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BOUNDARIES
OF TERRITORIES AND PEOPLES
IN ROMAN ITALY AND BEYOND

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IMPERIAL PROPERTIES AND CIVIC TERRITORIES: BETWEEN ECONOMIC INTERESTS AND INTERNAL DIPLOMACY

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1. *An empire of cities*

Cities were the backbone of the Roman Empire, and civic elites were a fundamental component of the imperial administration, as they contributed, to a large extent, to the control and the fiscal exploitation of the Empire's vast territory. The limited amount of public and imperial officials who were present in the provinces at any given point in time generated the need for a large number of intermediaries, recruited from among local dignitaries within an increasingly complex system of personal and patrimonial obligations (Lat. *munera*, Gr. *λειτουργία*). In exchange for lasting social and political privileges, local aristocracies were made responsible for collecting direct taxes, drawing on their own resources if needed to meet Roman demands on time. This burden fell each year on the 10 most prominent members of the local council (Lat. *decemprimi*, Gr. *δεκάπρωτοι*) and was gradually codified as a civic liturgy from the end of the first century CE onwards.¹

As a rich body of literary and epigraphic documentation shows, city councillors more or less spent large sums on their communities, financing the construction or the adornment of public buildings, or providing oil and grain distributions to the local populations on particular occasions.² These contributions were part of the moral and social duty of an aristocrat towards his city, but they became more and more regu-

¹ Lo Cascio 2000c, 183-184; Burton 2001, 202-209; cf. also Burton 2004, 314-315; Merola 2001, 108-109; France 2003, 210-211; Dmitriev 2005, 197-200. On the evolution of the system during the transition from the Republic to the Empire, cf. Le Teuff 2014.

² Zuiderhoek 2009.

lated as liturgies under the Empire. As we can infer from some passages of Trajan's correspondence with Pliny the Younger and from later legal texts, the emperors were particularly concerned by the risk of exhausting local public finances and by the excessive reliance on the same wealthy individuals to perform liturgies.³ Starting from the reign of Trajan, *curatores civitatum* or *logistai* were frequently appointed to review civic finances, strengthen the flow of income in the local treasury, and validate the introduction of new taxes or liturgies. Yet, as our documentation clearly shows, this supervision never assumed the form of strict imperial control. Every aspect was instead the focus of intense negotiations between the local and the central levels. Rivalries for prestige and imperial favour among prominent families within one city or between different cities of the same province could lead to uncontrolled lavish spending and therefore to imperial intervention. However, the demands of a city were often much more modest, such as the institution of a publicly funded teacher position or the redirection of the revenue of a foundation for a different purpose.⁴

One aspect that, so far, has not attracted enough attention concerns to what extent the presence of imperial estates within the territory of a city could entail potential financial losses for the community. A few passages of the Digest make reference to exemptions from local taxation granted to imperial farmers and lessees because of their importance in assuring a continuous flow of revenues to the imperial treasury, the *fiscus*. What is often overlooked is that our sources state that such privileges were not automatically granted: indeed, they required the intervention of the governor or the provincial procurator. The presence of imperial estates within city territories was a potential source of problems for the local authorities, since it could have a negative impact on their public revenues. Hence, there was a theoretical need for the imperial administration to strike the right balance between the protection of its own interests and the integrity of city finances. This situation has been recently acknowledged by Marco Maiuro in his monograph about imperial land in Italy, but many aspects of the question remain unexplored.⁵

The aim of this paper is, first, to offer a critical overview of the different interpretations of the legal status of imperial estates vis-à-vis local municipalities, as presented at the end of the 19th century and at the beginning of the 20th, which have never been properly reassessed. This will allow us to understand to which *munera* imperial tenants could be liable and thus determine which privileges they could seek and how they were granted. The resulting picture will provide us with a clearer gen-

³ Salmeri 2005, 187-206. This attention is particularly clear in Titus' letter to the city of Munigua in Baetica, indebted for more than 50,000 sesterces to a private individual (AE 1962, 288); from Augustus onwards, a number of inscriptions attest the existence of limits imposed by Roman authorities on municipal loans. Cf. Andreau 2013, 109-110.

⁴ Hostein 2012, who also proposes the concept of *diplomatie intérieure* to define this continuous process of negotiation between cities and emperors.

⁵ Maiuro 2012, 108-109.

eral framework within which to understand how far the presence of imperial estates could harm civic finances and, secondly, to establish how this factor influenced the geographical development of the *patrimonium Caesaris* in different local contexts.

2. *Imperial landholdings, civic territories and Schulten's fundi excepti*

Boundary disputes were among the most common controversies that a municipal or an imperial official had to settle.⁶ Property rights, jurisdiction, imposition of liturgies and tolls all depended on the correct identification of private, public and territorial limits. Imperial estates did not escape this rule. A passage of the treatise *De controversiis agrorum*, probably composed by Agennius Urbicus in the fourth century,⁷ considers the typical disputes that could arise between cities and private landowners whose estates had an extraterritorial status, i.e., they did not belong to any city. As Urbicus remarks, this scenario was uncommon in Italy, but it was well attested in the provinces and particularly in Africa, where some estates (*saltus*) could be even more extended than the *perticae* (territories) of some cities. Moreover, many of these extraterritorial *saltus* belonged to the emperor, who *in provincia non exiguum possidet*. Urbicus identifies three main controversial topics: the imposition of civic liturgies, the recruitment of soldiers, and the requisition of animals and vehicles in the areas adjacent to the limits of a city's territory.⁸ A number of boundary stones from Africa confirms that the Roman administration had to intervene more than once in (re)defining the limits between a city and privately owned property, or between a city and an imperial estate, thus trying to clearly establish where municipal magistrates could exercise their authority and where not.⁹

Between the end of the 19th century and the beginning of the 20th, numerous scholars inferred from this documentation that most of the large estates in the prov-

⁶ For a general overview of the resolution of boundary disputes by Roman officials, cf. Burton 2000, 195-215. Further considerations on the epigraphic habit and on some institutional aspects can be found in Cortés Bárcena 2013a; Dalla Rosa 2007, 235-246.

