive oil prices

Location	Date	<i>Solidi per Sextarius</i>	<i>Sextarii per Solidi</i>	Reference
Empire-wide	301	0.040	25	<i>Edictum de Pretiis</i> 3.1
Empire-wide	301	0.024	42	<i>Edictum de Pretiis</i> 3.1
Prefecture of the East	389	0.023	43	CTh 8.4.17
Egypt	?	0.022	45	POxy 1.1920
Egypt	6 th c.	0.025	40	POxy 14.1753
Egypt	6 th c.	0.025	41	POxy 14.2052
Egypt	6 th c.	0.021	47	PBaden 95
Average		0.025	40	

² This price is for ordinary wine, other listed wines in the edict are of superior vintage.

Appendix B: Laws & Jurisprudence Cited

Digest of Justinian

1.1.6.1 [Gaius <i>Institutes</i> Book 1]	19.2.32 [Julian <i>From Minicius</i> Book 4]
1.4.1 [Ulpian <i>Institutes</i> Book 1]	19.2.54 [Paul <i>Replies</i> Book 5]
1.4.3 [Javolenus <i>Letters</i> Book 13]	19.2.54 [Paul <i>Replies</i> Book 5]
1.5.19 [Celsus <i>Digest</i> Book 29]	19.2.60 [Labeo, <i>Posthumous Works, Epitomised by Javolenus</i> Book 5]
1.5.24 [Ulpian <i>On Sabinus</i> Book 27]	19.2.61 [Scaevola <i>Digest</i> Book 7]
2.14.56 [Julian <i>From Minicius</i> Book 6]	19.2.13-14 [Ulpian <i>Edict</i> Book 32, 71]
7.1.58 [Scaevola <i>Replies</i> , Book 3]	20.6.14 [Labeo <i>Posthumous Works, Epitomised by Javolenus</i> Book 5]
8.4.1.1 [Pomponius <i>Sabinus</i> , Book 10]	23.2.42 [Modestinus <i>Formation of Marriage</i>]
9.2.27.11 [Ulpian <i>Edict</i> Book 18]	23.2.44 [Paulus <i>Lex Julia et Papia</i> Book 4]
9.2.27.9-11 [Ulpian <i>Edict</i> Book 18]	33.7.20 [Scaevola <i>Replies</i> Book 3]
13.7.9.2 [Ulpian <i>Edict</i> Book 28]	41.3.33.2 [Julian <i>Digest</i> , Book 44]
19.1.13 [Ulpian <i>Edict</i> Book 32]	43.33.1 [Julian <i>Digest</i> Book 49]
19.1.40 [Pomponius <i>Quintus Mucius</i> , Book 31]	45.1.89 [Paul <i>Plautius</i> Book 9]
19.2.9 [Ulpian <i>Edict</i> Book 32]	47.2.19 [Ulpian <i>Sabinus</i> Book 40]
19.2.13 [Ulpian <i>Edict</i> Book 32]	47.2.68 [Celsus <i>Digest</i> Book 12]
19.2.14 [Ulpian <i>Edict</i> Book 22]	47.2.83 [Paul <i>Views</i> Book 2]
19.2.15 [Ulpian <i>Edict</i> Book 32]	47.2.86 [Paul <i>Handbook</i> Book 2]
19.2.19 [Ulpian <i>Edicts</i> 32]	47.10.5.4 [Ulpian <i>Edict</i> Book 56]
19.2.19.2 [Ulpian <i>Edict</i> Book 32]	50.1.20 [Paul, <i>Questions</i> Book 1]
19.2.23 [Hermogenian <i>Epitome of Law</i> Book 2]	50.1.27 [Ulpian, <i>Edict</i> Book 2]
19.2.24 [Paul <i>Edicts</i> 34]	50.1.29 [Gaius, <i>Provincial Edict</i> Book 1]
19.2.25 [Gaius <i>Provincial Edict</i> Book 10]	50.1.31 [Marcellus, <i>Digest</i> Book 1]
19.2.30 [Alfenus <i>Digest, Epitomised by Paul</i> Book 3]	

50.1.38 [Papirius Iustus, <i>Constitutions</i> Book 2]	50.15.4 [Ulpian <i>Censuses</i> Book 3]
50.4.18 [Arcadius Charisius, <i>Civil Munera</i>]	50.15.4.8 [Ulpian, <i>Censuses</i> Book 3]
50.5.1.2 [Ulpian, <i>Opinions</i> Book 2]	50.16.203 [Alfenus Varus, <i>Digests</i> Book 3]
50.6.6 [Callistratus, <i>Judicial Exams</i> Book 1]	

Institutes of Justinian

1.1.36	4.15.3
1.2.6	4.6.31
3.24.6	

Code of Theodosius

1.2.2 [Constantine I – 29/8/315]	5.15.19 [Valentinian I & Valens – 28/7/365]
1.2.11 [Arcadius & Honorius – 6/12/398]	5.15.20 [Valentinian I & Valens – 19/5/366]
1.4.1 [Constantine I – 28/9/321-324]	5.16.31 [Arcadius & Honorius – 29/11/408]
1.4.3 [Valentinian III & Theodosius II – 6/11/426]	5.16.32 [Honorius & Theodosius II – ??/408]
1.5.14 [Arcadius, Honorius, & Theodosius II – 7/12/405]	5.16.34 [Theodosius II & Valentinian III – 13/12/425]
2.20.2 [Honorius & Theodosius II – 15/7/422]	5.17.1 [Constantine I – 30/10/332]
2.25.1 [Constantine I – 29/4/334]	5.17.2 [Gratian, Valentinian II, & Theodosius I – 25/10/386]
2.30.1 [Constantine I – 2/6/315]	5.17.3 [Gratian, Valentinian II, & Theodosius I – ??/??/386]
4.12.3 [Constantine I – 27/1/326]	5.18.1 [Honorius & Theodosius II – 26/6/419]
4.23.1 [Honorius & Arcadius – 29/6/400]	6.2.15 [Valentinian II, Theodosius I, & Arcadius – 31/8/393]
5.6.3 [Theodosius II & Honorius – 12/4/409]	6.2.24 [Honorius & Theodosius II – 14/5/417]
5.13.4 [Valentinian I & Valens – 12/3/364]	7.1.13 [Constans I – 30/5/349]
5.14.30 [Valentinian II, Theodosius I, & Arcadius – 25/10/386]	
5.14.36 [Honorius & Arcadius - ??/??/405]	

7.6.3 [Valens, Gratian, & Valentinian II – 9/8/377]	11.1.10 [Valentinian I & Valens – 17/5/365]
7.6.4 [Honorius & Theodosius II – 17/1/396]	11.1.11 [Valentinian I & Valens, 31/7/365]
7.6.5 [Honorius & Theodosius II – 9/4/423]	11.1.14 [Valentinian I & Valens – 1/5/366-371]
7.13.7 [Valentinian I, Valens, & Gratian – 2/6/375]	11.1.15 [Valentinian I & Valens – 19/5/366]
7.13.20 [Honorius & Theodosius II – 8/2/410]	11.1.16 [Valentinian I & Valens – 25/10/367]
7.15.1 [Honorius & Theodosius II – 29/4/409]	11.1.29 [Arcadius & Honorius – 21/3/401]
7.18.8 [Gratian, Valentinian II, & Theodosius I – 27/2/391]	11.1.30 [Arcadius, Honorius, & Theodosius II – 4/9/406]
7.18.9 [Arcadius & Honorius – 26/4/396]	11.1.34 [Theodosius II & Valentinian III – 25/9/429]
7.18.17 [Honorius & Theodosius II – 29/2/412]	11.2.2 [Valentinian I & Valens – 23/8/364]
7.20.3 [Constantine I – 13/10/320]	11.16.1 [Constantine I – 27/8/319]
8.2.5 [Arcadius & Honorius – 25/3/401]	11.16.2 [Constantine I – 21/5/323]
8.4.1 [Constantine I - 28/4/315]	11.16.4 [Constantine I – 9/5/328]
8.4.17 [Valentinian II, Theodosius I, & Arcadius – 27/6/389]	11.16.5 [Constantius II – 25/1/343]
9.21.2 [Constantine I – 20/11/321]	11.17.1 [Valentinian I & Valens – 30/5/367]
9.21.2 [Constantine I – 20/11/321]	11.17.2 [Arcadius & Honorius – 13/2/401]
9.21.5 [Constantius II – 18/2/343]	11.17.3 [Arcadius & Honorius – 21/3/401]
9.23.1 [Constantius II – 8/3/348]	11.22.4 [Honorius & Theodosius II – 19/5/409]
9.27.6 [Gratian, Valentinian II, & Theodosius I – 22/6/386]	11.23.3 [Arcadius & Honorius – 30/6/396]
9.38.7 [Gratian, Valentinian II, & Theodosius I]	11.28.13 [Honorius & Theodosius II – 20/2/422]
10.12.2 [Valentinian I & Valens – 17/6/368]	12.1.33 [Constantius II – 5/4/342]
10.20.10 [Gratian, Valentinian II, & Theodosius I – 14/3/380]	12.13.1 [Julian – 29/4/362]
11.1.7 [Constantius II – 3/5/361]	12.13.2 [Valentinian I & Valens – 28/8/364]
	12.13.3 [Valentinian I & Valens – 23/6/368-373]
	12.13.4 [Gratian, Valentinian II, & Theodosius I – 10/8/379]

