

Making late Roman taxpayers pay: imperial government strategies and practice

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I) Introduction

Taxes under the later Roman Empire were a subject of passionate debate, no less so than at other times, or in other cultural contexts. As in many modern discussions, the topic of fiscal justice is widely problematized by fourth and fifth century writers and legislators. The focus of the late Roman debate on fiscal justice however seems quite peculiar to the modern observer: there is no notion for example that the poor should pay proportionally less taxes than the rich, or that there should be some form of fiscal recognition of services rendered to the economy, the community or the state.

This statement might at first sight seem dogmatic, but even the Christian church and its clerics, the main “charity” of the Empire, represent only in part a counter-example to this claim. Tax reduction is not granted for orphans fed and widows succoured, but is really given to clerics by virtue of their superior social status. Clerics enjoy tax privileges because they are clerics, not because of what they do as clerics. In the same way senators enjoy tax privileges, because they are senators, and not because some of them organise praetorian games in Rome or act as patrons and benefactors for a community in the provinces. Fiscal justice thus is really rather a question of fiscal dignity. Privileged elite groups like senators, civil servants or clerics demand and are granted tax exemptions, because it would not be fitting for socially superior groups to be subjected to state-organised taxation in the same way as *humiliores*¹.

The second topic dominating contemporary debate on taxation, both in the Codes and in private writings, is the question of the organisation of tax collection: by whom, according to which rules, for how much in indemnities, with what degree of corruption and, finally, using which means of enforcement? Violence in the process of tax collection features prominently in contemporary writings – and on all sides. Salvian of Marseilles² harshly criticises curial tax collectors for the means they employ to collect taxes from the average, humble taxpayer. Libanius of Antioch³ on the other hand deplores the violence against curial tax collectors, both from the peasants who refuse to pay and from the imperial government which threatens, tortures and ruins them. Imperial legislation backs up both perspectives. On the one hand it gives coercive power to curial *exactores* to help them make taxpayers pay – for example forced sale of property (CTh. 11.7.4 (327 CE) –, but on the other hand it multiplies measures creating posts in the city administration to check the abuse and exploitation of individual taxpayers.

It seems clear then that the question of the harshness of late Roman taxation – both in real terms (level of taxation) and in perceived terms (means of tax perception) – cannot be separated from the other factors involved. Means of enforcement constitute only one factor of a model for late Roman tax collection, and this in turn cannot be separated from the peculiar Roman notions of fiscal justice. Both Salvian and Libanius may be right in their particular context (or they may both be employing crude propaganda), but given that taxation is a topic passionately debated by their contemporaries, a study of their writings alone cannot help us decide whether the late Roman tax system is really violent and cruel – or at least becomes more so over time. Also the fundamental question of the development of the actual average tax rate paid in the Empire does not, on its own, provide an answer to the question of the character of tax collection. The characteristics of the collection process depend much more on the positions of the actors involved than on the amount which needs to be collected.

¹ Practically this works of course only because the elites enjoying tax privileges are at the same time the groups which dominate the politics of the Empire. Without real power behind it, elite ideology concerning taxes would hardly come to be applied in imperial policy.

² Salvian, *De gubernatione dei* 5.17 ff.

³ Libanius, *Orationes* 47 (*Περί των προστασιών*) 7 ff.

2) Late Roman levels of taxation and objective pressure on taxpayers

Nevertheless, in order to avoid falling into the simple trap of “more taxes under the late Empire equal more violence and problems in enforcement” it seems appropriate to look briefly at the question of the development of real taxes in our period – as far as this can be done objectively, given that contemporary literary sources are biased and actual papyrus records necessarily patchy.