⁷ The work is wrongly assigned to Iulius Frontinus in Lachmann's 1848 edition. For discussion on the attribution to Agennius Urbicus, cf. De Nardis 1994, chapter 3; Campbell 2000, xxviii-xxix and Guillaumin 2005, 129-130.

⁸ Agenn. *contr. agr.* 53.3-15 La. = 45.16-46.7 Th. = 42.10-21 Ca.: *inter res p. et privatos non facile tales in Italia controversiae moventur, sed frequenter in provinciis, praecipue in Africa, ubi saltus non minores habent privati quam res p. 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. R(es) p(ublicae) controversias de iure territorii sole<nt> movere, quod aut indicare munera dicant oportere in ea parte soli, aut[em] legere tironem ex vico, aut vecturas aut copias devehenda indicare », aliquando et ex quadam parte soli. [...] eius modi lites non tantum cum privatis hominibus habent, sed et plerumque cum Caesare, <qui> in provincia non exiguum possidet. Cf. also Behrends et al. 2005, 128, 244.*

⁹ AE 1907, 19 = ILaIg I 2988 and AE 1907, 20 = ILaIg I 2989 (boundary stone between the Musalamii and an imperial estate); ILaIg I 2939b (between the Musalamii, the city of Ammaedara and an imperial *saltus*); AE 1923, 26 = ILTun 1653 (between the Musalamii and the properties of Valeria Atticilla); *CIL* VIII, 21663 (between the municipium of Regiae and a private or imperial property).

inces were not included in any city territory and were therefore self-administered entities.¹⁰ This view has been defended particularly by Adolf Schulten, who described these *saltus* as *Gutsbezirke*, a term used in Prussia to define large rural communities directly managed by the landowner.¹¹ Schulten recognized that, in some parts of the Empire, such as Italy, a higher degree of urbanization meant that such autonomous estates must have been an exception. He proposed nevertheless that many *latifundia*, despite being included in a municipal territory, were not subject to the jurisdiction of local magistrates and were considered *fundi excepti*.¹² Hyginus Gromaticus and Siculus Flaccus define an *ager exceptus* as a tract of land that the founder of a colony had the right to keep for himself, or to assign to whomever he wanted. Hyginus' passage states that *fundi excepti* were private property in every respect and did not owe any contribution to the nearby colony. According to Schulten's interpretation of this text, the estates of powerful landowners – mostly senators or rich *equites* – were not only freed of any fiscal obligation toward the colony, but also placed outside the jurisdiction of local magistrates. They thus constituted independent administrative entities. In Schulten's words, imperial estates were *eo ipso* considered *agri excepti*.¹³

Schulten's idea of a widespread extraterritorial status for private and imperial *saltus* was sharply criticized at the time, particularly by Rudolf His, who produced a long list of (mostly late antique) evidence of imperial estates included in the territory of a city.¹⁴ His shared Schulten's interpretation about the autonomy of *fundi excepti* vis-à-vis the nearest urban community, but reckoned that they must have been few. Furthermore, he did not accept that imperial estates would automatically qualify as *agri excepti*, as the disparate patterns of growth of imperial properties from inheritances and confiscations must have frequently resulted in the acquisition of many small plots scattered throughout the territory of a given city. Such fragmentation constituted, in his view, a major obstacle to the systematic formation of large extraterritorial *saltus*.¹⁵

¹⁰ This view was influenced by the discovery of the first epigraphic texts from Roman Africa that refer to the *lex Manciana* and to the extraterritorial *saltus* of the ancient Bagradas Valley. Among the most important contributions, see: Weber 1891, 119-278; cf. also Weber 1909³; Sickel 1896, 119-120; Schulten 1896; Beaudouin 1899, 7-21; Rostovtzeff 1901, 295-299; Rostovtzeff 1910, 375-376. Cf. Hirschfeld 1902, 284 n. 3, who dates the development of extraterritoriality to the late second and third centuries.

¹¹ Schulten 1896, 1-3.

¹² Schulten 1896, 5-6.

¹³ Schulten 1896, 8: 'Ebenso ist der kaiserliche Grundbesitz *eo ipso* eximirt.'

¹⁴ His 1896, 115-117. Mommsen 1903⁹, 648-649, had also expressed doubts about the wide diffusion of autonomous estates, which he saw as being inconsistent with the general Roman provincial order. In his view, large estates were present everywhere, but normally consisted of many different plots scattered across one or more city territories. Africa did not have a higher overall number, only a bigger proportion of properties made of contiguous land tracts.

¹⁵ His 1896, 16: 'Viele der kaiserlichen Güter waren ja rein zufällig, etwa durch Proskription oder Erbschaft, in den Besitz des Kaisers gelangt und konnten in kleinen Parzellen zerstreut liegen: ich glaube nicht, daß man solche Güter, nur weil sie kaiserlich geworden waren, nun zu einem selbstständigen Bezirk machte.'

Despite our still-fragmented knowledge of the geography of imperial properties throughout the Empire, we now have sufficient evidence to dismiss the assumptions of Schulten and other scholars about the general extraterritoriality of the *latifundia*, as they were in fact based almost exclusively on evidence from North Africa, where such properties are well attested. Extraterritorial estates surely existed elsewhere, but the evidence is scant in most cases. Their presence is attested or can reasonably be proposed for Pannonia, Thrace, Syria and some regions of Asia Minor, where a combination of low urbanization and the vast availability of land offered the best conditions for their development.¹⁶ Another important reason for refuting Schulten's systematic interpretation is his lack of consideration about the various patterns of acquisition of the properties, an aspect already noted by His. In fact, we cannot discuss the relations between imperial properties and civic territories without considering that the *patrimonium Caesaris* was formed and constantly increased by way of inheritances and confiscations. This issue has been thoroughly analysed in the above-mentioned study of Maiuro, who confirmed the view that, particularly in Italy, imperial properties largely followed the same distribution patterns as senatorial ones.¹⁷ Senators mostly used to leave a significant part of their estates to the emperor, but they were also affected by the most spectacular confiscations. In addition, the systematic acquisition of *bona caduca* and *vacantia* – initially destined by the Augustan marriage laws to pass into the *aerarium* of the Roman people – guaranteed a constant flow of resources, as did the inheritances received from many imperial freedmen across the Empire. Now, the properties acquired through that route lay, for the most part, within civic territories and did not necessarily constitute large contiguous estates. In other words, since imperial properties derived from private ones, their size and patterns of distribution must have been mostly similar to those belonging to other types of landowners.