12.13.5 [Gratian, Valentinian II, & Theodosius I – 18/1/379]	13.2.1 [Arcadius & Honorius – 19/2/397]
12.19.1 [Honorius & Arcadius – 29/6/400]	14.3.10 [Valentinian I & Valens – 5/11/365]
12.19.2 [Arcadius & Honorius – 29/6/400]	14.18.1 [Gratian & Valentinian II – 20/6/382]
13.1.3 [Julian – 3/5/361]	14.25.1 [Constantine I – 12/12/315]
13.1.8 [Valentinian I & Gratian – 26/4/370]	16.5.52 [Honorius & Theodosius II – 30/1/412]
13.1.10 [Valentinian I – 5/2/374]	16.5.52 [Honorius – 30/1/412]
13.1.13 [Gratian, Valentinian II, & Theodosius I – 8/11/384]	16.5.54 [Arcadius & Honorius – 17/4/414]

Code of Justinian

1.14.3 [Valentinian III & Theodosius II – 13/11/426]	4.65.5 [Alexander Severus – 1/3/223]
1.14.4 [Valentinian III & Theodosius II – 11/6/439]	4.65.6 [Alexander Severus – 25/2/224]
1.15.1 [Gratian, Valentinian II, & Theodosius I – 16/6/383]	4.65.8 [Alexander Severus – 1/8/231]
1.26.2 [Alexander Severus – 13/8/235]	4.65.9 [Alexander Severus – 7/12/234]
1.27.2.23-34 [Justinian I – 13/4/534]	4.65.10 [Gordian III – 22/2/239]
1.27.1-2 [Justinian I – 13/4/534]	4.65.11 [Phillip I – 8/8/244]
3.38.11 [Constantine I – 29/4/334]	4.65.12 [Phillip I – 29/10/245]
3.38.11 [Constantine I – 4/29/334]	4.65.13 [Valerian & Gallienus – 3/3/259]
4.10.3 [Diocletian & Maximian – 31/5/286]	4.65.15 [Valerian & Gallienus – 13/8/259]
4.10.11 [Diocletian & Maximian – 25/7/294]	4.65.16 [Valerian & Gallienus – 29/6/260]
4.26.13 [Honorius & Theodosius II – 11/7/422]	4.65.17 [Diocletian & Maximian – 18/3/290]
4.65.1 [Caracalla – 4/1/213]	4.65.18 [Diocletian & Maximian – 21/9/290]
4.65.4 [Alexander Severus – 1/12/222]	4.65.21 [Diocletian & Maximian – 8/10/293]
	4.65.22 [Diocletian & Maximian – date unlisted]
	4.65.24 [Diocletian & Maximian – 25/12/293]
	4.65.25 [Diocletian & Maximian – 30/12/293]

4.65.28 [Diocletian & Maximian – 17/9/294]	11.48.13 [Honorius & Arcadius – 29/6/400]
4.65.29 [Diocletian & Maximian – date unlisted]	11.48.14 [Honorius & Arcadius – 29/6/400]
4.66.1 [Zeno – ??/??/476-484]	11.48.15 [Honorius & Theodosius II – ??/??/412]
7.30.1 [Alexander Severus – 26/3/226]	11.48.16 [Honorius & Theodosius II – 26/6/419]
7.32.5 [Diocletian & Maximian – date unlisted]	11.48.17 [Honorius & Theodosius II – 15/7/422]
7.65.15 [Valerian & Gallienus – 13/8/259]	11.48.21 [Justinian I – ??/??/530]
8.15.8 [Honorius & Theodosius II – 15/7/422]	11.48.22 [Justinian – ??/??/531]
8.47.7 [Diocletian & Maximian – 22/1/294]	CJ 11.51.1 [Valentinian I, Valens, & Gratian –
8.51.1 [Alexander Severus – 30/5/224]	??/??/384-388]
9.24.1 [Constantine I – 20/11/321]	11.52.1 [Theodosius I, Arcadius, & Honorius -
9.27.4 [Gratian, Valentinian II, & Theodosius I –	??/??/392]
22/6/386]	11.53.1 [Valentinian I, Valens, & Gratian –
10.39.1 [Antoninus – date unlisted]	29/6/371]
10.39.4 [Diocletian & Maximian – date unlisted]	11.62.7 [Gratian, Valentinian II, & Theodosius I –
10.71.3 [Arcadius & Honorius – 25/3/401]	24/2/386]
11.8.7 [Gratian, Valentinian II, & Theodosius I –	11.63.1 [Constantine I – 9/3/319]
14/3/380]	11.64.2 [Constantine I – date unlisted]
11.26.1 [Gratian & Valentinian II – 20/6/382]	11.66.6 [Arcadius & Honorius – 29/6/400]
11.48.1 [Constantine I – 9/5/328]	11.68.1 [Constantine I – ??/??/324]
11.48.1 [Constantine I – 9/5/328]	11.68.2 [Constantine I – ??/??/335]
11.48.4 [Valentinian I & Valens – 1/5/366-371]	11.68.3 [Valentinian I & Valens – ??/??/370]
11.48.5 [Valentinian I & Valens – ??/??/366]	11.68.4 [Valentinian I & Valens – ??/??/364]
11.48.7 [Valentinian I & Valens – ??/??/371-5]	11.68.5 [Valentinian II, Theodosius I, & Arcadius
11.48.8 [Valentinian I, Valens, & Gratian –	– ??/??/384-388]
??/??/367-375]	11.68.6 [Theodosius II & Valentinian III –
11.48.10 [Valentinian II, Theodosius I, &	13/12/425]
Arcadius – 27/3/386]	11.75.1 [Constantius II – 25/1/343]
11.48.11 [Arcadius & Honorius – date unlisted]	11.75.3 [Arcadius & Honorius - ??/??/397]

12.33.3 [Arcadius & Honorius – ??/??/395]

12.35.10 [Constans I – 30/5/349]

Novels of Theodosius

2 [Theodosius II – 1/10/447]

Novels of Valentinian III

6 [Valentinian III – 20/3/440]

27 [Valentinian III – 20/7/449]

13 [Valentinian III – 21/6/445]

31 [Valentinian III – 31/1/450]

15 [Valentinian III – 18/1/445]

34 [Valentinian III – 13/7/451]

23 [Valentinian III & Theodosius II – 27/3/447]

34 [Valentinian III – 13/7/451]

26 [Valentinian III – 3/6/448]

Novels of Majorian

NMaj 7 [Majorian – 6/11/458]

Novels of Justinian

14 [Justin II – 18/5/572]

147 [Justinian I – 15/4/553]

22 [Justinian I – 17/3/536]

148 [Justin II - ??/??/566]

128 [Justinian – 13/6/545]

Appendix Constitutionum Dispersarum

ACD 6 [Justinian I – 6/9/552]

ACD 9 [Justinian I – 22/9/558]

Sirmondian Constitutions

Sirm. 8 [Valentinian II, Theodosius I, & Arcadius – 22/4/386]

