

CONTROLLING THE URBAN MOB: THE *COLONATUS PERPETUUS* OF CTH 14.18.1

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ON JUNE 20, 382 C.E., Severus, Prefect of the City of Rome, received an imperial rescript regarding beggars in the city:¹

cunctis adfatim, quos in publicum quaestum incepta mendicitas vocabit, inspectis exploretur in singulis et integritas corporum et robur annorum, adque ea inertibus et absque ulla debilitate miserandis necessitas inferatur, ut eorum quidem, quos tenet condicio servilis, proditor studiosus et diligens dominium consequatur, eorum, vero, quos natalium sola libertas prosequatur, colonatu perpetuo fulciatur quisquis huiusmodi levitudinem² prodiderit ac probaverit, salva dominis actione in eos, qui vel latebram forte fugitivis vel mendicitatis subeundae consilium praestiterunt.

If there should be any persons who adopt the profession of mendicancy and who are induced to seek their livelihood at public expense, each of them shall be examined. The soundness of body and the vigour of years of each one of them shall be investigated. In the case of those who are lazy and not to be pitied on account of any physical disability, the obligation shall be placed upon them that the zealous and diligent informer shall obtain ownership of those beggars who are held bound by their servile status, and as regards those who are attended only by the liberty of their birth, he shall be supported by a perpetual tenancy, provided that he shall betray and prove such sloth. The owners shall be entitled to an unimpaired right of action against those persons who happen to have offered either refuge to fugitives or the advice to adopt the profession of mendicancy.

The rescript draws a distinction between beggars who are aged and/or physically disabled—and therefore genuinely *invalidi*—and those whose only reason for begging is assumed to be laziness. It directs that these latter are to pass to the ownership of the individual who denounced them if it is discovered that they are fugitive slaves. If they are freeborn, however, the law gives them to him in an arrangement described as *colonatus perpetuus*, a perpetual tenancy. This paper

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¹ CTh 14.18.1 = CJ 11.26.1 (tr. Pharr, with some modifications). It is difficult, perhaps impossible, to identify the petition that prompted the promulgation of this rescript in the first place, although it might be suggested that it is a response to a request from the urban prefect himself for a legal ruling on beggars. The question remains open—in any event, the focus of this paper is upon the problems that the text itself presents.

² Following the correction of Mommsen (1905). The ms has *lenitudinem*.

focuses upon the motivations behind the imposition of this *colonatus perpetuus* and the administrative and socio-economic processes it illustrates.

This law is the first preserved legal recognition of mendicancy in the Roman Empire. It provides tantalising glimpses of the heterogeneous identity of beggars in the city of Rome, aristocratic attitudes to those beggars, and the underworld in which they moved. It is also the first surviving evidence of an attempt to ascribe responsibility for beggars to private individuals, an attempt which is next attested some 157 years later in an edict of Justinian.³ Nevertheless, scholars have accorded it little attention. When the text has been examined, it has been treated in one of two ways. On the one hand, early scholars of the “colonate of the late Roman empire” suggested that the state imposed this condition of registered dependent tenancy upon urban beggars in response to a rural manpower shortage.⁴ On the other hand, historians concentrating on attitudes to poverty have placed the rescript within the context of a new, self-consciously Christian ethic of alms to the poor, and regarded it as an attempt to detach conceptually the deserving from the undeserving poor.⁵

In this paper, we offer an alternative interpretation. We argue that this legislation should be interpreted within the context of two processes in relations between the imperial administration, its aristocracy, and the mass of the populace. The first is the public acknowledgement, adoption, and incorporation of private structures of alliance and dependence. The second is the blurring of the analytical distinction between tenancy and patronage relationships. These processes are elements in a wider administrative phenomenon of the late Roman period: the creation of discrete, recognisable, sub-municipal collectivities, designated as the responsibility of an identifiable private individual.

This paper explores three complementary categorizations of “the poor.” The first is the division of the poor into “deserving” and “undeserving” in both pagan and Christian discourse. The second is the distinction—concrete in Christian discussions, but present also in pagan comment—between “legitimate” and “illegitimate” beggars. The third is current theories of poverty, which speak of the “structural” and the “conjunctural” poor. Each of these categorizations is based upon a specific set of criteria, and those criteria determine the picture of the poor that emerges in each case. We argue here that, while the two are indirectly linked, the distinction between illegitimate and legitimate beggars that underpins the text under discussion here should be detached from contemporary debates over the deserving poor. Moreover, while there is considerable overlap between ancient concepts of legitimate and illegitimate beggars on the one hand, and the “structural” and “conjunctural” poor of modern discussions on the other,

³ *Novella* 80.4–5.

⁴ Clausen 1925: 29; Jones 1958: 9.

⁵ Rougé 1975: 343–344, followed by Neri 1998: 59.

the two are by no means an exact fit. In each case, different sets of criteria produce differently nuanced pictures of the phenomenon they describe.