In Schulten's view, imperial properties included in a civic territory did not in fact belong to the city, because they were automatically declared *agri excepti*.¹⁸ As seen above, these consisted in land tracts that the founder of the colony could keep for himself or freely assign to others, at least according to the rather general definition of Siculus Flaccus (second century CE).¹⁹ In his treatment of this category of land, Hyginus offers more detail, observing that 'excepted land plots were those

¹⁶ For Pannonia, cf. *CIL* III, 3774 = 10694. An extraterritorial private estate has been identified by Corsten 2005, 1-51. The *agri Blaesiani* near Deultum in Thrace were probably an extraterritorial imperial estate (AE 1965, 1-2). On Syria, cf. Aliquot 2015, 111-138. In Asia Minor, extraterritorial imperial domains were present on the border between Galatia and Pisidia (*IGR* III, 335 from Tymbrianassos, κόμη Νέρωνος Κλαυδίου Καίσαρος Σεβαστοῦ). Cf. Broughton 1938, 649; Dalla Rosa forthcoming.

¹⁷ Maiuro 2012, 38-88; cf. Lo Cascio 2015, 64.

¹⁸ Schulten 1896, 15: 'Keine *saltus* im eigentlichen Sinn [...] aber wohl eximirter Grundbesitz sind die kaiserlichen Domänen, die in den Alimentarurkunden mit 'adfine Caesare', 'adfine imperatore' bezeichnet werden.'

¹⁹ Sic. Flacc., *cond. agr.* 157.7-8 La. = 121.14-15 Th. = 124.3-4 Ca.: *inscribuntur quaedam EXCEPTA, quae aut sibi reservavit auctor divisionis et assignationis, aut alii concessit.*

awarded to people who performed good service, with the provision that they should be entirely subject to the law relating to private individuals, should not owe any obligations to a colony, and should remain within the land of the Roman people'.²⁰ In analysing the two passages, we should resist the temptation to simply combine the texts and produce a single definition. Hyginus' passage treats the *fundi excepti* together with the *fundi concessi*, while specifying that these two categories were treated differently in the assignments of Augustus (*in assignationibus enim divi Augusti diversas habent condiciones fundi excepti et concessi*). This simply means that Octavian/Augustus introduced a clearer distinction between these two denominations, rather than indicate that these two denominations never existed before. The two terms might, therefore, have been used as synonyms under the Republic, since both designate a personal privilege bestowed by the founder of the colony, who either left an existing possessor on his estate or recompensed a new colonist with a larger portion of land. The *bene meriti* in Hyginus' text were perhaps veterans, but could also have been members of the local elite who sided with Octavian during the civil war.²¹ The possessors of *fundi excepti* enjoyed full property rights and enjoyed *immunitas* from all local taxation (*ullam coloniae municipientiam deberent*), but remained liable to every obligation that the Roman state could have imposed.²² *Fundi excepti* were located within the assignment area, but were not affected by the centuriation grid.²³ On the contrary, *fundi concessi* were part of the grid and subject to colonial *munera*.

²⁰ Campbell 2000, 155.34-37. For the entire passage, see Hygin. Grom. const. limit. 197.7-19 La. = 160.8-21 Th. = 154.25-33 Ca.: *concessos fundos aequae similiter ostendemus, ut FVNDVS SELANVS CONCESSVS LVCIO MANLIO SEI FILIO. In adsignationibus enim divi Augusti diversas habent condiciones fundi excepti et concessi. excepti sunt fundi bene meritorum, ut in totum privati iuris essent, nec ullam coloniae municipientiam deberent, et essent in solo populi Romani. concessi sunt fundi et quibus indultum est, cum possidere unicumque plus quam edictum continebat non liceret. quemadmodum ergo eorum veterum possessorum relicta portio ad ius coloniae revocatur. omnium enim fundos secundum reditus coemit et militi adsignavit. Inscribebimus ergo concessus sic ut in aere permaneant.* Cf. also Guillaumin 2005, 111; Hygin. Grom. const. limit. 13.4-8.

²¹ See Guillaumin 2005, 204 n. 237. Cf. Castillo Pascual 1996, 177-178; Chouquer - Favory 2001, 135.

²² This is probably the meaning of the phrase *et essent in solo populi Romani* (see text above in n. 20). Chouquer - Favory 2001, 135, rightly note that this means that the *fundus exceptus* was located in a territory subject to Roman rule, but not on *ager publicus*; the owner (here implied as a Roman citizen) did not have simple *possessio* of the estate, but had a full *dominium ex iure Quiritium*. Less convincing is the interpretation of Campbell 2000, 394, who suggests that 'perhaps Augustus as representative of the *res publica*, when founding colonies and allocating land, maintained that land acquired for distribution belonged to the Roman people. So, if he chose to revoke any special grants, such land would revert to the Roman people in the same way as *bona vacantia*.' This view would correspond more precisely to what happened in the Hellenistic monarchies (cf. Boffo 2001, 233-255), but is not attested in the Roman evidence.

²³ An illustration in the text of Hyginus in the Palatine manuscript depicts the *fundus exceptus* of Seius surrounded by the centuriation grid. This seems to show that *fundi excepti* were not necessarily located at the fringes of the centuriation and/or of the territory of a city. In other words, they did not comprise marginal land.