VIII

Bibliography

- Abdy, Richard. 2012. 'Tetrarchy & the House of Constantine'. In *The Oxford Handbook of Greek and Roman Coinage*, edited by William E. Metcalf, 584–600. Oxford University Press.
- Acevedo, E, P Silva, and H Silva. 2002. 'Wheat Growth and Physiology'. In *Bread Wheat: Improvement and Production*, edited by B. C. Curtis, S. Rajaram, Helena Gómez Macpherson, and Food and Agriculture Organization of the United Nations, 39–70. Rome: Food and Agriculture Organization of the United Nations.
- Atkinson, J.E. 1992. 'Out of Order: The Circumcellions and Codex Theodosianus 16, 5, 52'. *Historia: Zeitschrift Für Alte Geschichte*, 488–99.
- Bagnall, Roger S. 1980. 'P. Oxy. XVI 1905, SB V 7756 and Fourth-Century Taxation'. *Zeitschrift Für Papyrologie Und Epigraphik*, 185–96.
- . 1996. *Egypt in Late Antiquity*. Princeton, NJ: Princeton University Press.
- Bagnall, Roger S., and Bruce W. Frier. 1995. *The Demography of Roman Egypt*. Cambridge: Cambridge University Press.
- Bagnall, Roger S., and Klaas Worp. 1985. 'Two Nominations of Goldsmiths to Collect Taxes'. *Zeitschrift Für Papyrologie Und Epigraphik*, 67–70.
- Banaji, Jairus. 2001. *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*. Oxford: Oxford University Press.
- . 2016. *Exploring the Economy of Late Antiquity: Selected Essays*. Cambridge: Cambridge University Press.
- Barnes, Timothy. 1982. *The New Empire of Diocletian and Constantine*. Cambridge, Mass: Harvard University Press.
- . 1993. *Constantine and Eusebius*. Cambridge: Harvard University Press.
- . 2001. 'Foregrounding the Theodosian Code'. *Journal of Roman Archaeology*, 671–85.
- Barnish, S.J.B. 1985. 'The Wealth of Iulianus Argentarius: Late Antique Banking and the Mediterranean Economy'. *Byzantion*, 5–38.
- . 1989. 'A Note on the "Collatio Glebalis"' *Historia: Zeitschrift für Alte Geschichte*: 254–56.

- Barreveld, Jip. 2020. 'Reflections on an Environmental History of Resistance: State Space and Shatter Zones in Late Antique North Africa'. In *A Human Environment: Studies in Honour of 20 Years Analecta Editorship by Prof. Dr. Corrie Bakels*, edited by Victor Klinkenberg, Roos van Oosten, and Carol van Driel-Murray, 153–65.
- Bartlett, Bruce. 1994. 'How Excessive Government Killed Ancient Rome'. *Cato Journal* 14: 287–303.
- Bauman, Richard A. 1996. *Crime and Punishment in Ancient Rome*. London; New York: Routledge.
- Bazza, Mohamed, Melvyn Kay, Cody Knutson, FAO, University of Nebraska, and National Drought Mitigation Center. 2018. *Drought Characteristics and Management in North Africa and the Near East*.
- Beaver, R. Pierce. 1935. 'The Donatist Circumcellions'. *Church History* 4 (2): 123–33.
- Berger, Adolf. 1953. *Encyclopedic Dictionary of Roman Law*. Philadelphia: American Philosophical Society.
- Birley, Anthony Richard. 1980. *The People of Roman Britain*. Berkeley: University of California Press.
- Bonifay, Michel. 2015. 'Africa: Patterns of Consumption in Coastal Regions Versus Inland Regions. The Ceramic Evidence (300–700 A.D.)'. In *Local Economies?*, edited by Luke Lavan, 529–66. Brill.
- Bowman, Alan K. 1985. 'Landholding in the Hermopolite Nome in the Fourth Century A.D.' *Journal of Roman Studies* 75 (November): 137–63.
- Bramoullé, David. 2007. 'Recruiting Crews in the Fatimid Navy (909–1171)'. *Medieval Encounters* 13 (1): 4–31.
- Bransbourg, Gilles. 2016. 'Capital in the Sixth Century: The Dynamics of Tax and Estate in Roman Egypt'. *Journal of Late Antiquity* 9 (2): 305–414.
- Brown, Madeline. 2011. 'Grain, Pulses and Olives: An Attempt toward a Quantitative Approach to Diet in Ancient Rome'. *Journal of the Washington Academy of Sciences* 97: 1–24.
- Brown, Peter. 1967. 'The Later Roman Empire'. *The Economic History Review* 20: 327.
- . 2000. *Augustine of Hippo: A Biography*. Berkeley: University of California Press.
- Brunt, P. A. 1981. 'The Revenues of Rome'. *Journal of Roman Studies* 71 (November): 161–72.

- Bruun, Christer. 2015. 'Water Use and Productivity in Roman Agriculture: Selling, Sharing, Servitudes'. In *Ownership and Exploitation of Land and Natural Resources in the Roman World*, edited by Paul Erdkamp, Koenraad Verboven, and Arjan Zuiderhoek, 132–49.
- Buckland, William Warwick. 1921. *A Text-Book of Roman Law from Augustus to Justinian*. Cambridge: Cambridge University Press.
- Burgess, Richard. 1988. 'Quinquennial Vota and the Imperial Consulship in the Fourth and Fifth Centuries, 337-511'. *The Numismatic Chronicle (1966-)* 148: 77–96.
- Cagnat, René. 1892. *L'armée romaine d'Afrique et l'occupation militaire de l'Afrique sous les empereurs*. Paris: E. Lérout.
- Campbell, J. B. 2000. *The Writings of the Roman Land Surveyors: Introduction, Text, Translation and Commentary*. London: Society for the Promotion of Roman Studies.
- Carlsen, Jesper. 1991. 'Estate Management in Roman North Africa: Transformation or Continuity?' *Africa Romana* 8: 624–27.
- Carrié, Jean-Michel. 1983. 'Un Roman Des Origines: Les Genealogies Du "colonat Du Bas-Empire"'. *Opus* 2: 205–51.
- . 1993. 'Observations sur la fiscalité du IV^e siècle pour servir à l'histoire monétaire'. In *L'infrazione nel quarto secolo D.C: atti dell'incontro di studio, Roma 1988*, edited by Luciano Camilli, 115–54. Roma: Istituto Italiano di Numismatica.
- . 2005. 'Developments in Provincial and Local Administration'. In *The Cambridge Ancient History*, edited by Alan K. Bowman, Peter Garnsey, and Averil Cameron, 269–312. Cambridge: Cambridge University Press.
- Cherry, David. 1998. *Frontier and Society in Roman North Africa*. Oxford: Oxford University Press.
- Chitwood, Zachary. 2017. *Byzantine Legal Culture and the Roman Legal Tradition, 867-1056*. Cambridge: Cambridge University Press.
- Clausing, Roth. 1925. *Roman Colonate: Theories of Its Origin*. New York: Columbia University.
- Coello, Terence. 1996. *Unit Sizes in the Late Roman Army*. Oxford: Tempus Reparatum.
- Conant, Jonathan. 2012. *Staying Roman: Conquest and Identity in Africa and the Mediterranean, 439-700*. Cambridge: Cambridge University Press.
- Corbier, Mireille. 2005. 'Coinage, Society and Economy'. In *The Cambridge Ancient History*, edited by Alan K. Bowman, Peter Garnsey, and Averil Cameron, 393–439. Cambridge: Cambridge University Press.

Corcoran, Simon. 1996. *The Empire of the Tetrarchs: Imperial Pronouncements and Government AD 284 - 324*. Oxford: Oxford University Press.

Cordovana, Orietta Dora. 2014. 'Soil Quality, Social Status and Locatio-Conductio'. *Klio* 96 (2).

Courtois, Christian. 1955. *Les Vandales et l'Afrique*. Paris: Arts et métiers graphiques.

Courtois, Christian, Louis Leschi, Charles Saumagne, and Charles Perrat. 1952. *Tablettes Albertini : Actes Privés de l'époque Vandale (Fin Du Ve Siècle)*. Paris: Arts et métiers graphiques.

Crook, John A. 1994. *Law and Life of Rome, 90 B.C. - A.D. 212*. Ithaca, NY: Cornell University Press.

Cunha, Cheston, and Burke Cunha. 2008. 'Great Plagues of the Past and Remaining Questions'. In *Paleomicrobiology: Past Human Infections*, edited by Didier Raoult and Michel Drancourt, 1–20. Berlin: Springer.

Curchin, Leonard A. 2014. 'The End of Local Magistrates in the Roman Empire'. *Gerión. Revista de Historia Antigua* 32 (0).

Deane, Herbert. 1963. *The Political and Social Ideas of St. Augustine*. New York: Colombia University Press.