The paper will be structured in the following way. First, the identity of beggars in Rome is discussed, the circumstances in which they might come into contact with the rich are outlined, and the role of the shadowy figures who might encourage individuals to take up begging is explored. Next, the attitudes of the rich towards beggars are sketched. We argue that, while there are subtle and significant differences in emphasis, the fourth-century Christian debate over charity to the poor was not as radically different from its non-Christian predecessor as has been suggested. We also demonstrate that this text is only indirectly connected with that debate. Finally, the factors motivating this rescript are explored. We argue that this legislation is a response to urban rather than rural conditions. It is a reflection of the urban aristocracy's fear of a section of the urban population over which it had little control.

BEGGARY IN ROME

This aristocratic interference in beggars' lives is in a sense not surprising, for they were highly conspicuous in the cities of the Roman world. In the sources, they can be seen trying to take advantage of the concentration of passers-by. They wandered the streets,⁶ approached the houses of the wealthy ("shearing the sheep," as Lucian puts it),⁷ or waited anywhere promising for alms: sitting in the streets or alleys; in the markets; on corners; at cross-roads; at the city gates; outside temples; or on bridges.⁸ They can be observed taking refuge under bridges; ramps (*clivi*); vaults; porticoes; the corners of walls; quieter spots in the marketplace; entrance halls; sheltering trees in parks; the walls of bakeries or the baths, which might retain some heat; beneath the stairs and in the cellars of *insulae*; and in the mausolea outside the city.⁹

⁶ Ps.-Quint. *Decl.* 9.18.

⁷ Lucian *Fug.* 14. Cf. Sen. *Contr.* 1.1.10; Ov. *Ibis* 113; ps.-Quint. *Decl.* 9.12. This activity is depicted in a wall painting from Herculaneum, although it is unclear whether the beggar is a Cynic. See Daremberg and Saglio 1904: 1713.

⁸ Streets and alleys: Juv. 5.8; Lucian *Cyn.* 1; Dio Chrys. *Or.* 32.9. Markets: Alciphron 3.4. Corners: Apul. *Met.* 1.6.1–2; Dio Chrys. *Or.* 32.9. Cross-roads: Hor. *Epist.* 1.17.58; Cat. 47.6–7. City gates: Patterson 2000: 103. Temples: Dio Chrys. *Or.* 32.9; Mart. 4.53. Bridges: Juv. 5.9, 14.134.

⁹ Bridges: Sen. *De Vita Beata* 25.1; Juv. 5.8, 14.134; Mart. 10.5.3, 12.32.25. Vaults: Scobie 1986: 403. Porticoes and marketplaces: Gregory of Nyssa *De pauper. amand.* 1 (PG 46.457). Entrance halls: Augustine (*Serm.* 345.1) scolds the rich man for ignoring the beggar lying in his doorway. Baths: Alciphron (3.40.3) mentions that the poor sheltered from cold in the chambers of the baths or around their ovens, although Scobie (1986: 403) observes that the accessibility of the baths at night is difficult to determine. In any case, the small entry fee of 1/4 *as* might have deterred some. Alciphron's poor artisan has to bribe the attendant with 2 obols. *Insulae*: Scobie 1986: 403. Mausolea: *Digest* 47.12.3 (Ulpian); Scobie 1986: 402–403. *Digest* 47.12.3.11 implies that slaves were a common category of tomb-dwellers. Cf. Petron. *Sat.* 71.8 for the use of tombs as toilets.

If beggars could get them, they slept on mats, or a bit of hay or a straw sack.¹⁰ Ammianus Marcellinus, commenting on where the destitute found shelter, observes that some chose to pass whole nights in the warmth of *ganeae*, and this echoes Juvenal's portrayal of the poor and criminal whiling the nights away in all-night *popinae*.¹¹ One might expect shanty towns, and we know structures of this sort existed: *tuguria*, *ergasteria*, or *parapetasia*, often built up against or on top of more solid structures, such as workshops or public buildings. The gaps between portico columns were a popular site, as were the sides of aqueducts.¹² City officials had some of these structures pulled down because of the risk of fire or a perception that they were encouraging *insidiae*.¹³ Others were tolerated, but could (astonishingly) potentially have been too expensive for beggars, as their builders were liable to land-tax (*solarium*).¹⁴

Some of these beggars will have come from the body of Rome's structural poor, a group that consisted of those unable to work: the disabled, chronically ill, elderly, or very young who lacked kin or friends who would support them.¹⁵ These people were eternally poor because they could not labour and no organised help was available to them. The largest subsets were those of the unsupported chronically ill or disabled, and the unsupported elderly, particularly elderly women. The free poor are likely to have been heavily represented among the destitute at Rome: they were particularly vulnerable because of their dependence on physical labour for a living, and because cushioning patronage relationships were not available to them. Disability and frailty hit them hard. Elderly or sick slaves and *libertini* will also have featured, however, even though in theory their masters or patrons had responsibilities to them. Invalid veterans probably also formed a small group.