Both passages are difficult to interpret and do not convey the same idea. According to Hyginus, Augustus did not apparently reserve any of the ‘excepted land’ for himself, while Flaccus does not mention any special status vis-à-vis the colony. As Mommsen already pointed out, the fact that *fundi excepti* were freed from any fiscal contribution to the colony did not necessarily imply that these estates escaped the jurisdiction of local magistrates.²⁴ If this was the case, it would then have been wise to limit the diffusion of this kind of land tenure; otherwise, not only would Augustus have harmed the revenues of his newly founded colonies, but he would also have made the control of the territory more difficult, due to the multiplication of self-administered estates. Moreover, we do not know if privileges similar to those attached by Augustus to the *fundi excepti* were also granted in the foundations of his successors, because Flaccus does not mention them. Ancient exemptions were normally maintained, and we have one possible epigraphic attestation of *praedia excepta* coming from the territory of Carthage, which dates to the second or third century CE.²⁵ However, the available data are so meagre that it is impossible to even guess how widely these ‘exceptions’ were granted.

3. Imperial lessees and civic taxation

After reviewing the extant evidence, it seems preferable not to make use of the concept of *fundi excepti* to describe the status of imperial properties in relation to civic territories – but does this mean that imperial estates did not enjoy any privilege at all? The writings of the jurists from the late second and third centuries CE refer to a series of immunities and protections attached to imperial properties. The range and the chronology of these grants are difficult to reconstruct, and it is probable that a number of individual measures was passed over a long period of time.

The Principate of Augustus proclaimed the political message of the *restitutio rei publicae*, that is, the restoration of the Republican order and the rule of law after a long period of civil war. Augustus publicly refused monarchical powers and preferred to govern the Empire as consul and later proconsul with tribunician powers. In his *Res gestae*, he proudly states that he never had more power than his colleagues in each office that he occupied and that he prevailed in *auctoritas* only.²⁶ This attitude also meant that the estates of Augustus could not appear to be treated in a privileged way in comparison to those of his fellow senators. A passage of Cassius Dio informs us

²⁴ Mommsen 1903⁹, 648 n. 2.

²⁵ ILTun 800. I do not think that the *excepta* *Zocliana CC(aesarum) NN(ostrorum) iug(era) CXXXIII* belonged to Gaius and Lucius Caesars, as proposed by Beschaouch 1997, 363-374; the two Caesars were probably Marcus Aurelius and Lucius Verus or Septimius Severus and Caracalla (but other solutions in the second and third centuries are possible). Moreover, we cannot be sure that the meaning of *excepta* in this document corresponds to that of the texts of the land surveyors.

²⁶ *Res gest.* 34.3. This passage continues to provoke discussion among historians. For a historiographical overview, cf. Hurllet 2015, 247-251.

that, during the general census of 11 BCE, Augustus declared his properties like any other private citizen.²⁷ One could dismiss this episode as a simple act of propaganda, but Augustus could not simply pretend to appear to be like any other senator without accepting the consequences implied by a census registration. By following normal practice, the *princeps* wanted to show that his properties did not enjoy any special privilege. He was no king; hence, his estates were not ‘crown land’. It is, therefore, likely that, at least in the first half of his Principate, the properties of Augustus – if included in the territory of a city – fell within the jurisdiction of local magistrates and were subject to both municipal and Roman taxation like those of any other senator.

In relating this episode, Cassius Dio implicitly tells us that such practice had gone out of fashion by his time. This evolution was inevitable, since the Augustan fiction could not last forever and the emperor gradually came to be considered as the head of the state, exercising sovereign power over the entire Empire in the name of the Roman people. At some point after 11 BCE, imperial properties outside Italy must, therefore, have been exempted from direct Roman taxation. This probably happened through an official act of the senate, who accorded the immunity as a counterpart to the fact that the personal revenues of the *princeps* were largely used for public utility purposes.²⁸ No source mentions this act, but I would not be surprised if such an exemption had already been granted during the latter part of the reign of Augustus, when his Principate became more autocratic and centralized.²⁹ Our later sources present the imperial *fiscus* as a de facto public treasury; and, since the revenues from imperial estates also went to it, it would be absurd to think that the emperor paid a *tributum* on properties that already contributed to public funds.³⁰

If imperial estates soon acquired a privileged status in relation to Roman taxation, the position vis-à-vis municipal impositions is more complex. As opposed to today’s practice, citizens were not expected to pay direct taxes on income or property to their respective cities. A city’s revenues were chiefly generated by leases of public land, market concessions, concessions for the exploitation of water and other resources, custom duties, fines, *summae honorariae* and patrimonial *munera* of lesser importance.³¹ Other *munera* did not involve the payment of sums of money, but consisted in providing forced labour (*operae*) or animals for the construction and the maintenance of public

²⁷ Dio 54.35.1: ὁ Αὐγουστος ἀπογραφάς τε ἐποίησατο, πάντα τὰ ὑπάρχοντά οἱ καθάπερ τις ιδιώτης ἀπογραφάμενος.

²⁸ The public function of the *patrimonium Caesaris* was emblematically, yet implicitly, determined by the testament of Augustus (Suet. *Aug.* 101). A series of passages from the *Historia Augusta* confirms this for the time of Antoninus Pius and Marcus Aurelius, on which cf. Lo Cascio 2000b, 102-104.

²⁹ On the autocratic turn of Augustus’ Principate in the period after the adoption of Tiberius (4 CE), see Dettenhofer 2000, 185-204; Dalla Rosa 2018, 84-100.

³⁰ *Dig.* 39.4.9.8 Paul. 5 *sent.*: *fiscus ab omnium vectigalium praestationibus immunis est.* Cf. Lo Cascio 2000b, 127.

³¹ The observation of Liebenam 1900, 22, is still valid: ‘Inwieweit eine direkte Kommunalsteuer eingeführt war, entzieht sich unserer Kenntnis; ich habe keine sicheren Spuren finden können.’ On the subject, see also Corbier 1999, 285-293; Lo Cascio 2006, 673-699.

roads and buildings. Not only did citizens have to contribute, but residents (*incolae*) did too. This liturgical system was governed according to the city's statute and different decrees that the local authorities may have passed. The *leges Ursonensis* and *Irmitana* define some of the basic *munera* that citizen and *incolae* must provide, but intentionally do not define all possible forms of imposition that the city may want to adopt.³² Later legal sources show that a steadily increasing number of imperial interventions regulated this sector during the second and third centuries CE, establishing more clearly – among other things – the definition of the status of an *incola* in relation to his *domicilium*.