Demsiri-Laadoua, Latifa. 2006. 'Les domaines impériaux en Afrique du Nord romaine : étude de la géographie historique'. Lille: Université Charles de Gaulle - Lille III.

Dessau, Hermann. 1889. 'Über Zeit und Persönlichkeit der Scriptorum Historiae Augustae'. *Hermes* 24: 337–92.

Dixon, Karen R., and Pat Southern. 1992. *The Roman Cavalry: From the First to the Third Century AD*. London: Routledge.

Dossey, Leslie. 2010. *Peasant and Empire in Christian North Africa*. Berkeley: University of California Press.

Doyle, E. J. 1976. 'Two New Fragments of the Edict of Diocletian on Maximum Prices'. *Hesperia* 45 (1): 77.

Drake, Nick, Andrew Wilson, Ruth Peiling, Kevin White, David Mattingly, and Stuart Black. 2004. 'Water Table Decline, Springline Desiccation and the Early Development of Irrigated Agriculture in the Wādī Al-Ajāl, Libyan Fazzān'. *Libyan Studies* 35: 95–112.

Du Plessis, Paul. 2005. 'Subletting and the Roman Law of Letting and Hiring Interpreting C. 4.65. 6'. *Revue Internationale Des Droits de l'Antiquité*, 133–46.

- Duncan-Jones, Richard. 1963a. 'Wealth and Munificence in Roman Africa'. *Papers of the British School at Rome* 31: 159–77.
- . 1963b. 'City Population in Roman Africa'. *Journal of Roman Studies* 53 (1–2): 85–90.
- . 1974. *The Economy of the Roman Empire: Quantitative Studies*. Cambridge: Cambridge University Press.
- . 1982. *The Economy of the Roman Empire: Quantitative Studies*. Cambridge: Cambridge University Press.
- . 1990. *Structure and Scale in the Roman Economy*. Cambridge: Cambridge University Press.
- . 1996. 'The Impact of the Antonine Plague'. *Journal of Roman Archaeology*, 108–36.
- . 2019. 'The Antonine Plague Revisited'. *Arctos* 52: 41–72.
- Eckstein, Arthur M. 2006. *Mediterranean Anarchy, Interstate War, and the Rise of Rome*. Berkeley: University of California Press.
- Elm, Susanna. 2017. 'Sold to Sin Through Origo Augustine of Hippo and the Late Roman Slave Trade'. In *St Augustine and His Opponents: Studia Patristica, Vol. Xcviii*, edited by Markus Vinzent, 1–21. Leuven Paris Bristol, CT: Peeters.
- Elton, Hugh. 2018. *The Roman Empire in Late Antiquity: A Political and Military History*. Cambridge: Cambridge University Press.
- Erdkamp, Paul. 2009. *The Grain Market in the Roman Empire: A Social, Political and Economic Study*. Cambridge: Cambridge University Press.
- Erim, Kenan, and Joyce Reynolds. 1973. 'The Aphrodisias Copy of Diocletian's Edict on Maximum Prices'. *Journal of Roman Studies* 63 (November): 99–110.
- Erim, Kenan, Joyce Reynolds, and Michael Crawford. 1971. 'Diocletian's Currency Reform; A New Inscription'. *Journal of Roman Studies* 61 (November): 171–77.
- Evans-Grubbs, Judith. 2013. 'Between Slavery and Freedom: Disputes over Status and the Codex Justinianus'. *Roman Legal Tradition* 9: 31–93.
- Fentress, Elizabeth. 1979. *Numidia and the Roman Army: Social, Military, and Economic Aspects of the Frontier Zone*. Oxford: British Archaeological Reports.
- . 1990. 'The Economy of an Inland City: Setif'. *Publications de l'École Française de Rome* 134 (1): 117–128.

———. 2015. 'Diana Veteranorum and the Dynamics of an Inland Economy'. In *Local Economies?*, edited by Luke Lavan, 315–42. Brill.

Fentress, Elizabeth, and Andrew Wilson. 2016. 'The Saharan Berber Diaspora and the Southern Frontiers of Byzantine North Africa'. In *North Africa under Byzantium and Early Islam*, edited by Susan T. Stevens and Jonathan Conant, 41–63. Washington, D.C: Dumbarton Oaks Research Library and Collection.

Fick, Stephen E., and Robert J. Hijmans. 2017. 'Worldclim 2: New 1-Km Spatial Resolution Climate Surfaces for Global Land Areas'. *International Journal of Climatology* 37: 4302–15.

Finley, Moses. 1973. *The Ancient Economy*. Berkeley: University of California Press.

———. 1998. 'The Emergence of a Slave Society'. In *Ancient Slavery and Modern Ideology*, edited by Moses Finley and Brent D. Shaw, 135–60. Princeton: Markus Wiener Publishers.

Fishwick, Duncan. 1993. 'On the origins of Africa Proconsularis, I: The amalgamation of Africa Vetus and Africa Nova'. *Antiquités africaines* 29 (1): 53–62.

———. 1994. 'On the Origins of Africa Proconsularis, II: The Administration of Lepidus and the Commission of M. Caelius Phileros'. *Antiquités Africaines* 30 (1): 57–80.

———. 1996. 'On the Origins of Africa Proconsularis, III: The Era of the Cereres Again'. *Antiquités Africaines* 32 (1): 13–36.

———. 2013. 'On the Origins of Africa Proconsularis, IV: The Career of M. Caelius Phileros Again'. *Antiquités Africaines* 49 (1): 211–14.

Freund, W.H.C. 1952. *The Donatist Church: A Movement of Protest in Roman North Africa*. Oxford: Clarendon Press.

Frier, Bruce. 2000. 'Demographics'. In *The Cambridge Ancient History XI: The High Empire, A.D. 70–192*, edited by Alan K. Bowman, Peter Garnsey, and D. W. Rathbone, 787–816. Cambridge: Cambridge University Press.

———. 2001. 'More Is Worse: Some Observations on the Population of the Roman Empire'. In *Debating Roman Demography*, edited by Walter Scheidel, 139–60. Leiden: Brill.

Frits, Heinrich. 2019. 'Cereals and Bread'. In *The Routledge Handbook of Diet and Nutrition in the Roman World*, edited by Paul Erdkamp and Claire Holleran, 101–15. London: Routledge, Taylor & Francis Group.

Fustel de Coulanges, Numa Denis. 1885. *Recherches Sur Quelques Problèmes d'histoire : Le Colonnat Romain*. Paris: Hachette.

- Gardner, Jane F. 1991. *Woman in Roman Law & Society*. Bloomington: Indiana University Press.
- Garnsey, Peter. 1968. 'Legal Privilege in the Roman Empire: Introduction'. *Past and Present* 41 (1): 3–24.
- . 1988. *Famine and Food Supply in the Graeco-Roman World: Responses to Risk and Crisis*. Cambridge: Cambridge University Press.
- . 2004. *Cities, Peasants and Food in Classical Antiquity: Essays in Social and Economic History*. Cambridge: Cambridge University Press.
- Gascou, Jean. 1985. 'Les grands domaines, la cité et l'état en Égypte byzantine'. *Travaux et Memoires* 9: 1–90.
- . 1991. 'Bagrada'. In *Encyclopédie Berbère*, edited by Gabriel Camps, 1310–12. Aix-en-Provence: Peeters.
- Godefroy, Jacques. 1665. *Codex Theodosianus, cum Perpetuis Commentariis (Vol. I)*. Lyon.
- Goffart, Walter A. 1974. *Caput and Colonate: Towards a History of Late Roman Taxation*. Toronto : Buffalo: University of Toronto Press.
- . 2009. 'Salvian of Marseille, De Gubernatione Dei 5.38-45 and the "Colonate" Problem'. *Antiquité Tardive*, 269–88.
- Gordley, James, and Arthur Taylor Von Mehren. 2006. *An Introduction to the Comparative Study of Private Law: Readings, Cases, Materials*. Cambridge: Cambridge University Press.
- Greene, Joseph. 2000. 'The Beginnings of Grape Cultivation and Wine Production in Phoenician/Punic North. Africa'. In *Origins and Ancient History of Wine*, edited by Patrick E. McGovern, Stuart Fleming, and Solomon Katz, 321–32. S.I.: Gordon and Breach.
- Greer, Dennis, and Mark Weedon. 2013. 'The Impact of High Temperatures on Vitis Vinifera Cv. Semillon Grapevine Performance and Berry Ripening'. *Frontiers in Plant Science* 4.
- Grey, Cam. 2007a. 'Contextualizing Colonatus: The Origo of the Late Roman Empire'. *The Journal of Roman Studies* 97 (1): 155–175.
- . 2007b. 'Revisiting the "Problem" of Agri Deserti in the Late Roman Empire'. *Journal of Roman Archaeology* 20: 362–76.
- . 2011. 'The Ius Colonatus as a Model for the Settlement of Barbarian Prisoners-of-War in the Late Roman Empire?' In *Romans, Barbarians, and the Transformation of the Roman World: Cultural Interaction and the Creation of Identity in Late Antiquity*, edited by Ralph W. Mathisen and Danuta Shanzer, 147–60. Farnham, Surrey ; Burlington, VT: Ashgate.