The image of the later Roman Empire as a period of heavy taxation is in fact part of the classical “decline model” which can still be found even in Jones’ *Later Roman Empire*. In his discussion of the efficiency of the tax collection systems in the West and the East, Jones concludes⁴:

“By and large the system worked only too efficiently, squeezing from the taxpayers despite their constant complaints an ever growing revenue, adequate not only to cover the mounting current expenses, but even under prudent management to build up reserves (West). [...] The machine was perhaps too efficient. It raised a steadily mounting revenue which by the reign of Justinian amounted to nearly a third of the gross yield of the land (East).”

This high-tax model for the later Roman Empire is the logical consequence of other choices made in the overall description of the Empire, most notably the assumption of a growing and increasingly expensive late Roman army and an expanding civil service. The assumption of rising expenses is combined in some of these models with the assumption of a shrinking economic base through loss of territory to barbarians and through over-exploitation of land and peasants. It is worth noting therefore that generally the assumption of rising taxes under the later Roman Empire is based not on an analysis of the fiscal system itself, but rather on a discussion of expenditure which, with documents like the *Notitia Dignitatum*, seems more easily feasible.

To this can be added moralising statements in the imperial legislation itself. Valentinian III in 444-5 CE for example seems to imply that taxes on landowners and traders have risen to a level where, despite the necessity of greater expenditure, any further increase is impossible (*Nov.Val.* 15). De facto this does of course not stop the imperial government from applying a new sales tax, and thus immediately disproving the point of a taxation system which has slowly grown to reach its economic limits.

Direct analysis of the average level of taxation under the late Empire on the other hand is more difficult, but it can probably be shown that the “high tax high expenditure” model is in fact not very plausible – and this already for general economic and social reasons.

For a start, the nature of the Roman economy – near-subsistence and agriculture-dominated – does not allow qualitatively significant economic growth—that is, growth which by increasing the economic surplus available to every individual taxpayer could sustain steadily rising taxes. On the contrary, an economic and tax base composed mainly of near-subsistence peasants does not allow for great flexibility in surplus distribution. To express this in Jones’ terms: late Roman agrarian taxpayers are not very “squeezable”, because there is only little economic surplus available to them from which rising taxes could be paid.

Potentially taxable economic surplus is consumed only to a small extent by the mass of the taxpaying population; the bulk of it rather goes to elite consumption and state expenditure. Consequently, any significant rise in state expenditure and tax revenue would have to come from a redistribution of the surplus consumed by the land owning elites. Since the land owning elites coincide with the political elites of the Empire, such a policy of redistribution seems not very plausible. It would seem plausible in fact to postulate that the distribution of economic surplus between the mass of the population, the elites, and the state (whatever the actual proportions are) cannot but remain relatively stable. “Squeezing” the elites is economically feasible, but politically impossible; “squeezing” the mass of poor taxpayers is politically possible, but economically pointless. Both economic and social makeup of the Empire do not allow a “high tax, high expenditure” model.

Direct analysis of the weight of late Roman taxation in Egypt by Carrié⁵ comes to the same conclusion: there is no concrete proof for a “high tax, high expenditure” model. Papyrus documentation rather suggests a stable level of taxation up to at least Justinian⁶:

⁴ A.H.M. Jones, *The Later Roman Empire* (Oxford 1964) 468-9.

⁵ Jean-Michel Carrié, “Observations sur la fiscalité du IV^e siècle pour servir à l’histoire monétaire,” S. Sorda ed., *L’“inflazione” nel quarto secolo d.C.*, (Rome, 1993) 115-54.

⁶ Jean-Michel Carrié, “L’economia e le finanze,” Andrea Carandini (et al.) edd., *Storia di Roma. L’età tardoantica. Crisi e trasformazioni*, (Turin, 1993) 751-87.

“...we can be certain that in the long run the late Roman fiscal system did not in a perceptible way increase its demands in comparison with the past, and even less did it give life to a ‘fiscal hell’”.

The implication of these considerations on the objective level of taxation for the question of fiscal justice or injustice under the late Empire is, that, if there is more pressure on late Roman taxpayers, a tendency to use increasingly violent means to “squeeze” taxpayers, it can not possibly be explained by the simple necessity either to raise more tax revenue or to maintain a stable tax revenue on a shrinking economic base.