Under the Severans, the jurists Callistratus and Ulpian elaborated a general framework with different categories of *munera* in order to define precisely liabilities and exemptions.³³ In a passage from his work *de cognitionibus*, Callistratus distinguishes between *munera publica* (imposed in the context of an official administrative task other than a magistracy) and *munera privata* (for example, a *tutela*), according to the beneficiary of the *munus*: the citizen body or a private person. Both kinds of *munera* do not necessarily imply the expenditure of a sum of money (*sive cum sumptu sive sine erogatione*). Callistratus then introduces a second distinction, that between *munera personae*, deriving from a personal condition (and from which one can claim immunity for different reasons, such as age, sex, infirmity and citizenship status) and *munera locorum* imposed on immovables.³⁴ To this second category are ascribed *viarum munitiones*, the money and/or the labour due for the maintenance of roads, and *praediorum collationes*, a generic term indicating all other burdens and obligations eventually tied to an estate.³⁵ No exemption was apparently allowed from such *munera*, which were also automatically passed to the new owner in cases where an estate was sold.³⁶

Ulpian approaches the question of *munera* from a different perspective. He contrasts *munera personae*, liturgies that needed a personal engagement, with *munera patrimonii*, those that only required a financial contribution. This category is further divided in two: on the one hand, there are burdens that fall on every *possessor*, no matter whether he is a citizen, a resident or neither of the two; on the other, there are *munera* that must be paid by citizens or *incolae* only. Ulpian thus explains that *intributiones, quae agris fiunt, vel aedificiis, possessoribus indicunt*.³⁷ These financial

³² Grelle 1999, 137-153.

³³ Horstkotte 1996, 233-255. On the exemptions, cf. Drecoll 1997, 51-74.

³⁴ *Dig.* 50.4.14pr.-2 Call. 1 *de cogn.*: *honor municipalis est administratio rei publicae cum dignitatis gradu, sive cum sumptu sive sine erogatione contingens. munus aut publicum aut privatum est. publicum munus dicitur, quod in administranda re publica cum sumptu sine titulo dignitatis subimus. viarum munitiones, praediorum collationes non personae, sed locorum munera sunt.*

³⁵ The *munitio* is, with the *munus legationis*, the only liturgy mentioned in the Flavian municipal laws; cf. also *CIL* XI, 948. On the term *collation*, see *TLL* III/7 s.v., 1577-1580.

³⁶ For example, *fundi* given as security for loans taken in the context of the *alimenta* programme were not freed from any pending obligation if sold by the owner. Cf. Maganzani 2014, 157-167. Similarly, if revenues from plots of land had been reserved for financing public or religious events, this obligation also passed to the new owner. Cf. *Dig.* 19.1.13.6 Ulp. 32 *ad ed.*; *Dig.* 39.4.7pr.-1 Papir. 2 *de const.*

³⁷ *Dig.* 50.4.6.5 Ulp. 4 *de off. procons.*: *sed enim haec munera, quae patrimonii indicuntur, duplicia*

contributions (*intributiones*) are not better specified, but surely included *viae collationes* and any kind of *vectigal* that could be imposed on the plot of land concerned. It is, therefore, likely that Ulpian's *munera patrimonii* referred to the same burdens as Callistratus' *munera locorum*.

Without going into the detail about every facet of Ulpian's terminology, it seems clear that imperial properties located within city territories must have been concerned by the *munitio viarum*, since the acquisition by the emperor of a former private estate could hardly have changed the public character of the roads that passed through or near it. Moreover, *munera locorum* were, by nature, tied to the land and not to the owner, whoever he might have been. The real question rather concerns who bore the liability and was entitled to collect the sums. One could imagine either that the imperial procurator could step in as the responsible authority or that local magistrates remained competent in this matter. The answer is not straightforward. Procurators were surely involved in the construction or maintenance of roads when imperial funds were used, but rarely appear on milestones or road dedications.³⁸ We have no proof that they could be responsible for local roads, but this is an activity that hardly leaves traces in our epigraphic documentation. Roads are neither mentioned in the African lease regulations nor in the Vipasca tablets, but we can reasonably assume that the imperial administration oversaw their maintenance in these extraterritorial districts. Within city territories, local magistrates must have had their say, but they probably tried to act in coordination with the procurators.

It is worth noting that, when they refer to liability for payments, our juridical sources always speak of *possessores* and not strictly of owners. In Roman law, the *possessor* is the person having factual, physical control over a corporeal thing. He is often the owner of that thing, but not necessarily so.³⁹ In the texts regulating the leases of imperial estates from the Bagraas Valley, the tenants who rented the plots under perpetual leaseholds are defined as *possessores*. They could indefinitely remain on their plots as long as they continued to cultivate them and pay the rents, and this right was passed to their descendants. Despite the exceptionality of the documentation coming from Africa, it is very likely that similar rights were accord-

sunt: nam quaedam possessoribus iniunguntur, sive municipes sunt sive non sunt, quaedam <quadam> non nisi municipibus vel incolis. intributiones, quae agris fiunt vel aedificiis, possessoribus indicuntur: munera vero, quae patrimoniorum habentur, non aliis quam municipibus vel incolis. Cf. Horstkotte 1996, 238-241. For the nature of the intributiones quae agris fiunt; cf. n. 36 above. Those concerning buildings (aedificia) could consist, for example, of annual fees due to the city for having built a house on public soil without permission (Dig. 43.8.2.17 Ulp. 68 ad ed.). Cf. Maganzani 2014, 162.

³⁸ Cf. AE 1992, 1594a (Ceramus); IEphesos 3157 (Amyzon); ILS 4052 = IC IV, 333 (Gortyna); CIL III, 346 = IGR III, 15 = IK IX, 13 (Nicaea); CIL III, 6993 = ILS 253 (Prusa ad Olympum); AE 1986, 646 (Sinope); CIL XVII/2, 7 (Dinia).