Grey, Cam, and Anneliese Parkin. 2003. 'Controlling the Urban Mob: The *Colonatus Perpetuus* of CTh 14.18.1'. *Phoenix* 57 (3/4): 284.

Grüll, Tibor. 2014. 'Expositio Totius Mundi et Gentium. a Peculiar Work on the Commerce of Roman Empire from the Mid-Fourth Century – Compiled by a Syrian Textile Dealer?' In *Studies in Economic and Social History of the Ancient Near East in Memory of Péter Vargyas*, edited by Zoltán Csabai and Péter Vargyas, 629–42. Pecs : Budapest: Department of Ancient History, the University of Pecs ; L'Harmattan.

Gsell, Stéphane. 1932. 'Esclaves Ruraux Dans l'Afrique Romaine.' In *Mélanges Gustave Glotz, Vol. I*, 397–415. Paris: Presses Universitaires de France.

Halsall, Guy. 2007. *Barbarian Migrations and the Roman West, 376-568*. Cambridge: Cambridge University Press.

Hardy, Edward Rochie. 1931. *The Large Estates of Byzantine Egypt*. New York: Columbia University Press.

Harper, Kyle. 2015. 'Pandemics and Passages to Late Antiquity: Rethinking the Plague of c. 249–270 Described by Cyprian'. *Journal of Roman Archaeology* 28: 223–60.

Harper, Kyle. 2019. 'Invisible Environmental History: Infectious Disease in Late Antiquity'. In *Environment and Society in the Long Late Antiquity*, edited by Adam Izdebski and Michael Mulryan, 298–313. Leiden ; Boston: Brill.

Harries, Jill. 2004. *Law and Empire in Late Antiquity*. Cambridge: Cambridge University Press.

———. 2012a. *Imperial Rome AD 284 to 363: The New Empire*. Edinburgh: Edinburgh University Press.

———. 2012b. 'Roman Law and Legal Culture'. In *The Oxford Handbook of Late Antiquity*, edited by Scott Fitzgerald Johnson, 789–815. Oxford: Oxford University Press.

Heather, Peter. 2014. *Fall of the Roman Empire A New History of Rome and the Barbarians*.

Hegel, Karl. 1847. *Geschichte der Städteverfassung von Italien seit der römischen Herrschaft bis zum Ausgang des zwölften Jahrhunderts*. Leipzig.

Heitland, William Emerton. 1921. *Agricola: A Study of Agriculture and Rustic Life in the Greco-Roman World from the Point of View of Labour*. Cambridge University Press.

Hendy, Michael F. 2008. *Studies in the Byzantine Monetary Economy, c. 300-1450*. Cambridge : Cambridge University Press.

- Hermanowicz, Erika T. 2008. *Possidius of Calama: A Study of the North African Episcopate at the Time of Augustine*. Oxford: Oxford University Press.
- Hickey, T. M. 2012. *Wine, Wealth, and the State in Late Antique Egypt: The House of Apion at Oxyrhynchus*. Ann Arbor: University of Michigan Press.
- Hillner, Julia. 2015. *Prison, Punishment and Penance in Late Antiquity*. New York: Cambridge University Press.
- Hin, Saskia. 2013. *The Demography of Roman Italy: Population Dynamics in an Ancient Conquest Society (201 BCE-14 CE)*. Cambridge: Cambridge University Press.
- Hitchner, R. Bruce. 1990. 'The Kasserine Archaeological Survey. 1987: Institut national d'archéologie et d'art de Tunisie- University of Virginia, USA'. *Antiquités africaines* 26 (1): 231–59.
- . 1994. 'Image and Reality: The Changing Face of Pastoralism'. In *Landuse in the Roman Empire*, edited by Jesper Carlsen, Peter Ørsted, and Jens Erik Skydsgaard, 27–44. Rome: L'Erma di Bretschneider.
- . 1995. 'Historical Text and Archaeological Context in Roman North Africa: The Albertini Tablets and the Kasserine Survey'. In *Methods in the Mediterranean: Historical and Archaeological Views on Texts and Archaeology*, edited by David B. Small, 124–42. Leiden: Brill.
- . 2010. 'Olive Production and the Roman Economy: The Case for Intensive Growth in the Roman Empire'. In *The Ancient Economy*, edited by Walter Scheidel and Sitta Von Reden, 71–86. New York: Routledge.
- Hobson, Matthew. 2015. 'The African Boom: The Origins of Economic Growth in Roman North Africa'. In *Ownership and Exploitation of Land and Natural Resources in the Roman World*, edited by Paul Erdkamp, Koenraad Verboven, and Arjan Zuiderhoek, 207–33. Oxford: Oxford University Press.
- . 2020. 'Roman Towns and the Settlement Hierarchy of Ancient North Africa: A Bird's-Eye View'. In *Regional Urban Systems in the Roman World, 150 BCE-250 CE*, edited by Luuk de Ligt and John Bintliff, 281–323. Leiden: Brill.
- Honoré, Tony. 1998. *Law in the Crisis of Empire, 379-455 Ad: The Theodosian Dynasty and Its Quaestors with a Palingenesia of Laws of the Dynasty*. Oxford: Clarendon Press.
- . 2010. *Justinian's Digest: Character and Compilation*. Oxford: Oxford University Press.
- Hopkins, Keith. 1980. 'Taxes and Trade in the Roman Empire (200 B.C.–A.D. 400)'. *Journal of Roman Studies* 70 (November): 101–25.

- Huang, Shaobai, Rachel N. Shingaki-Wells, Jakob Petereit, Ralitza Alexova, and A. Harvey Millar. 2018. 'Temperature-Dependent Metabolic Adaptation of *Triticum Aestivum* Seedlings to Anoxia'. *Scientific Reports* 8 (1): 6151.
- Humfress, Caroline. 2007. *Orthodoxy and the Courts in Late Antiquity*. Oxford: Oxford University Press.
- Irwin, M. Eleanor. 2020. 'Agricultural Plants in the Ancient Mediterranean'. In *A Companion to Ancient Agriculture*, edited by David B. Hollander and Timothy Howe, 83–102. Hoboken, NJ: Wiley-Blackwell.
- Isaac, Benjamin. 1988. 'The Meaning of the Terms Limes and Limitanei'. *Journal of Roman Studies* 78 (November): 125–47.
- James, Paul Thomas. 2017. 'The Supply Chain of Critical Food Items to Rome - AD 200 to AD 442'. Sydney: University of Sydney.
- Johnston, William. 1940. 'Emphyteusis: A Roman "Perpetual" Tenure'. *The University of Toronto Law Journal* 3 (2): 323.
- Jones, A. H. M. 1953. 'Census Records of the Later Roman Empire'. *Journal of Roman Studies* 43 (1–2): 49–64.
- . 1957. 'Capitatio and Iugatio'. *Journal of Roman Studies* 47: 88–94.
- . 1958. 'The Roman Colonate'. *Past & Present*, 1–13.
- . 1964. *The Later Roman Empire, 284-602: A Social Economic and Administrative Survey*. 2 vols. Baltimore, Md: Johns Hopkins University Press.
- . 1966. *The Decline of the Ancient World*. Hoboken: Taylor and Francis.
- Jongman, Willem. 2006. 'Slavery and the Growth of Rome. The Transformation of Italy in the Second and First Centuries BCE'. In *Rome the Cosmopolis*, edited by Catharine Edwards and Greg Woolf, 100–122. Cambridge: Cambridge University Press.
- Kaegi, Walter Emil. 2015. *Muslim Expansion and Byzantine Collapse in North Africa*. Place of publication not identified: Cambridge Univ Press.
- Kay, Philip. 2016. *Rome's Economic Revolution*. Oxford: Oxford University Press.
- Kehoe, Dennis. 1984. 'Lease Regulations for Imperial Estates in North Africa: Part I'. *Zeitschrift Für Papyrologie Und Epigraphik* 56: 193–219.