In addition to this core of unsupported structural poor, there were also periodically members of the conjunctural poor, who experienced spells when they were reduced to destitution, oppressed, for example, by epidemic, famine, unemployment, or debt. Women, children, and *peregrini* will have been heavily represented among this group, having in the first two cases generally lower earning power than men, and in all cases little or no access to mechanisms that functioned to prevent slippage down the economic ladder for citizen men and, to an extent, *libertini*. Those who might find themselves temporarily destitute until they located work include groups such as the labouring urban poor; escaped

¹⁰ Juv. 9.140, 5.8; Sen. *De Vita Beata* 25.2.

¹¹ Amm. Marc. *Res Gest.* 14.6.25; Juv. 8.158. On the notoriety of *popinae* and *ganeae*, see Toner 1995: 65–88.

¹² Scobie 1986: 402; cf. Patlagean 1977: 60–61. For aqueducts, Robinson 1980: 72. *CTh* 15.1.4 allows the building of shanties on the roofs of public workshops.

¹³ Dio Chrys. *Or.* 40.8–9; *CTh* 15.1.39; cf. Chrys. *Hom in I Cor.* 11.5 (PG 61.94–5). See MacMullen 1959: 208–209.

¹⁴ *Digest* 48.8.2.17 (Ulpian).

¹⁵ See Parkin 2001: 26–34 on the evolution of this model and for its application to the Roman world.

slaves;¹⁶ and victims of natural disasters (as for instance the shipwrecked, relatively few, but conspicuous in the sources);¹⁷ tenants who found themselves evicted for rent arrears;¹⁸ and workers paid a very low wage and unable to meet, for example, a price increase before a new harvest.¹⁹

Poverty was probably more acute in Rome than in other towns and cities. Its population density and awful living conditions certainly suggest more potential for poverty.²⁰ There can be no doubt that Rome's slum conditions must have harboured widespread destitution, indeed, manufactured it, since increased mortality destabilises families and households. Juvenal characterises ethnic minorities in Rome as vulnerable to destitution, which seems probable: immigration was high, and such social aid as was forthcoming was targeted at citizens.²¹ Moreover, immigration and urban drift tend to result in the severing of kinship ties that might otherwise serve to buffer people against crisis.²² But not all of the Empire's destitute will have been people on the move: in a society with virtually no provision for social welfare, vulnerable groups within society will have been constantly facing the spectre of destitution if their kin or friends could not or would not support them.

Some groups of Rome's beggars appear to have established a degree of social organisation among themselves. Friedländer, for example, identified a beggars' camp or colony at Aricia, about twenty kilometres from Rome, on the Via Appia en route to Capua and Puteoli.²³ Community has advantages and disadvantages for beggars. Operating in close concentration can mean competition for alms, but on the other hand the mob has power where the individual may be ignored. Community living can also provide some security against violence, to which a public existence leaves beggars open, and provide a sense of belonging and equality in the face of a despising society.²⁴

If beggars do band together for solidarity, comparative evidence suggests that hierarchy is likely to result. Leadership can rely on force, the control of assets to

¹⁶ Philo *Quod omnis probus liber sit* 21; cf. *CJ* 4.49.14; see also MacMullen 1971: 110.

¹⁷ Cf. Gripus in Plautus' *Rudens*; *Cic. Rosc. Am.* 147; *Sen. Ep.* 48.8; *Juv.* 14.298–302.

¹⁸ Chrys. *In epist. ad Hebr. hom.* 11.4 (PG 63.94); *In gen. serm.* 5.3 (PG 54.602–603); Basil *Hom. quod mundanis adhaerendum non sit* 8 (PG 31.553–556).

¹⁹ Prell 1997: 65; cf. Cherry 1993: 443 n. 39.

²⁰ Prell 1997: 66.

²¹ *Juv.* 3.10–16; 6.542–556.

²² Cf. Gallant, 1991: 144; Meggitt 1998: 170.

²³ Friedländer 1886: 249, n. 3. The four *loci classici* are *Juv.* 4.117; *Mart.* 2.19.3; 10.68.4; 12.32.10.

²⁴ Firmicus Maternus (*Mathesis* 4.10.2) characterised beggars as prone to meeting violent death, and Philostratus (*De vita Apollonii Tyaneii* 4.10) depicts the stoning of an itinerant elderly man found begging at Ephesus, although the Ephesians have to be prodded quite hard before they can bring themselves to attack a defenceless beggar. Shaw (2000: 392) observes that the man's poverty and age make him marginal, legitimising him as a target for violence. Den Boer (1979: 129–132) discusses an institutionalised version of this scapegoating of elderly beggars at Athens. Schak (1988: 202–203) observes that stigma pushes beggars in modern Taipei together, in order to "avoid [the] condescension of the outside world."