³⁹ Dig. 2.8.15.1 Macer 1 de appellat.: *possessor autem is accipiendus est, qui in agro vel civitate rem soli possidet aut ex asse aut pro parte. sed et qui vectigalem, id est emphyteuticum agrum possidet, possessor intellegitur. item qui solam proprietatem habet, possessor intellegendus est. eum vero, qui tantum usum fructum habet, possessorem non esse Ulpianus scripsit.*

ed to imperial tenants in other provinces of the Empire, that is, in regions where extraterritorial estates were less common.⁴⁰ The lessees were hence those who had a duty to pay for the *viae collationes* attached to the *fundus* they were cultivating, which they did under the supervision either of the municipal magistrates or of the procurator, or perhaps of both.

Various obligations could be attached to a property and imposed on the finances of the *possessores*. Direct taxes on properties imposed by local administrations were unusual, even though they are attested in a few cities.⁴¹ Other *intributiones* could also be present: this depended on the history of the property before its acquisition by the emperor and could vary from case to case.

Depending on their status as full citizens or residents and on their social condition, tenants could be held accountable for many other public or personal *munera*. As numerous studies have already pointed out, imperial *coloni* were often relatively well off, even more so if they were also *conductores*, the middlemen who collected the rent for the patrimonial administration from the other tenants of the estate.⁴² Since they were liable with their own assets, they must have had sufficient resources and properties outside the imperial estate. They could, therefore, count among the most distinguished citizens, compete for honours and, most importantly, perform liturgies. This is not the place for a global discussion about the social and financial status of imperial *coloni* and *conductores* and their relationship with the cities' economic and institutional life.⁴³ The various regional contexts are so different and unevenly documented that it would be hard to provide a standard picture. In approaching this question, however, we should avoid simple generalizations, based on what we know from the texts of land surveyors discussed above and from the documentation of the province of Africa. This evidence mainly concerns extraterritorial *saltus* and thus can more easily give the impression of a separation between urban society and that of the villages that were located on imperial estates; elsewhere, however, the situation could have been significantly different.

The papyrological evidence from Egypt attests to the fact that γεωργοί cultivating plots belonging to the οὐσία of the emperor or of one of the members of his family also possessed land of their own or leased parts of private estates that were located in the same νομή.⁴⁴ This configuration is typical of this province, where the traditional

⁴⁰ Kehoe 2007, 79-88; France 2014, 89-96, with further bibliographical references.

⁴¹ Antoninus Pius authorized a city in Macedonia to impose a poll tax of one *denarius* on its citizens (*IGBulg* IV, 2263). On another possible case, cf. Guizzi 1999, 275-284.

⁴² For a recent assessment of the topic, cf. Lo Cascio 2009, 91-113.

⁴³ Cf. Kehoe 1988, 92-95.

⁴⁴ Cf. Rowlandson 1996, 124-130. In P. Mich. 9, 540 (53 CE), from Karanis, Petheus, *georgos* on the *ousia* of Germanicus declares to own 'a productive olive grove, in which the trees are old, amounting in all to 11 and ½ arouras; and in the village a house and courtyard in which I dwell, and the half share of a privately owned oil press and storehouse, and in another place another house and buildings and doves; [and] near Psenarpsenesis a catoecic allotment of five arouras and an olive grove'. Cf. P. Mich. 9, 539, for a similar declaration. The archive of Harthotes is also particularly interesting, since this *demosios georgos* also rented land from others; cf. Casanova 1975, 70-158; Geens, *Harthotes and*

fragmentation of landed properties meant that even large estates actually consisted of many different plots scattered over a wide area. Despite the unique territorial and administrative configuration of Egypt, such cases must have been common in other regions as well, particularly those with a higher density of urbanization, such as Italy or Asia. Private and imperial *fundi* can be found alongside each other in the *Tabula Alimentaria* of Veleia. This document gives no clear sign of the presence of *latifundia*, while the average size of each property (including that of the emperor) was relatively moderate.⁴⁵ Fourth century CE tax registers from Tralles and Magnesia on the Meander clearly attest that decurional estates mostly consisted of small and medium-sized landholdings, and it is very likely that such a configuration did not constitute an innovation in relation to earlier imperial periods.⁴⁶

Even where large contiguous estates are attested or were likely present, we can find evidence that *conductores* and *coloni* were not cut from civic life. Two $\mu\sigma\theta\omega\tau\alpha\acute{\iota}$ (*conductores*), one of a private estate and another of an imperial one, erected dedications in the urban centre of the city of Nakoleia in Phrygia, while a group of *conductores* honoured a former imperial procurator at Hippo Regius in Africa.⁴⁷ The *coloni* of Aïn-el-Djemala petitioned the emperor in order to protect their right to cultivate vines and olives on forestland and swampland on an imperial estate in accordance with the *lex Manciana*.⁴⁸ Now, as Jérôme Carcopino already pointed out, in order to be able to pay for the planting of olive trees and vines, then waiting until these new cultivations became economically viable, the *coloni* must have had resources of their own and possessed land within the territory of a city.⁴⁹ In 342, a constitution of Constantius and Constans stated that citizens who owned more than 25 *iugera* of land could not claim any exemption from civic *munera* on the basis that they were also tenants (*coloni*) on an imperial estate. The measure clearly aimed to prevent decurions from avoiding the performance of liturgies in their cities and punish those who were caught selling their own land in order to circumvent the law.⁵⁰

4. Protecting the resources of the lessees

The combined evidence presented above seems to point to a much more complex and nuanced picture than that imagined at the beginning of the 20th century, which was never properly reconsidered in a general way. For the first two centuries of the

His Brother Marsisouchos, Public Farmers, Trismegistos – Archives, accessed 21 June 2018: www.trismegistos.org/archive/99.

⁴⁵ Duncan-Jones 1982², 296, 323-324.

⁴⁶ Thonemann 2007, 435-478.

⁴⁷ *MAMA* V, 218 and *IGR* IV, 592 (Nakoleia); ILaIg I, 3992 = AE 1922, 19 (Hippo Regius).

⁴⁸ *CIL* VIII, 25943.

⁴⁹ Carcopino 1906, 403. Cf. Peyras 1995, 107-128; Cherry 2007, 725.

⁵⁰ *Cod. Theod.* 12.1.33.0 (342 CE, 5 April: *Imperatores Constantius et Constans AA. Rufino com. Orientis*). Cf. Rosafio 2002, 149-149.