3) Making late Roman taxpayers pay: the permanence of violence and complaints

Salvian may be the most eloquent advocate when defending the poor against fiscal oppression, and the strident language of the Codes is certainly impressive – either promising harsh punishment to less-than-enthusiastic taxpayers or threatening curial tax collectors and imperial officials abusing their powers for their own enrichment. However it is important to not let the high visibility of the tax debate under the late Empire create the impression that we are necessarily dealing with either a new or a qualitatively different phenomenon. Without going back all the way to the late Republic and its discourse on the depredations of the *publicani*, or to the Ciceronian rhetoric against officials like Verres squeezing the taxpayers of their province, it is possible to show that complaints about the level of taxation, and especially its enforcement on reluctant taxpayers, are a constant feature of the Roman Empire.

Even movements like the Bagaudae which to some extent are qualified by Salvian as a rural protest movement against fiscal oppression in Gaul⁷ have their precursors under the early Empire. Thus Tacitus reports a revolt in Gaul under the principate of Tiberius, triggered by heavy taxation and the injustices of tax collection. The language would not seem out of place in Salvian’s 5th century context. The rebels are motivated by “the pressure of heavy debts”, and they try to find and motivate new followers by pointing to the “cruelty and arrogance of the governors”, i.e. the violence of imperial officials in tax collection⁸.

Maybe even closer to Salvian, because also in part religiously motivated, are the complaints about fiscal injustice and heavy taxation in the rabbinic literature of the 2nd and 3rd century CE⁹. The Midrash (*Sifré Deut.* 317) commenting on *Deuteronomy* 32.13-4 denounces *avaritia* and the exploitation of the local population by all levels of the Roman provincial administration: governors, military officers, soldiers, and also Roman private elites. The Jewish commentators even distinguish between the official exploitation, sanctioned by the imperial administration, and the illegal, additional extortions and confiscations by either private citizens and elite members or state officials acting in a private capacity.

Tax collectors are qualified as “extortionists” (*masiqim*), and assimilated to a form of divine punishment for the Jewish people – again a close prefiguration of Salvian’s politico-religious preoccupations. It is important to note that the complaints of the rabbinic literature are not exclusively ethnically motivated, for Jewish tax collectors are also counted among the extortionists. This therefore is not a simple case of complaint about foreign oppression – as perhaps in the case of Tacitus’ revolt in Gaul – but part of the common, Empire-wide debate on taxation and its injustices. Jewish tax collectors are not treated in any way more favourably than Roman tax collectors, they are, for example, not allowed to make charitable donations, because tax collection is assimilated to theft. Also, their testimony is not valid in court, because of their fundamental dishonesty. Again, perhaps this is a prefiguration of the late antique Christian debate on the participation of Christians in the *curia* with all the dangers of pollution this implies – not only because of the necessary

⁷ Salvian, *De gubernatione dei* 5.21 –8.

⁸ “That same year, some states of Gaul, under the pressure of heavy debts [ob magnitudinem aeris alieni], attempted a revolt. Its most active instigators were Julius Florus among the Treveri and Julius Sacrovir among the Aedui. [...] In secret conferences to which the fiercest spirits were admitted, or any to whom poverty or the fear of guilt was an irresistible stimulus to crime, they arranged that Florus was to rouse the Belgae, Sacrovir the Gauls nearer home. These men accordingly talked sedition before small gatherings and popular assemblies, about the perpetual tributes, the oppressive usury, the cruelty and arrogance of the governors [de continuatione tributorum, gravitate faenoris, saevitia ac superbia praesidentium]...” (Tacitus, *Annales* 3.40).

⁹ For rabbinic literature on taxation see: Mireille Hadas-Lebel, “La fiscalité romaine dans la littérature rabbinique jusqu’à la fin du IIIe siècle,” *Revue des études juives* 143 (1984) 5-29.

participation in civic sacrifice and festivals, but also because of the participation in a tax collection process seen as violent and unjust.