indemnify, or a softer approach: offering advice, knowledge, or kindness, or simply manifesting organisational skills.²⁵ In modern Taipei, disabled people are used as “begging implements”: they are fed, clothed, and sheltered by other beggars in return for their co-operation as begging aids.²⁶ Beggars in Taipei are regulated through recognition of their leaders. People of higher social standing negotiate with these: paying them off to keep their employees away. The leaders control defended territory, and discipline their followers, dictating where and how they should beg.²⁷ In return for a cut of their earnings, gang leaders concern themselves with the welfare of their members to a certain extent, including looking after the sick for short periods.²⁸ The structural poor become, in effect, the employees—or slaves—of the less poor. That the elder Seneca devotes one of his *Controversiae* to just such a situation suggests that controlling other beggars could be quite a profitable business.²⁹ The shadowy figures mentioned in this rescript, and described as harbouring fugitive slaves and advising people to adopt the profession of mendicancy, may also have been leaders of beggars’ gangs, offering advice and shelter to vulnerable and marginalised inhabitants of the city.

ATTITUDES TO BEGGARS

Roman aristocrats, both pagan and Christian, periodically gave alms to beggars.³⁰ When Roman writers mention poverty, however, the attitudes they reveal appear complex and contradictory. Whittaker distinguishes two different possible attitudes to poverty: firstly, a view which holds that poverty is part of the natural order of things, and secondly, a view which contends that the poor have only themselves to blame for their poverty. He observes that although these are contradictory ideas, they can happily coexist in a state of cognitive dissonance in the minds of the rich, and can readily be seen to have done so in upper-class sources from both the Greek and Roman cultures. Under the umbrella of the second view are the stereotypes of criminality, profligate breeding, ignorance, and mental and physical disability. The consequence of these beliefs is an unwillingness on the part of the rich to engage in the aid of the poor, since such aid exacerbates the idleness of this group, who then become disruptive.³¹ This deep mistrust of the poor by the rich was as much a part of Christian discourse as of pagan: compare

²⁵ Schak 1988: 202.

²⁶ Schak 1988: 47.

²⁷ Schak 1988: 20. The children in Sen. *Contr.* 10.4 were sent out on the streets, to different districts, and the doors of different houses.

²⁸ Schak 1988: 23–25.

²⁹ Sen. *Contr.* 10.4.

³⁰ For Christian alms-giving, see the discussions and historiographical summaries of Holman 2001: 12–21, Garnsey and Humfress 2001: 123–124 with n. 48. For a detailed discussion of pagan alms-giving, see Parkin 2001: 114–149.

³¹ Whittaker 1993: 273–274; cf. Toner 1995: 69–71, with further references.

Ambrose's concern that conmen might prey upon the unsuspecting alms-giver with Cicero's assertion that some of the poor, at least, deserve their misfortune.³²

One concomitant of the assumption that poverty was a structural given in society was the acknowledgement that the rich, even if they were inclined to aid the poor, could only hope to relieve a very small number of cases. As a consequence, debates over charity revolved around a practical question: who *could* be helped? The question was answered in different ways, but on one point, at least, there was agreement: charity was a selective exercise. Caesar's offer of help to all in society incorporated slaves and debtors, but stopped short of the very poor, who were beyond help.³³ Nor could—or would—the Church support all the poor, as Ambrose acknowledges when he observes that “to those rejected by the Church supplies must be granted if they are in want of food.”³⁴

Who, then, *could* be helped? Attempts, by both pagans and Christians, to answer this question were framed in moral terms: one *should* give aid to the worthy or deserving poor. Ambrose's remarks presuppose that this category of the poor could be separated from the undeserving, who would then be rejected—but how, and based on what criteria?

In pagan constructions, “one's needy economic state did not in itself constitute a moral or social right to receive aid.”³⁵ Rather, the deserving poor constituted a socio-economic category, connected to the powerful members of the community and as a consequence integrated into the structure of urban society. Cicero identifies two groups of people worthy of charity: first, individuals overwhelmed by misfortune, and second, those seeking to better their condition.³⁶ Moreover, he predicates his advice to help these individuals upon the assumption that to do so reflects honour upon the benefactor. While the first category are the more needy, those who need help to raise their fortunes—and who are then in a position to express their gratitude in a fashion commensurate with the social position of their benefactor—promise a more public reward.³⁷ Thus, the entitlement of the worthy poor to aid reflected two aspects of their position in society: firstly, they were already an accepted part of the community, and secondly, they were already incorporated within established structures of vertical alliance. Tacitus acknowledges these fundamental defining characteristics when he distinguishes “the respectable part of the common people and those attached to the great houses” from “the lowest classes, addicted to the circus and theatre.”³⁸

³² Ambr. *Off.* 2.76–77; Cic. *Off.* 2.62.

³³ Suet. *Jul.* 27.

³⁴ Ambr. (*Off.* 2.77), probably referring to the *matricula pauperum*, lists of the registered poor that are attested from at least the late fourth century. On these documents, see, for example, Rouche 1974; Krause 1996: 117–126; Garnsey and Humfress 2001: 125–126.

³⁵ Holman 2001: 18, citing Brown 1992.

³⁶ Cic. *Off.* 2.61–62.