Empire, we have no trace whatsoever of any special status that pertained to imperial land in relation to municipal impositions. It is likely that such privileges did not exist or were minimal under Augustus, while we have no idea of how the situation evolved under his successors. If they were citizens or residents of a city, the *possessores* cultivating plots of land belonging to the emperor must have been liable to *munera personae* (both civic and private) according to their status and resources, but were probably also concerned by *munera locorum* and particularly by the need to contribute to the maintenance of local roads.⁵¹ Even when imperial estates were located outside civic territories, it is likely that, in many cases, tenants also owned land within the *pertica* of the nearest civic community or that *coloni* living exclusively on the imperial estate crossed its boundaries to sell their products or participate in festivals and other civic events. It is, therefore, not difficult to imagine how cities could feel the right to impose liturgies on those extraterritorial tenants, as they were profiting from civic amenities and infrastructures.⁵²

It was not until the second half of the second century CE that emperors began to issue some general instructions. In a rescript cited by Papirius Iustus, Marcus Aurelius and Lucius Verus stated that *coloni praediorum fisci* must generally remain subject to liturgies, but they could be exempted if the obligation might, in some way, damage the revenues of the *fiscus* (*sine damno fisci*).⁵³ However, it is important to point out that the immunity was not automatically granted, but needed to be validated by the provincial governor after consultation with the provincial procurator. This privilege – like many others – was, therefore, subject to intense negotiations between civic and imperial authorities, and the emperors intentionally left the actual evaluation of the claim to provincial instances.⁵⁴ The same rescript is commented upon by Callistratus, who similarly stresses the role of the governor and the procurator, while specifying that the exemption was granted chiefly to *conductores*, certainly because they were liable, as part of their own assets, for the rents they collected from the tenants in the name of the *fiscus*.⁵⁵

⁵¹ With respect to these liturgies, the juridical sources do not make any distinction between *possessores* cultivating private, municipal, public or imperial land. In Ulpian's opinion, *munera locorum* also fell on those who enjoyed the simple usufruct of the land (*Dig.* 7.1.27.3 Ulp. 18 *ad Sab.*).

⁵² Cf. *Dig.* 50.1.27.1 Ulp. 2 *ad ed.*, where the *domicilium* is linked to the city in which a person conducts his business and enjoys urban facilities (theatre, baths etc.) and not to his administrative residence.

⁵³ *Dig.* 50.1.38.1 Papir. 2 *de const.: imperatores Antoninus et Verus ... rescripserunt colonos praediorum fisci muneribus fungi sine damno fisci oportere, idque excutere praesidem adhibito procuratore debere*. On this passage, cf. Kehoe 2007, 85-86; Rosafio 2002, 139-140. Documents from Egypt seem to point out that immunities were granted to farmers of imperial *οἰσίαι* already under the Julio-Claudians. P. Gen. 2, 91 (49-50 CE), apparently connects the personal status of ἀπολύσιμος to the fact of cultivating imperial land. The exact nature of the immunity is unclear, but the text contains a reference to the office of πράκτωρ or tax collector for the village. Cf. Parassoglou 1978, 57-58; Kehoe 1992, 51. I thank Yanne Broux for bringing this text to my attention.

⁵⁴ On the general imperial practice of leaving decisions to the discretion of the governor, cf. Hurllet 2010, 231-253.

⁵⁵ *Dig.* 50.6.6.10-11 Call. 1 *de cogn.:* (10) *conductores etiam vectigalium fisci necessitate subeun-*

The regulations became more restrictive under the Severans. A fragment of Modestinus refers to an order of Septimius Severus, who prohibited imperial *conductores* from becoming *tutores* or *curatores* before the expiration of their contract with the *fiscus*.⁵⁶ No role is given to provincial governors and procurators, who probably had no discretion in the matter, but were only tasked with enforcing the ruling. A rescript of Caracalla confirmed the decision,⁵⁷ but Severus Alexander reversed it, stating that *coloni* or *conductores* could not claim immunity from *munera civilian* simply because they had a financial obligation to the *fiscus*.⁵⁸ As Pasquale Rosafio rightly pointed out, the passage means that *conductores* did not enjoy any special personal status per se (*hoc nomine*); only their assets were protected in order to guarantee their own solvency.⁵⁹

Conclusions

In addressing disputes between cities and imperial tenants over liability to civic *munera*, emperors implicitly confirmed that such problems were, by no means, uncommon. When they were located within city territories, imperial estates did not form an institutional enclave; and, even when cultivating plots on extraterritorial domains, *coloni* and *conductores* could well be citizens or residents of a nearby city, where they might own land, sell their products, participate in festivals, and hold office. It was only relatively late that emperors started to issue general orders on the matter, which leaves us in the dark as far as the first two centuries of the Empire are concerned. Exemptions were probably common before Marcus Aurelius, but no general pattern must have existed and perhaps *coloni/conductores* were relieved of their civic obligations, albeit only temporarily. The gradual extension of imperial estates meant that such issues must have presented themselves more frequently after the middle of the second century CE. The massive confiscations that followed the civil war of 194-197

dorum municipalium munerum non obstringuntur: idque ita observandum divi fratres rescripserunt. ex quo principali rescripto intellegi potest non honori conductorum datum, ne compellantur ad munera municipalia, sed ne extenuentur facultates eorum, quae subsignatae sint fisco. unde subsisti potest, an prohibendi sint a praeside vel procuratore Caesaris etiam si ultro se offerant municipalibus muneribus: quod propius est defendere, nisi si paria fisco fecisse dicantur. (11) coloni quoque Caesaris a muneribus liberantur, ut idoneiores praediis fiscalibus habeantur. It is worth pointing out that, in the interpretation of Callistratus, the governor and the procurator could prevent the *conductor* from performing a liturgy even if he had voluntarily chosen to perform it.