- . 1985. 'Lease Regulations for Imperial Estates in North Africa. Part II'. *Zeitschrift Für Papyrologie Und Epigraphik* 59: 151–72.
- . 1988. *The Economics of Agriculture on Roman Imperial Estates in North Africa*. Göttingen: Vandenhoeck & Ruprecht.
- . 2005. 'Roman Law in Africa'. *The Classical Review* 55: 284–85.
- . 2007. *Law and the Rural Economy in the Roman Empire*. Ann Arbor: University of Michigan Press.
- King, P. D. 2006. *Law and Society in the Visigothic Kingdom*. Cambridge: Cambridge University Press.
- Kondro, Rachel Claire. 2011. 'Clerical Misconduct, Charity, and the Common Good: Saint Augustine's Sermons 355 & 356'. *Concept* 34.
- Koptev, Aleksandr. 2004. 'The Raptor and the Disgraced Girl in Sidonius Apollinaris' Epistula V 19'. *Ancient Society*, no. 0: 275–304.
- . 2009. 'The Colonnate in the Theodosian Code and Its Interpretations in the Breviary of Alaric'. In *Droit, Religion et Société Dans Le Code Théodosien*, edited by Jean-Jacques Aubert, Philippe Blanchard, and Université de Neuchâtel, 261–85. Genève: Université de Neuchâtel, Faculté des Lettres et Sciences Humaines : Librairie Droz.
- . 2012. 'The Late Roman Colonus as Persona Iuris Alieni'. In *Atti dell'Accademia Romanistica Costantiniana: XVIII Convegno Internazionale in Onore di Remo Martini* ; [Atti dell'Accademia Romanistica Costantiniana, XVIII], edited by Accademia Storico-Giuridica Costantiniana, Stefano Giglio, Remo Martini, and Convegno Internazionale in Onore di Remo Martini, 305–39. Roma: Aracne.
- Lamoreaux, John. 1995. 'Episcopal Courts in Late Antiquity'. *Journal of Early Christian Studies* 3: 143–67.
- Latiri, K, J.P. Lhomme, M. Annabi, and T.L. Setter. 2010. 'Wheat Production in Tunisia: Progress, Inter-Annual Variability And Relation to Rainfall'. *European Journal of Agronomy* 33: 33–42.
- Lenski, Noel. 2017. 'Peasant and Slave in Late Antique North Africa, c. 100-600 CE'. In *Late Antiquity in Contemporary Debate*, edited by Rita Lizzi Testa, 113–55. Cambridge Scholars Publishing.
- Leone, Anna. 2007. *Changing Townscapes in North Africa from Late Antiquity to the Arab Conquest*. Bari: Edipuglia.

———. 2012. 'Water Management in Late Antique North Africa: Agricultural Irrigation'. *Water History* 4 (1): 119–33.

Lepelley, Claude. 1979. *Les Cités de l'Afrique Romaine Au Bas-Empire*. Paris: Études augustinienes.

———. 1989. 'Trois documents méconnus sur l'histoire sociale et religieuse de l'Afrique romaine tardive retrouvés parmi les spuria de Sulpice Sévère'. *Antiquités africaines* 25: 235–62.

Limbergen, Dimitri van, Patrick Monsieur, and Frank Vermeulen. 2017. 'The Role of Overseas Export and Local Consumption Demand in the Development of Viticulture in Central-Adriatic Italy (200BC-AD150). The Case of the Ager Potentinus and the Wider Potenza Valley'. In *The Economic Integration of Roman Italy: Rural Communities in a Globalising World*, edited by Tymon C. A. de Haas and Gijs Tol, 342–66. Leiden Boston: Brill.

Linn, Jason. 2012. 'The Roman Grain Supply, 442–455'. *Journal of Late Antiquity* 5 (2): 298–321.

Little, Lester K. 2007. 'Life and Afterlife of the First Plague Pandemic'. In *Plague and the End of Antiquity: The Pandemic of 541-750*, edited by Lester K. Little, 3–32. New York: Cambridge University Press.

Littman, R.J., and M.L. Littman. 1973. 'Galen and the Antonine Plague'. *The American Journal of Philology* 94: 243–55.

Lo Cascio, Elio, ed. 1997. *Terre, Proprietari e Contadini Dell'impero Romano: Dall'affitto Agrario al Colonato Tardoantico*. Roma: NIS.

———. 2009. 'Urbanization as a Proxy of Demographic and Economic Growth'. In *Quantifying the Roman Economy: Methods and Problems*, edited by Alan K. Bowman and Andrew Wilson, 87–106. Oxford: Oxford University Press.

———. 2015. 'The Imperial Property and Its Development'. In *Ownership and Exploitation of Land and Natural Resources in the Roman World*, edited by Paul Erdkamp, Koenraad Verboven, and Arjan Zuiderhoek, 62–70.

Lokin, J.H.A. 2014. 'The First Constitution of the Codex Justinianus: Some Remarks about the Imperial Legal Sources in the Codices Justiniani'. *Subseciva Groningana* 9: 343–82.

MacKendrick, Paul Lachlan. 1980. *The North African Stones Speak*. Chapel Hill: University of North Carolina Press.

MacMullen, Ramsay. 1962. 'Roman Bureaucrates'. *Traditio*, 364–378.

———. 1964. 'Social Mobility and the Theodosian Code'. *The Journal of Roman Studies* 54: 49–53.

- Maiuro, Marco. 2012. *Res Caesaris: Ricerche Sulla Proprietà Imperiale Nel Principato*. Bari: Edipuglia.
- Mary, Margaet. 1954. 'Slavery in the Writings of St. Augustine'. *The Classical Journal* 49: 8.
- Marzano, Annalisa. 2011. 'Rank-Size Analysis and the Roman Cities of the Iberian Peninsula and Britain'. In *Settlement, Urbanization, and Population*, edited by Alan K. Bowman and Andrew Wilson, 196–228. Oxford: Oxford University Press.
- . 2013. 'Capital Investment and Agriculture: Multi-Press Facilities from Gaul, the Iberian Peninsula, and the Black Sea Region'. In *The Roman Agricultural Economy: Organization, Investment, and Production*, edited by Alan K. Bowman and Andrew Wilson, 85–106. Oxford: Oxford University Press.
- Matthews, John. 2000. *Laying down the Law: A Study of the Theodosian Code*. New Haven: Yale University Press.
- Mattingly, David. 1986. 'New perspectives on the agricultural development of gebel and pre-desert in Roman Tripolitania.' *Revue de l'Occident musulman et de la Méditerranée* 41 (1): 45–65.
- . 1988a. 'Oil for Export? A Comparison of Libyan, Spanish and Tunisian Olive Oil Production in the Roman Empire'. *Journal of Roman Archaeology* 1: 33–56.
- . 1988b. 'The Olive Boom. Oil Surpluses, Wealth and Power in Roman Tripolitania'. *Libyan Studies* 19: 21–41.
- . 1994a. 'Regional Variation in Roman Oleoculture: Some Problems of Comparability'. In *Landuse in the Roman Empire*, edited by Jesper Carlsen, Peter Ørsted, and Jens Erik Skydsgaard, 91–106. Rome: L'Erma di Bretschneider.
- . 1994b. *Tripolitania*. Ann Arbor: University of Michigan Press.
- . 1996. 'First Fruit? The Olive in the Roman World'. In *Human Landscapes in Classical Antiquity: Environment and Culture*, edited by Graham Shipley and John Salmon, 213–53. London: Routledge.
- Mattingly, David, and R. Bruce Hitchner. 1995. 'Roman Africa: An Archaeological Review'. *The Journal of Roman Studies* 85: 165.
- Mattingly, David J. 2014. *Imperialism, Power, and Identity: Experiencing the Roman Empire*. Princeton, NJ: Princeton University Pr.