³⁷ Cic. *Off.* 2.63.

³⁸ Tac. *Hist.* 1.4; cf. Sen. *Ben.* 2.23.3.

Pagan comment on beggars is diverse and genre-dependent, but such comment as is passed expressing pity for beggars generally does privilege the structural poor. That is, sympathetic comment goes to the mad, the old, the disabled, and children.³⁹ There existed in pagan discussions a distinction between these legitimate beggars and beggars whose activities were considered illegitimate—or who, at least, were not to be pitied. For pagans, however, these legitimate beggars and the deserving poor were two totally separate groups. As the following discussion will reveal, for the Christians, these groups blurred. The *topos* of the illegitimate beggar was more important in Christian discourse about the deserving poor, as Christian charity was comparatively systematized. It was important to identify cheats and conmen, for they were not only illegitimate beggars, they were also undeserving of alms. Consequently, in its desire to arrive at criteria for identifying illegitimate beggars, the text under discussion here does reflect Christian concerns over the deserving poor.

The Church consciously espoused the call to give alms issued by Jesus and his disciples. Following Jewish practices, Christian discussions of philanthropy expanded the focus of charity to include many of those marginalised individuals who had been excluded from the pagan notion of the city. Consequently, Christian charity potentially included a much greater proportion of the individuals labelled above the structural poor.⁴⁰ In the process, the beneficiaries of alms-giving were endowed with a special moral function: they were, in the words of John Chrysostom, “the doctors of our souls, their benefactors and guardians.”⁴¹ As recipients of Christian charity, they became a fundamental component of the moral self-representation of the late antique civic community.

But even in Christian discourse, it was acknowledged that moderation, or method, was needed in giving.⁴² The Church drew up lists of registered poor, who enjoyed a special status among the deserving poor, but membership in this privileged group was strictly limited.⁴³ Even isolated acts of charity should only be made after careful consideration. Ambrose offers this advice to the clergy:⁴⁴

plerique simulant debita: sit veri examen. Exutos se per latrocinia deplorant: aut iniuria fidem faciat aut cognitio personae quo propensius iuvetur.

Many pretend that they have debts: let the truth be looked into. They bemoan that they have been deprived by robbers: give aid only if the misfortune is readily apparent, or the person is well known.

³⁹ See, for example, Sen. *Clem.* 2.6.3; Sen. *Contr.* 10.4.19. For a fuller discussion, Parkin 2001: 131–137.

⁴⁰ Brown 1992: 91; Holman 2001: 19–20; Garnsey and Humfress 2001: 124.

⁴¹ Chrys. *On Pity* 3.1, quoted in Garnsey and Humfress 2001: 124.

⁴² Ambrose (*Off.* 2.77) comments that “he who observes method in his giving is hard towards none, but is free towards all”; cf. the advice of Cicero (*Off.* 2.55) that “one’s purse should not be closed so tightly that a generous impulse cannot open it, nor yet so loosely held as to be open to everybody.”

⁴³ Above, n. 34.

⁴⁴ Ambr. *Off.* 2.77.

Again, in order to receive charity from the Church, individuals had to fulfil certain criteria. In particular, Ambrose emphasises the desirability of a pre-existing or potential relationship between benefactor and beneficiary. This aspect of Christian charity becomes more visible over the course of the fourth and fifth centuries, with the rise of the bishop as patron of the civic community in competition with secular aristocracies.⁴⁵

The deserving poor, then, constituted a sub-set of the urban poor. What of the rest? Brown observes that the homeless and destitute were excluded from the self-image of the traditional (i.e. pagan) city.⁴⁶ For the Roman aristocracy, the urban poor were dangerous, idle, and had nothing to offer.⁴⁷ Even their respect was barely worth having, and then only for considerations of civic security.⁴⁸ More often, they were treated with contempt. An anecdote of Ammianus Marcellinus reveals that this was the case even in the late antique city. Ammianus describes games held by the *praetor* Lampadius (*Res Gestae* 27.3.6):⁴⁹

hic cum magnificos praetor ederet ludos, et uberrime largiretur, plebis nequiens tolerare tumultum, indignis multa donari saepe urgentis, ut et liberalem se et multitudinis ostenderet contemptorem, accitos a Vaticano quosdam egentes, opibus ditaverat magnis.

When he gave a magnificent show as praetor and distributed largesse on a most generous scale, he could not bear the clamorous demands of the populace that he should make gifts to its undeserving favourites, and in order to demonstrate both his liberality and his contempt for the mob, summoned needy folk from the Vatican hill and bestowed rich presents upon them. (tr. Hamilton 1986)

By perverting the normal paradigm of elite giving, Lampadius dealt a double insult. In the first place, he accentuated the gulf between the recipients of this unexpected largesse and the crowd congregated in the circus. Even in the eyes of the latter, the former were excluded from society. In the second place, he underlined his scorn for the members of that crowd, who considered themselves to be included in civic society, and expected as a result to benefit from the munificence that accompanied aristocratic competition in the cities of the Empire.