⁵⁶ Dig. 19.2.49 pr. Mod. 6 *excus.*: οἱ ἐπίτροποι γενόμενοι ἢ κουράτορες πρὶν ἐκτίσαι τὰ τῆς κηδεμονίας μισθῶται Καίσαρος γενέσθαι κολύδονται: κἂν τις ἀποκρυψάμενος τοῦτο προσέλθῃ τῇ μισθώσει τῶν τοῦ Καίσαρος χωρίων, ὡς παραποιήσας κολάζεται: τοῦτο ἐκέλευσεν ὁ αὐτοκράτωρ Σεβήρος.

⁵⁷ Cod. Iust. 5.41.1 Imp. Antoninus A. Sexto (213 CE): *competens iudex non ignorat non esse admit-tendos ad vectigalia conducenda eos, qui pupillorum vel adolescentium tutelam seu curam administrant vel eius administrationis rationem nondum reddiderunt.*

⁵⁸ Cod. Iust. 5.62.8 Imp. Alexander A. Maximo (225 CE): *coloni (id est conductores) praediorum ad fiscum pertinentium hoc nomine excusationem a muneribus civilibus non habent ideoque iniunctae tutelae munere fungi debent.*

⁵⁹ Rosafio 2002, 143-144.

CE increased the size of the *patrimonium Caesaris* even further, and the fact that Severan jurists twice commented the rescript of Marcus Aurelius and Lucius Verus should not come as a surprise. That said, imperial interventions rarely assumed the form of a general order, with discretion left to the highest provincial authorities, i.e., the governor and the provincial procurator. As later constitutions show, quite a few of the *conductores* did in fact belong to the decurional elite: their resources were important to the *fiscus*, but they were also crucial to the cities, which needed financially healthy members of the council in order to find enough candidates for magistracies, embassies and other liturgies.

As a landowner, the emperor was interested in maintaining a constant flow of revenues from his properties; but, as head of state, he had also to protect the finances of the cities. This conflict helps to explain the reluctance to legislate on the matter and the largely *ad hoc* approach taken in treating these cases, but other consequences likely followed from it. The emperors must have paid particular attention to the issue when deciding to keep or sell a property recently inherited or confiscated. As has already been noted, an excessive concentration of land in the hands of the emperor would have reduced the amount available to the rest of the citizenry, and particularly for decurions.⁶⁰ Such a scenario would also have augmented the number of *coloni/ conductores*, thus increasing the chance of conflict with cities over grants of immunity to tenants. The awareness of this problem likely had an effect on the geographic distribution of imperial properties, since, on many occasions, the emperor might have preferred not to incorporate an estate into his *patrimonium*, rather than putting the city's finances in danger.

As we have seen above, the potential for growth in imperial properties in a given region is linked to the presence of high-ranking senators, imperial freedmen and Roman citizens subject to the Augustan marriage laws. If the presence of imperial estates where senatorial ones are also attested – as in Africa – do not surprise us, we need to further scrutinize the reasons why we do not find such evidence in contexts that would likely have produced it. It is remarkable, for example, that rich cities such as Aquileia or Ephesus, despite the abundance of their documentation and the presence of a wealthy civic elite including several senatorial families, present practically no evidence for imperial landholdings.⁶¹ The reasons behind cases like this need be determined with respect to the local context; but, since it is very unlikely that the emperor never inherited or confiscated land belonging to citizens of these two cities, we need to admit the possibility that those properties were immediately auctioned and made available again to the local elite.⁶²

⁶⁰ Maiuro 2012, 108-109.

⁶¹ On Aquileia, see Maiuro 2002, 337-340. On Ephesus, see Dalla Rosa forthcoming.

⁶² Another aspect to be considered is the fact that estates in the vicinity of large cities with a large body of decurions could be sold more easily; this allowed the *fiscus* to convert into money a part of the real estate it regularly acquired. On this aspect, see also Dalla Rosa forthcoming.

Imperial properties played their role, alongside many other aspects, in the complex relationship between the central power and the cities. The choice to keep, increase or sell a property did not happen in isolation from a wider context in which the emperor could not only look to his economic interests, but also had to protect those of his subjects. The patrimonial choices of a ruler are never purely economic or practical ones; rather, they are political and symbolical, and those of the Roman emperors were no different.

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Abbreviations

AE = *L'Année Épigraphique*, Paris 1888-.

CIL = *Corpus Inscriptionum Latinarum*, Berlin 1862-.

EConfines = Cortés-Bárcena 2013a.

EDCS = Clauss-Slaby Datenbank Epigraphische, <<http://www.manfredclauss.de/>>.

Elliot = Elliot 2004

FIRA = Bruns K. G., *Fontes Iuris Romani Antiqui*⁷, I, Gradenwitz O. (ed.), *Leges et negotia*, Tübingen 1909.

HEp = *Hispania Epigraphica. Archivo Epigráfico de Hispania. Universidad Complutense*, Madrid 1989-.

IC = M. Guarducci, *Inscriptiones Creticae*, Rome 1935-1950.

IGR = René Cagnat *et al.*, *Inscriptiones Graecae ad res Romanas pertinentes*, Paris 1901-1927 (reprint: Chicago 1975).

IK = *Inschriften griechischer Städte aus Kleinasien*, Bonn 1972-.

ILNAix = Gascou 1995.

ILN V.2 = Rémy 2005.

ILLRP = Degrassi A., *Inscriptiones Latinae liberae rei publicae*, I, Firenze 1957; II, Firenze 1963.

ILS = Dessau H., *Inscriptiones Latinae selectae*, Berlin 1892-1916.

Imagines Italicae = Crawford M. *et al.*, *Imagines Italicae. A Corpus of Italic Inscriptions*, London 2011.

InscrIt = *Inscriptiones Italiae*, 1931-1986.

MAMA V = Cox C. W. M. - Cameron A. (eds.), *Monumenta Asiae Minoris Antiqua*, V, *Monuments from Dorylaeum et Nacolea*, Manchester 1937.

Pais, *SupplIt* = Pais E., *Corporis inscriptionum Latinarum Supplementa Italica, consilio et auctoritate Academiae Regiae Lynceorum edita, Fasciculus I. Additamenta ad vol. V Galliae Cisalpiniae*, Roma 1888.

SupplIt = *Supplementa Italica. Nuova serie*, Roma 1981-.

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