The two early examples of Tacitus and the rabbinic literature show that complaints about taxation and the perceived injustice and violent nature of tax collection are not a new feature of the late Empire. If anything, they are rather a standard motif of Roman, Empire-wide discourse on state-citizen relations, and tension and opposition between classes and social groups. The mainly, perhaps entirely, rhetorical character of the violence and taxation complaints can be further underlined by pointing out that the same fiscal policies and measures can be presented in diametrically opposed ways in different historical traditions.

Next to Salvian another major representative of the taxation and exploitation motif in late Roman Christian literature is Lactantius. In his pamphlet *De mortibus persecutorum* the fiscal and political reforms of Diocletian are described as resulting in fiscal pressure to a degree where the peasants are forced to give up their land¹⁰ – a precursor of Jones' over-taxation model. The same fiscal policy of the tetrarchs however is described as "moderate" by Aurelius Victor¹¹ and contrasted with oppressive taxation under Constantius.

The historians' discourse of fiscal oppression, of injustice and of violence – or its opposite, a discourse of fiscal moderation – is of course politically motivated. Lactantius tries to add fiscal oppression to the catalogue of alleged crimes of the "persecutors", and is also motivated by the fact that he is a contemporary of the fiscal policy he denounces. Aurelius Victor on the other hand lacks the explicit agenda of painting the tetrarchs as black as possible, and is moreover free of a contemporary's bitterness about the tetrarchic tax regime; his quarrel is with the fiscal oppression of Constantius in his own time. This does not mean that his views on taxation under the tetrarchs are necessarily more objective than Lactantius'. The different perspectives of the two historians merely show that, all political agendas aside, it is always more obvious to judge favourable a tax system of the more or less distant past than to concede that the current fiscal regime is moderate, non-violent and non-oppressive.

A final word in this context should perhaps be said about Ammianus Marcellinus, the "objective historian" of the later Roman Empire. Even Ammianus in his *Histories* does not hesitate to manipulate the contentious topic of fiscal oppression and fiscal leniency for political purposes. In his overall negative judgement of Constantius (21.16) the rapacity of his tax collectors and the unrelieved fiscal oppression of the provinces figure prominently among the faults of the emperor¹². This is in explicit contrast of course to his hero Julian (17.3) who opposes his own praetorian prefect to spare the provinces under his government the miseries of unbearable extraordinary taxes, which not even torture could extort from the impoverished taxpayers¹³.

This small group of examples, from both the early and the late Empire, of discourse on Roman taxation, fiscal policy, and tax collection seems to suggest that in fact we are dealing mainly with rhetorical topoi: taxation is used as a standard motif to distinguish "good" from "bad" emperors, and alleged fiscal oppression additionally serves as an argument to unite social groups – Gauls, Jews, or Christians – around a consensual and motivating cause. It remains to consider whether there was not more to violence and tax collection under the late Empire than a mere standard rhetorical topic, familiar already from the early principate.

¹⁰ Lactantius, *De mortibus persecutorum* 7: "The number of consumers began to be so much greater than the number of taxpayers that, when the resources of the farmers were consumed by the enormity of the indictions [enormitate indictionum], the fields became deserted and the cultivated lands were turned into forest."

¹¹ Aurelius Victor, *De Caesaribus* 39.31-2: "Then, when everything was governed by the same moderate tax regime by which the army and the emperor – who were always or mostly there [in Italy] – could be supported, a new law concerning tax payments was introduced. This law however has gone on from tolerable moderation in those times to disaster in these troubled times [i.e. around 360 when Victor writes]."

¹² Ammianus, *Res gestae* 21.16.17: "The insatiate rapacity of the tax collectors increased the bitterness of those times and brought him [Constantius] more hatred than money. To many this seemed even more intolerable, because he never investigated any dispute, nor cared about the welfare of the provinces – even though they were plagued by a variety of tributes [tributum] and taxes [vectigalia]."