⁴⁵We do not intend to explore this phenomenon here. For a detailed discussion, see Lepelley 1998.

⁴⁶Brown 1992: 84.

⁴⁷Garnsey 1999: 112. Toner (1995: 72) observes that *levitas* was considered to be the defining characteristic of the *plebs urbana*, creating a propensity to random violence, crime, and political fickleness. See Crook 1967: 168 for the perception of theft as a lower-class crime. *P. Oxy.* 2554 (third century CE) predicts the retributive overthrow of the rich and the redistribution of their property, a more violent version of the gentle fantasy of Lucian's *Saturnalia*. Cf. also Sall. *Cat.* 37 for elite fears that the poor will envy and want to overthrow the rich.

⁴⁸See Veyne 2000: 1194–99; Toner 1995: 125–126 on the *plebs sordida* as a politicised group.

⁴⁹The passage is part of a highly polemical and hostile attack upon Lampadius. See the discussion of Barnes 1998: 116, arguing that these “beggars” were Christian clerics. Note also, in the context of attitudes towards beggars, the scarcely credible but nonetheless revealing story in Lactant. *De mort. pers.* 23.9, where the emperor, unable to squeeze anything out of the *mendici* in the census, has them shipped out to sea and drowned.

Debates over the deserving poor in late antiquity—even among Christians—were as much about exclusion as inclusion. But we should not assume that deserving and undeserving were the only categories used in discussions of the urban poor. Certainly, the beggars identified in the text under discussion here as *non invalidi* are considered illegitimate beggars. They are external to the self-identity and social structure of the city. But they are not excluded by recourse to the debates over the deserving and undeserving poor. To be considered a legitimate beggar was not necessarily to be numbered among the deserving poor, for the two were not co-extensive sets. Consequently, the late Roman debate over the deserving poor provides a potentially misleading lens for interpreting the attitude of this rescript towards legitimate and illegitimate beggars. In the concluding section of this paper, we explore some alternative lenses of interpretation.

MOTIVATIONS FOR THE RESCRIPT

Our rescript attempts to distinguish legitimate from illegitimate beggars, using as criteria the *integritas corporum et robur annorum*. Consequently, it is traditionally interpreted as part of the Christian debate over who was deserving of alms. However, as we have seen, legitimate beggars and the deserving poor were not identical categories. And in any case, legitimate beggars are only indirectly discussed in this legislation, which focuses upon *inertibus et absque ulla debilitate miserandis*, that is, those who are begging without good reason. The rescript prescribes ways to neutralise the uncontrolled behaviour and freedom of movement of these individuals. Of the two scenarios that are envisaged, cases involving fugitive slaves appear relatively straightforward. The *proditor* is to obtain ownership of such individuals as a reward. But the *colonatus perpetuus* proposed for freeborn beggars is more problematic. What was this institution, why was it prescribed as a means for restricting the freedom of healthy, able-bodied beggars, and upon what foundations was this restriction envisaged to rest?

It was once held that this rescript could be interpreted as a response to a shortage of labour in the countryside or a crisis of agriculture, since the law envisages converting urban-dwelling beggars into rural tenants. But in recent scholarship, the paradigm of generalised economic crisis and manpower shortage in the fourth and fifth centuries has been firmly rejected.⁵⁰ Current scholarship on the “colonate of the late Roman empire” has sought the genesis of the institution elsewhere, regarding it as a phenomenon with its origins in the new fiscal system instituted under the Tetrarchy.⁵¹

Nor is it likely that this rescript was promulgated in order to benefit aristocratic landowners, or at their instigation. It seems *a priori* implausible that large numbers

⁵⁰ Whittaker 1976: 164; Krause 1987: 328 and n. 278, for further references; *pace* Nixon, in Nixon and Rodgers 1994: 144, n. 77.

⁵¹ See, for example, Carrié 1983: 212 and 221; this builds on Goffart 1974: 42 with n. 4*; 68 with n. 5*. For a survey of the current state of scholarship on this topic, see Scheidel 2000.

of urban-dwelling landowners would enthusiastically denounce urban beggars in order to obtain the services of these individuals upon their rural estates. Although they may have been capable of performing tasks that were relatively unspecialised—such as might be required at harvest time, and periodically throughout the agricultural calendar—most of these individuals were unskilled, or, at best, inappropriately skilled.⁵² They lacked basic knowledge and experience of farming. It is likely also that they were undernourished.⁵³ In combination, massive problems would have attended transporting, feeding, and training such men so that they might become useful agricultural tenants or even unskilled labourers. The benefits of obtaining such a labourer would not outweigh those problems.

It is possible that this is a response to a more localised crisis. One can imagine an impulse to expel beggars from the city of Rome, for example, in times of food shortage.⁵⁴ Ammianus provides a vivid example of a response to such a food shortage in Rome (*Res Gest.* 14.6.19).⁵⁵

postremo ad id indignitatis est ventum, ut . . . peregrini ob formidatam haud ita dudum alimentorum inopiam pellerentur ab urbe praecipites.