- Mattingly, David, Stefania Merlo, Lucia Mori, and Martin Sterry. 2020. 'Garamantian Oasis Settlements in Fazzan'. In *Urbanisation and State Formation in the Ancient Sahara and Beyond*, edited by Martin Sterry and David Mattingly, 53–111. Cambridge: Cambridge University Press.
- Mattingly, David, and Martin Sterry. 2013. 'The First Towns in the Central Sahara'. *Antiquity* 87: 503–18.
- McConnell, Ryan. 2013. 'How the Apions Became Wealthy: Finding the Money on a Late Antique Estate'. Urbana: University of Illinois.
- McCormick, Michael. 2007. 'Toward a Molecular History of the Justinianic Pandemic'. In *Plague and the End of Antiquity: The Pandemic of 541-750*, edited by Lester K. Little, 290–312. New York: Cambridge University Press.
- McGing, Brian. 2002. 'Population and Proselytism: How Many Jews Were Therein the Ancient World?' In *Jews in the Hellenistic and Roman Cities*, edited by John R. Bartlett, 88–106. London: Routledge.
- Merrills, A. H., and Richard Miles. 2009. *The Vandals*. Chichester: Wiley Blackwell.
- Millar, Fergus. 2001. *The Roman Empire and Its Neighbours*. London: Duckworth.
- . 2007. *A Greek Roman Empire: Power and Belief under Theodosius II (408 - 450)*. Berkeley, Calif.: University of California Press.
- Minnen, Peter van. 2019. 'Economic Growth and the Exploitation of Land'. In *A Companion to Greco-Roman and Late Antique Egypt*, edited by Katelijn Vandorpe, 251–68. Hoboken, NJ: John Wiley & Sons, Inc.
- Mirković, Miroslava. 1996. 'Autopragia and the Village Aphrodito'. *Zeitschrift Der Savigny-Stiftung Für Rechtsgeschichte. Romanistische Abteilung* 113: 346–357.
- . 1997. *The Later Roman Colonate and Freedom*. Philadelphia: American Philosophical Society.
- Mørch, Henning F. C. 1994. 'Agricultural Landscape: A Geographer's Considerations on the Past'. In *Landuse in the Roman Empire*, edited by Jesper Carlsen, Peter Ørsted, and Jens Erik Skydsgaard, 107–14. Rome: L'Erma di Bretschneider.
- Mousourakis, George. 2012. *Fundamentals of Roman Private Law*. Heidelberg: Springer.
- Mullins, Michael G., Alain Bouquet, and Larry Edward Williams. 1992. *Biology of the Grapevine*. Cambridge: Cambridge University Press.
- Negm, Abdelazim M. 2020. *Flash Floods in Egypt*.

Ørsted, Peter. 2004. 'To Be a Colonus or Not to Be. The Colunate in the Valley of Segermes (Roman Tunisia)'. *Pallas*, 91–98.

Parker, Philip. 2010. *The Empire Stops Here: A Journey along the Frontiers of the Roman World*. London: Pimlico.

Patterson, John. 1993. 'Military Organization and Social Change in the Later Roman Republic'. In *War and Society in the Roman World*, edited by John Rich and Graham Shipley, 92–112. London: Routledge.

Paul, G. M. 1984. *A Historical Commentary on Sallust's Bellum Jugurthinum*. Liverpool, Great Britain: F. Cairns.

Pharr, Clyde. 1952. *The Theodosian Code and Novels, and the Sirmondian Constitutions*. Princeton: Princeton University Press.

Potter, D. S., and David Mattingly, eds. 1999. *Life, Death, and Entertainment in the Roman Empire*. Ann Arbor: University of Michigan Press.

Price, Simon. 2011. 'Estimating Ancient Greek Populations: The Evidence of Field Survey'. In *Settlement, Urbanization, and Population*, edited by Alan K. Bowman and Andrew Wilson, 17–35. Oxford: Oxford University Press.

Purser, Louis. 1883. 'The "Coloni" in Gaul'. *Hermathena* 4: 370–90.

Qadi, Wadad al-. 2008. 'Population Census and Land Surveys under the Umayyads (41–132/661–750)'. *Der Islam* 83 (2): 341–416.

Rabello, Alfredo Mordechai. 1997. 'The Samaritans in Justinian's Corpus Iuris Civilis'. *Israel Law Review* 31 (4): 724–43.

Rathbone, Dominic. 1990. 'Villages, Land and Population in Graeco-Roman Egypt'. *Proceedings of the Cambridge Philological Society* 36: 103–42.

———. 2008. 'Poor Peasants and Silent Sherds'. In *People, Land, and Politics: Demographic Developments and the Transformation of Roman Italy 300 BC-AD 14*, edited by Luuk de Ligt and Simon Northwood, 305–32. Leiden: Brill.

———. 2013. 'Earnings and Costs: Living Standards and the Roman Economy'. In *Quantifying the Roman Economy: Methods and Problems*, edited by Alan K. Bowman and Andrew Wilson, 299–326. Oxford: Oxford University Press.

Richardson, J. S. 1980. 'The Ownership of Roman Land: Tiberius Gracchus and the Italians'. *Journal of Roman Studies* 70 (November): 1–11.

- Robinson, Jancis, and Julia Harding. 2015. *The Oxford Companion to Wine*. Oxford: Oxford University Press, Incorporated.
- Roby, Henry John. 1884. *An Introduction to the Study of Justinian's Digest: Containing an Account of Its Composition and of the Jurists Used or Referred to Therein, Together with a Full Commentary on One Title (De Usufructu)*. Cambridge: Cambridge University Press.
- Roselaar, Saskia T. 2010. *Public Land in the Roman Republic: A Social and Economic History of Ager Publicus in Italy, 396-89 B.C.* Oxford: Oxford University Press.
- Rostovtzeff, Michael Ivanovitch. 1910. *Studien zur Geschichte des römischen Kolonates*. Leipzig: Teubner.
- . 1926. *The Social & Economic History of the Roman Empire*. New York: Biblo & Tannen Publishers.
- Rowlandson, Jane. 1996. *Landowners and Tenants in Roman Egypt: The Social Relations of Agriculture in the Oxyrhynchite Nome*. Oxford: Oxford University Press.
- Royden, Halsey. 1989. 'The Tenure of Office of the Quinquennales in the Roman Professional Collegia'. *The American Journal of Philology* 110 (2): 303.
- Rudorff, Adolf. 1828. 'Das Edict des Tiberius Julius Alexander'. *Rheinisches Museum Für Philologie, Geschichte Und Griechische Philosophie* 2: 64–84.
- Ruffini, Giovanni. 2018. *Life in an Egyptian Village in Late Antiquity: Aphrodito Before and After the Islamic Conquest*. Cambridge: Cambridge University Press.
- Rushworth, Alan. 2015. 'Castras or Centenaria, Interpreting the Later Forts of the North African Frontier'. In *Roman Military Architecture on the Frontiers: Armies and Their Architecture in Late Antiquity*, edited by Rob Collins, Matthew Symonds, and Meike Weber, 123–39. Oxford: Oxbow Books Limited.
- Russell, J. C. 1958. 'Late Ancient and Medieval Population'. *Transactions of the American Philosophical Society* 48 (3): 1–152.
- Salway, R.W.B. 2012. 'The Publication of the Theodosian Code and Transmission of its Text: Some Observations'. In *Société, économie, administration dans le Code Théodosien*, edited by Sylvie Crogiez-Pétrequin and Pierre Jaillette, 21–61. Villeneuve d'Ascq: Presses universitaires du Septentrion.
- . 2013. 'The Publication and Application of the Theodosian Code: NTh 1, the Gesta Senatus, and the Constitutionarii'. *Mélanges de l'École Française de Rome Antiquité*, no. 125–2: 327–54.