¹³ Ammianus, *Res gestae* 17.3.5: "He wrote back [to Constantius] that it should be a reason to be glad if the already devastated provincials had only to furnish the regular taxes, and not additional increases which no torture could wring out of these impoverished men."

4) Redistributing the tax burden: making the other late Roman taxpayer pay

We have established so far that the potential use of violence in the process of tax collection cannot be related to an overall higher level of taxation under the late Empire. We have also seen that complaints about taxation and tax collection are part of a standard repertoire of moralising and Empire-critical authors. We can further assume that a certain level of violence and tension is inherent in a socioeconomic system which has a strong polarisation between social groups, i.e. there is an obvious, strong opposition between the mass of poor taxpayers and the personnel in charge of tax collection. This is independent of a particular late Roman context.

Since tax collectors are always financially responsible for the tax revenue, either because – as perhaps under the early Empire – they had obtained the right to tax collection in an auction, or because they had been chosen from among curials whose property could be seized to cover shortfalls¹⁴, they necessarily belong to the economic and political elites of the Empire. The great majority of taxpayers on the other hand had only a modest standard of living, and under the late Empire would be grouped with the *humiliores*. If we want to postulate that under the late Empire relations between taxpayers and tax collectors are even more strained than under the early Empire, even more tainted by physical violence, it would be necessary to show that the relation between taxpayers and tax collectors changed beyond the fundamental opposition between rich and poor.

There are two lines of argument which suggest that this might indeed be the case. One argument depends on the redistributive character of late Roman taxation and the fact that the ultimate redistribution of the overall tax burden on individual taxpayers occurred at city level, and fell under the control of the city elites. Taxes are in fact not even redistributed by the full *curia*, but seem to be administered by the *principales* alone. If this is the case, it is plausible to assume that the *principales* distribute taxes in a way that the tax burden on themselves and on their protégés is as light as possible¹⁵. This means at the same time that taxation on other taxpayers on the city territory was proportionally heavier.

Given that, as we have said earlier, poor taxpayers are not very “squeezable” because of their already precarious economic situation, there are limits to the redistribution of taxes by the *principales*. However, an attempt, through an unequal distribution of taxes at city level, to reduce rural taxpayers really to basic subsistence level, might on the one hand necessitate the use of violence by the tax collectors which Salvian, John Chrysostom¹⁶, or Theodoret of Cyrus¹⁷ deplore. It might also, on the other hand, trigger the violence and the attempts by rural taxpayers to fight the curial tax collectors which are so graphically described by Libanius¹⁸.

The imperial government seems to be aware of the problems likely to develop in a situation where the ultimate redistribution of taxes is controlled by the local elites, because a law of 328 CE¹⁹ tries to take at least the distribution of *extraordinaria* away from the *principales*. This is significant, because the *extraordinaria* can easily be as heavy as the basic taxes. Even if the *principales* were to control only the distribution of the *extraordinaria*, they would be in a position to greatly increase the tax burden on the average taxpayer. In reality there is of course no chance that this imperial constitution protecting humble taxpayers could actually be applied, because the *officium* of a provincial governor did not have the administrative resources to redistribute each extraordinary payment on the lists of all the taxpayers in a province²⁰.

¹⁴ Libanius, *Orationes* 47.8 seems to suggest that only the actual *susceptores* collectors are ruined by their failure to collect taxes from the rebellious peasants under military patronage. CTh.12.6.20 (386 CE) on the other hand states that the whole *curia* is responsible for shortfalls, also the *principales* who probably dominate the decision on the nomination of *susceptores* (“and they shall take note that, whoever they have nominated according to their own decision, they are fully responsible for everything these people administer [et animadvertant, quicunque nominaverint ad discrimen suum universa, quae illi gesserint, redundare]”).