Lastly, the ultimate disgrace, not long ago . . . foreigners were banished in headlong haste from the city because a famine was expected. (tr. Hamilton 1986)

Beyond the text under discussion here, there is no evidence for the assumption that there was a food shortage in Rome during Severus' urban prefecture that would warrant imperial legislation⁵⁶—although this need not be taken as proof that there was not such a shortage.

The factors motivating this rescript can, perhaps, be sought elsewhere. This is a piece of legislation situated within an urban context. It was addressed to an urban magistrate and directed at an urban phenomenon. That phenomenon was the perpetual threat of civil unrest posed by the urban mob, a threat that permeated the consciousness of urban aristocracies throughout the Roman period.⁵⁷ In the minds of the members of those aristocracies, healthy, able-bodied beggars were

⁵² Cf. Toner 1995: 73–74 on the unskilled urban populace, and their attempts to obtain work.

⁵³ It is difficult to generalise or find much concrete evidence about access to food among the poorest, but the sources frequently characterise beggars by hunger and weakness. See, for example, ps.-Quint. *Decl.* 5.9; cf. Ov. *Met.* 8.799–808. Prell (1997: 70) hypothesises that the daily-begged coin might have bought a meal in a cookshop, a draught of cheap wine, and entrance to the baths. This seems rather optimistic, approaching a standard of living comparable with that of the free labouring poor, but perhaps a particularly piteous or aggressive beggar with a good patch could have achieved this. There is no reason to assume that all beggars fared equally badly, but hunger is characteristic of beggars in our texts.

⁵⁴ Pace Carrié 1975: 1033, it is unlikely that this became an imperial policy in the late Roman period.

⁵⁵ Of course, Ammianus' indignation is motivated at least in part by the fact that dancing-girls, their hangers-on, and mimes were permitted to stay.

⁵⁶ Rougé 1975: 343.

⁵⁷ See, for example, Amm. Marc. *Res Gest.* 14.7.6. For further references and discussion, MacMullen 1974: 66; 1990: *passim*; Whittaker 1993: 287–288; Toner 1995: 72–74.

voluntarily unemployed. They were unhindered by the responsibilities attendant upon a reciprocal relationship with an individual of higher social standing. They were worryingly independent of kinship networks or the collective responsibilities of a *collegium*. They were, in short, uncontrolled. Potentially, they could violently disturb the order of the city.

Viewed as a response by urban aristocrats to the real or imagined threat of the urban mob, this law becomes more intelligible. The text is a reflection of principles that underpinned the attitude of the state towards its citizens in the period following the fiscal reorganisation of the Empire. Fundamental to this attitude were the extension of the principle of collective responsibility for taxation, and the public acknowledgement, adoption, and incorporation of private arrangements or structures of alliance in order to ensure that this responsibility was acknowledged.

These processes can be clearly seen in the tax system of the late Roman period, in which private relationships were increasingly appropriated into public contexts. In its conception, *capitatio-iugatio* was practical, simple, and direct. All *munera*, liturgies, and burdens were incorporated into a single, unified system of declarations and assessments in abstract units that could be expressed using a common language—the language of *iuga* and *capita*. In the process, the State reached into the municipalities and became involved in the allocation of their assessed tax burden. Conceptually, the *civitas stipendiaria* was fragmented, and divided into clusters of sub-urban tax collectivities.⁵⁸ Individual members of the community were identified as responsible for the proportion of the tax burden assessed upon these collectivities.

Among these named individuals were aristocratic landowners. For both peasants and the state, they were a natural intermediary in the collection and transmission of taxes. It might be customary for a landlord to take responsibility for paying the fiscal burdens of his tenants—and this is the subject of an early fourth-century protest from the inhabitants of the village of Euhemeria in Egypt.⁵⁹ The existence of such arrangements is acknowledged in a law of Constantine,⁶⁰ and in an edict of 371, the custom was publicly recognised and formally institutionalised:⁶¹

penes quos fundorum dominia sunt, pro his colonis originalibus quos in locis isdem censos esse constabit, vel per se vel per actores proprios recepta compulsionis sollicitudine implenda munia functionis agnoscant.

If any person should have the ownership of any field, then either through himself or his own bailiffs, he shall accept the responsibility for compulsion, and he shall assume the

⁵⁸ For a fuller discussion, Grey 2002: 151–160. Cf. Carrié 1994: 45–46 with n. 61.

⁵⁹ *P. Ross. Georg.* III.8.11–12.

⁶⁰ *CTh* 11.7.2 (319, Britain).

⁶¹ *CTh* 11.1.14 = *CJ* XI.48.4 (371S, East). See Barnes 1998: 252 for further proofs that Seeck's emendation is correct, and the ms date of 366 should be rejected.

fulfillment of the duties of this compulsory service for those *coloni originales* who are proved to have been enrolled on the tax lists on such lands.