- Sarris, Peter. 2004. 'The Origins of the Manorial Economy: New Insights from Late Antiquity'. *The English Historical Review* 119 (481): 279–311.
- . 2006. *Economy and Society in the Age of Justinian*. Cambridge: Cambridge University Press.
- . 2015. 'The Formation of the Post-Roman Economy and the Cultural Legacy of Rome'. In *Politische Fragmentierung Und Kulturelle Kohärenz in Der Spätantike*, edited by Dietrich Boschung, Marcel Danner, and Christine Radtke, 123–36. Paderborn: Wilhelm Fink.
- Savigny, Friedrich Karl von. 1822. 'Über Dem Römischen Colonat'. *Abhandlungen Der Königlichen Akademie Der Wissenschaften in Berlin* 8: 1–26.
- . 1880. *Private International Law and the Retrospective Operation of Statutes: A Treatise on the Conflict of Laws and the Limits of Their Operation in Respect of Place and Time*. Translated by William Guthrie. Clark, N.J: Lawbook Exchange.
- Scheidel, Walter. 2000. 'Slaves of the Soil'. *Journal of Roman Archaeology* 13: 727–32.
- . 2002. 'A Model of Demographic and Economic Change in Roman Egypt after the Antonine Plague'. *Journal of Roman Archaeology*, 97–114.
- . 2008. 'Roman Population Size: The Logic of the Debate'. In *People, Land, and Politics: Demographic Developments and the Transformation of Roman Italy 300 BC-AD 14*, edited by L. de Ligt and Simon Northwood, 17–70. Leiden: Brill.
- . 2012. 'Roman Wellbeing and the Economic Consequences of the Antonine Plague'. In *L'impatto della 'peste antonina'*, edited by Elio Lo Cascio, 265–97. Bari: Edipuglia.
- Sears, Gareth. 2007. *Late Roman African Urbanism: Continuity and Transformation in the City*. Oxford: Archaeopress.
- Segrè, Antonio. 1947. 'The Byzantine Colonate'. *Traditio* 5: 103–33.
- Shaw, Brent D. 1981. 'Rural Markets in North Africa and the Political Economy of the Roman Empire'. *Antiquités Africaines* 17 (1): 37–83.
- . 2013. *Bringing in the Sheaves: Economy and Metaphor in the Roman World*. Toronto: University of Toronto Press.
- . 2017. 'Africa'. In *Handwörterbuch der antiken Sklaverei*, edited by Johannes Deissler, 49–57. Stuttgart: Franz Steiner Verlag.
- Sherwin-White, A. N. 1944. 'Geographical Factors in Roman Algeria'. *Journal of Roman Studies* 34 (1–2): 1–10.

- Sickle, C. E. van. 1938. 'Diocletian and the Decline of the Roman Municipalities'. *Journal of Roman Studies* 28 (01): 9–18.
- Silver, Morris. 2017. 'Bondage by Contract in the Late Roman Empire'. *International Review of Law and Economics*, 1–13.
- Sirks, A. J. B. 1993. 'Reconsidering the Roman Colonate'. *Zeitschrift Der Savigny-Stiftung Für Rechtsgeschichte. Romanistische Abteilung* 110: 331–69.
- . 2001. 'The Farmer, the Landlord, and the Law in the Fifth Century'. In *Law, Society, and Authority in Late Antiquity*, edited by Ralph W Mathisen, 256–72. Oxford: Oxford University Press.
- . 2008. 'The Colonate in Justinian's Reign'. *Journal of Roman Studies* 98 (November): 120–43.
- Soren, David, Todd Fenton, and Walter Birkby. 1999. 'The Infant Cemetery at Poggio Gramignano: Description and Analysis'. In *A Roman Villa and a Late Roman Infant Cemetery: Excavation at Poggio Gramignano Lugnano in Teverina*, edited by David Soren and Noelle Soren, 477–531. Roma: L'Erma di Bretschneider.
- Syme, Ronald. 1971. *Emperors and Biography: Studies in the 'Historia Augusta'*. Oxford: Clarendon Press.
- Taubenschlag, Rafał. 1944. *The Law of Greco-Roman Egypt in the Light of the Papyri, 332 B. C.-640 a. D.* New York: Herald Square Press.
- Tedesco, Paolo. 2018. "'The Missing Factor": Economy and Labor in Late Roman North Africa (400–600 CE)'. *Journal of Late Antiquity* 11 (2): 396–431.
- Temin, Peter. 2013. *The Roman Market Economy*. Princeton: Princeton University Press.
- Thompson, Eduard A. 2002. *Romans and Barbarians: The Decline of the Western Empire*. Madison, Wis.: University of Wisconsin Press.
- Toševa-Nikolovska, Daniela. 2018. 'Some Observations on the Nomos Georgikos'. *Colloquia Humanistica*, no. 7: 205–26.
- Tuori, Kaius. 2004. 'The Ius Respondendi and the Freedom of Roman Jurisprudence'. *Revue Internationale Des Droits de l'Antiquité* 51: 43.
- Turpin, William. 1991. 'Imperial Subscriptions and the Administration of Justice'. *Journal of Roman Studies* 81 (November): 101–18.
- Twine, Kevin. 1992. 'The City in Decline: Rome in Late Antiquity'. *Middle States Geographer* 25: 134–38.

- Van Den Bergh, Rena. 2004. 'Poor Tenants in Rome: Losers All the Way (Part I)'. *Journal of South African Law*, 544–57.
- Vera, Domenico. 1986. 'Enfiteusi, colonato e trasformazioni agrarie nell'Africa Proconsolare del tardo impero'. *L'Africa Romana* 4: 267–93.
- Vos, Mariette de. 2013. 'The Rural Landscape of Thugga: Farms, Presses, Mills, and Transport'. In *The Roman Agricultural Economy: Organization, Investment, and Production*, edited by Alan K. Bowman and Andrew Wilson, 143–218. Oxford: Oxford University Press.
- Wallon, Henri Alexandre. 1849. *Histoire de l'esclavage dans l'antiquité*. Vol. 3. Paris: Imprimerie Royale.
- Ward-Perkins, Bryan. 2006. *The Fall of Rome and the End of Civilization*. Oxford: Oxford University Press.
- Warmington, B. H. 1954. *The North African Provinces from Diocletian to the Vandal Conquest*. Cambridge: Cambridge University Press.
- Watson, Alan. 1970. *The Law of the Ancient Romans*. Dallas: Southern Methodist University Press.
- Wenck, Karl Friedrich Christian. 1825. *Theodosianae Codicis Genuini Fragmenta Ex Membranis Biblioth. Ambrosianae*. Leipzig: Lipsia.
- Weßel, Hendrik. 2003. *Das Recht der Tablettes Albertini*. Berlin: Duncker & Humblot.
- White, Kenneth D. 1963. 'Wheat-Farming in Roman Times'. *Antiquity* 37 (147): 207–12.
- . 1970. *Roman Farming*. Ithaca: Cornell University Press.
- Whittaker, Charles. 1978. 'Land and Labour in North Africa'. *Klio* 60: 331–62.
- Wickham, Chris. 2006. *Framing the Early Middle Ages: Europe and the Mediterranean 400 - 800*. Oxford: Oxford University Press.
- . 2010. *The Inheritance of Rome: A History of Europe from 400 to 1000*. London: Penguin Books.
- Wiesman, Zeev. 2009. *Desert Olive Oil Cultivation: Advanced Biotechnologies*. Amsterdam: Elsevier.
- Wilson, Andrew. 2004. 'Cyrenaica and the Late Antique Economy'. *Ancient West and East*, 143–54.
- . 2011. 'City Sizes and Urbanization in the Roman Empire'. In *Settlement, Urbanization, and Population*, edited by Alan K. Bowman and Andrew Wilson, 161–95. Oxford: Oxford University Press.

———. 2013. ‘Approaches to Quantifying Roman Trade’. In *Quantifying the Roman Economy: Methods and Problems*, edited by Alan K. Bowman and Andrew Wilson, 213–49. Oxford: Oxford University Press.

Wilson, Andrew, and David Mattingly. 2003. ‘Irrigation Technologies: Foggaras, Wells, and Field Systems’. In *The Archaeology of Fazzān*, edited by David J. Mattingly. Vol. 1. London: Society for Libyan Studies.

Witcher, Robert. 2011. ‘Missing Persons? Models of Mediterranean Regional Survey and Ancient Populations’. In *Settlement, Urbanization, and Population*, edited by Alan K. Bowman and Andrew Wilson, 36–75. Oxford: Oxford University Press.

Woolf, Greg. 2020. *The Life and Death of Ancient Cities: A Natural History*. New York: Oxford University Press.

Wright, Paul, ed. 2011. *Snakes, Sands and Silphium: Travels in Classical Libya*. London: Silphium Press.

Zuiderhoek, Arjan. 2008. ‘Feeding the Citizens: Municipal Grain Funds and Civic Benefactors in the Roman East’. In *Feeding the Ancient Greek City*, edited by Richard Alston and Onno van Nijf. Leuven: Peeters.

Zumpt, August Wilhelm. 1845. ‘Über die Entstehung und historische Entwicklung des Colonats’. *Rheinisches Museum für Philologie* 3: 1–69.