¹⁵ CTh. 11.16.3 (324 CE) states that taxes should be assessed according to the plans of the governor, precisely to protect the average taxpayers against the “interests and convenience of the powerful [libido et commodus potiorum]”.

¹⁶ John Chrysostom, *De paenitentia* 2.

¹⁷ Theodoret of Cyrus, *Vol. II, Letters* 42 and 43.

¹⁸ Libanius, *Orationes* 47.7-8.

¹⁹ CTh. 11.16.4 (328 CE).

²⁰ Claude Lepelley, “Quot curiales, tot tyranni. L'image du décurion oppresseur au Bas-Empire,” Edmond Frézouls ed., *Crise et redressement dans les provinces européennes de l'Empire* (Strasbourg 1993).

The second factor which might provide an argument for a higher level of tension and violence in the tax collection process is curiously provided by the system of privileges and tax remissions granted by the imperial government.

General remissions of tax arrears were granted periodically, sometimes in the context of imperial accessions²¹. These general remissions of arrears are to the advantage only of rich, elite taxpayers, and indeed the curial tax collectors – a problem already recognised in an imperial constitution of 328 CE and reiterated by Julian²². Only wealthy taxpayers were sufficiently privileged by their social status to defer payment for a few years. Likewise curial tax collectors might be able to defer the transmission of taxes to the provincial treasury by two or three years.

This implies that the average taxpayer did not benefit from the remissions, because they are always forced to pay promptly. The remission of arrears to wealthy taxpayers, and even worse the possible cancellation of taxes already collected, but not yet remitted by curial tax collectors, would seem likely to cause the resentment against the imperial tax system which is visible in the texts of, for example, Salvian. This does not necessarily condition a violent reaction on the part of the average taxpayer, but it does certainly contribute to the already strained relations between taxpayers and curial tax collectors.

Fiscal privileges, too, are a factor which favours tensions and violence between tax collectors and taxpayers. Since the overall system is redistributive, privileges granted to elite groups necessarily imply an increase of the tax burden on the rest of the taxpayers – within the limits of their economic capacity. The closer taxation pushes the average taxpayer to the subsistence limit, the more likely is the occurrence of violence in the collection process – for example because taxpayers might be more motivated to hide their produce. Also, in the same way as general remissions, privileges exacerbate the general feeling of fiscal injustice. Since some fiscal privileges may be granted even to relatively lowly taxpayers – especially clerics – and since these privileges would be very visible to the average taxpayer, they might significantly increase the feeling of fiscal injustice reflected in the moralising authors of the late Roman period and be responsible for a general increase of the level of tension and violence in the tax collection process.

5) Conclusion

In conclusion it might be appropriate to highlight once again the three major claims this paper makes. First, there is no obvious, general, economic reason why taxation under the later Roman Empire should be overall heavier than under the early Empire, and thus give rise, quasi-automatically, to more tension, violence and protestations in the tax collecting process. Second, moralising discourse on fiscal injustice and oppression is not confined to the late Empire, but is found in more or less the same terms in other periods. Fiscal oppression is one of the standard motives used by Roman historians to underpin character judgements of emperors. Finally, an increased level of violence and protestation in the late Roman tax collecting process may well exist, but it is mainly motivated by the frequent attempts of local elites to redistribute a generally unchanged tax burden in a way which increased the actual payments by average taxpayers. Grants of fiscal privileges by the government to various elite groups contributed to the tendency of shifting the tax burden away from those most able to pay taxes.

²¹ A list of general remissions is provided by A.H.M. Jones, *The Later Roman Empire* (Oxford 1964) 467 (and corresponding notes): in 414 for the years 368 – 407, in 433 for the years 408 – 427, in the West in 438 for the years up to 436, in 450 for the years up to 447, in the East in 450 (accession of Marcian) for the years 438 – 447, in 527 (accession of Justinian) for the years up to 522, etc.

²² CTh. 11.7.4 (328) and Ammianus, 16.5.15.

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