Similarly, the provisions of the rescript in question here reveal the public appropriation of a private arrangement for the benefit of the municipality. The language in which this tenancy arrangement is described has resonances of the *opus publicum in perpetuum*. This was a punishment imposed upon criminals of particularly humble status and upon slaves.⁶² It involved heavy and humiliating labour, but was less severe than condemnation to the mines (*opus metalli*).⁶³ It entailed physical labour in the service of the cities, that is, it was a public sentence administered by the municipality, and benefiting that municipality. Certainly, Ambrose's discussion suggests that illegitimate beggars were considered to be little different from criminals.⁶⁴ However, the rescript under discussion here appears to be focused upon control of this section of society, rather than punishment *per se*. By attaching an illegitimate beggar to a landowner in an arrangement of *colonatus perpetuus*, the municipality was attempting to delegate responsibility for this marginal element of the urban population to private individuals. This remedy amounted to the creation of a private relationship that was nevertheless envisaged to be serving the public interests of the municipality.⁶⁵

Late Roman sources also reveal the interweaving of tenancy arrangements and patronage relationships. The two had always been closely related. A tendency towards long-term tenancy contracts allowed for the development of a patronage relationship between tenant and landlord.⁶⁶ Among the benefits that the former might expect from the latter was that he write a letter of support in the event of the tenant seeking intercession or other assistance from another individual.⁶⁷ In such a letter the landlord might be expected to speak of the obligations placed upon a patron. In the late Roman period, however, the analytical distinction between tenancy and patronage appears blurred. A particularly striking example of this blurring can be seen in a letter of the Italian senator Symmachus. In it, Symmachus acknowledges his role as patron on the ground that he owns the land rented by his tenant, observing:⁶⁸

⁶² *Dig.* 47.18.2; *Paulus Sent.* 5.17.2; cf. *Plin. Ep.* 10.31–32.

⁶³ Millar 1984: 134–136. For the persistence of condemnation to the mines as a punishment in the late Empire, see now Gustafson 1994.

⁶⁴ *Ambr. Off.* 2.76–77.

⁶⁵ The use of the term *colonatus* to indicate private arrangements in rural contexts, and explicitly opposed to public, urban obligations may also be observed in an edict aimed at maintaining the civic institutions of the municipalities of Gaul (*CTh* 12.19.2 [400, Gaul]). That such an arrangement was to be considered beneficial to the economy of the municipality as a whole is stated in *CTh* 11.10.1 (369, Gaul).

⁶⁶ *Columella Rust.* 1.7.3; *Lib. Or.* 47.13.

⁶⁷ *CTh* 2.31.1.2 (422, West). For more detailed discussion of how such relationship systems might work in practice, see Grey forthcoming.

⁶⁸ *Symmachus Ep.* 7.56.

pro Theodulo . . . scribendi mihi ad te causa propensior est, cum sit colonus agrorum meorum atque illi debita magis quam precaria cura praestetur.

My reason for writing to you on behalf of Theodulus is more pressing because he is a tenant of my fields and my care for him is more an obligation than it is a favour.

Here it is sufficient for Symmachus to identify himself as the man's landlord for his actions as a patron to be justified. A tenancy arrangement is described as if it were in itself a patronage relationship.

The rescript under discussion here acknowledges and exploits the interweaving of these two analytically distinct types of vertical alliance.⁶⁹ It consciously extends the responsibilities of the *dominus*-as-landlord and seeks through the creation of a tenancy contract to impose a relationship of dependence upon urban beggars. Such individuals would ordinarily be excluded from the benefits of such a vertical alliance. More significantly, they were also immune to the controls of that relationship.

It is not at all clear that the measure was effectively applied—if, indeed, it was applied at all. In the absence of a general manpower shortage, there appears to be little practical benefit for landowners in the arrangement—particularly since the labour they acquired would be unskilled and, probably, undernourished. At an ideological level, however, *colonatus perpetuus* was envisaged as a tool for controlling troublesome, threatening elements of the urban population and removing them from the city. It was probably intended to be a deterrent for undesirable behaviour. Interestingly (though perhaps incidentally), given the awful living conditions endured by most beggars, the arrangement held potential benefits for the beggar as well, since the onus for the beggar's maintenance was thrust upon the *proditor*, at least in theory.

This law does detach conceptually those beggars whose claims for charity were valid from those who were suspected of being merely lazy. As such, it can be linked to Ambrose's conviction that able-bodied individuals were begging illegitimately. Equally, though, it reflects an aristocratic preoccupation with the worrying phenomenon of the urban mob. The significance of this law lies in the light it sheds upon the interest of the Roman imperial administration in regulating and controlling its urban and rural populations. That control was to be achieved through the interweaving of analytically distinct categories of social interaction. Private alliances were incorporated within the public interest. The impersonal contract of tenancy became enmeshed with the personal bonds of patronage.

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⁶⁹ It also exploits the ambiguity of *dominus* in the final phrase of the rescript, where the term should be taken to refer to both the owner of a slave and the landlord of a tenant.

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