

FRANCISCAN RIGHTS TO CLERICAL MINISTRY ACCORDING TO SAINT BONAVENTURE

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Franciscan history in its early stages shows how the Order of Friars Minor evolved, with striking rapidity, from a predominantly lay penitential movement of brothers¹ to a well-organized Order made up, for the most part, of clerics. In less than forty years, between the death of Saint Francis in 1226 and the publication of the Constitutions of Narbonne in 1260, the Franciscan Order became a force of action within the Church and within medieval culture, together with the other great mendicant movement of the time, namely the Order of Preachers, or Dominicans.²

The downfall of brother Elias from the post of Minister General in 1239 marks the end of the supremacy of the lay component of the Order. With the choice of Albert of Pisa, the first Minister General who was a priest, and especially with his successor, Haymo of Faversham, from 1240 onwards, the Franciscan Order became a distinctly clerical Order.³

The simplicity of the early Franciscan dwellings in the Appennine backbone of Italy soon gave way to large conventual churches in the towns.⁴ Francis had commanded the brothers in his Testament “not to dare to ask any letter from the Roman Curia, ... whether for a church or another place, or under the pretext of preaching.”⁵ But since 1226 the friars had come a long way in requesting papal letters for the newly-founded friaries and churches. The Popes themselves began sending friars as their personal legates to the Mongol empire,⁶ and entrusting them

¹ AP 19: *Francis of Assisi, Early Documents* = FAED II,43: “Some asked them: ‘Where do you come from?’ While others asked: ‘To which Order do you belong?’ They answered simply: ‘We are penitents and were born in Assisi.’ At that time the religion of the brothers was not yet called an order.” Cfr. L3C 37: FAED II,90.

² L. LANDINI, *The Causes of the Clericalization of the Order of Friars Minor (1209-1260) in the Light of Early Franciscan Sources*, Dissertatio ad Lauream in Facultate Historiae Ecclesiasticae Pontificiae Universitatis Gregoriana, Chicago, 1968.

³ R.B. BROOKE, *Early Franciscan Government. Elias to Bonaventure*, Cambridge University Press, 1959.

⁴ In the Bull *Cum tamquam veri*, of Innocent IV (5 April 1250), *Bullarium Franciscanum* I,538, the churches which the Order had in the towns were, for the first time, called “conventual churches”: *decernimus ut ecclesiae vestrae omnes ubi conventus existunt conventuales vocentur*. These churches soon acquired the rights and privileges of collegial churches: the public celebration of Mass, preaching, administration of the sacraments and conservation of the Eucharist, choral celebration of the Divine Office, ringing of bells, ecclesiastical burial. Cfr. G. ODOARDI, “Conventuali”, *Dizionario degli Istituti di Perfezione*, Vol. 3, Roma, 1976, 1-94.

⁵ Test 25: FAED I,126.

⁶ Innocent IV chose as his personal ambassador to the Mongols Giovanni di Pian del Carpine, Minister of Germany and Saxony. In 1245-1246 he began the long journey to Tartary and to the Great Khan.

with the delicate task of preaching against heresy. The popularity of the new mendicant Orders grew among the Christian faithful, who had felt alienated in the complex framework of ecclesiastical institutions, and who longed for a simpler form of preaching and liturgy. Thus, the need for more friars who would be prepared for the pastoral ministry of preaching and hearing confessions. This need demanded that the friars would have to be trained in the theological schools and universities. A Franciscan house of studies was already existing in Bologna when Francis was alive, and other centres were soon established in Paris, Oxford, Cambridge, and other university cities.⁷

Up till the 13th century, the pastoral ministry in the Church was largely in the hands of the secular clergy and, up to a certain extent, in the hands of the canons regular. The monastic Orders had very little pastoral contact with the people, out of their monastic foundations. The new mendicant Orders were, on the contrary, living in the towns and mixing with the people. They were the result of the new fabric of society which developed in the Italian communes to the detriment of the old feudal system. The friars were itinerant preachers. Their enclosure was the whole world.⁸

All these factors were highly positive in the spreading of the Franciscan and Dominican foundations of the 13th century. However, they inevitably brought the new mendicant Orders into conflict with the secular clergy. The secular priests began accusing the mendicants of usurping rights which belonged to them in the matter of preaching and in the pastoral care of souls. The most heated debate developed in the university of Paris. Secular masters, like William of St. Amour and Gerard of Abbeville, contested the rights of the mendicants, and particularly the fact that these new Orders had acquired extensive privileges of exemption from the authority of local bishops, and could appeal directly to the Pope through their Cardinal Protector. The mendicants themselves wrote extensively to protect their rightful place in the Church. Bonaventure of Bagnoregio and Thomas Aquinas were in the forefront to answer the accusations of the secular masters.⁹

We shall consider here what Bonaventure has to say regarding mendicant clerical rights and the privilege of exemption of the Franciscan Order.¹⁰ The writings of the Seraphic Doctor have to be seen against the historical background of the Order in the Church during the second half of the 13th century. We also have to ask

He passed through the famous silk road route to China. The Great Khan Kujuk sent him back to the Pope in 1247, with a personal letter. Giovanni wrote the diary of the journey entitled *Historia Mongolorum*.

⁷ The presence of Anthony of Padova in Bologna as lecturer of theology is proved by a short letter which Francis wrote to him in 1222. This letter is a witness to Francis' attitude towards study of theology in the Order. LtAnt: FAED I,107: "I am pleased that you teach sacred theology to the brothers providing that, as is contained in the Rule, you 'do not extinguish the Spirit of prayer and devotion' during study of this kind." In 1219 Brother Pacificus was sent to Paris. By 1229 the friars had established themselves in their house of study, which would eventually become the *magna domus studiorum* of the Order in the university of Paris. It was in this house that Bonaventure studied theology.

⁸ ScEx 63: FAED I,552: "After enjoying a very quiet and healthy sleep, [Lady Poverty] quickly arose and asked to be shown the enclosure. Taking her to a certain hill, they showed her all the world they could see and said: 'This, Lady, is our enclosure.'"

⁹ Bonaventure is the author of two polemic works against the secular masters of Paris, namely, the *Quaestiones disputatae de Perfectione Evangelica* (1254) against William of St. Amour, and the *Apologia Pauperum* (1269) against Gerard of Abbeville.

¹⁰ In this paper we shall consider in a particular way Bonaventure's *Determinationes Quaestionum circa Regulam Fratrum Minorum*, Pars I, quaestio 2: "Cur Fratres praedicent et audiant confessiones" (*S. Bonaventurae Opera Omnia*, Collegio S. Bonaventura "Ad Claras Aquas", Quaracchi, 1898, Vol. VIII,338b-339a).

whether Bonaventure's reasoning is the result of a new vision of Franciscan life, and whether this vision was in line with what Francis of Assisi envisaged for his Order.

Bonaventure and the clerical rights of the Franciscan Order

One of the greatest issues at stake in the history of the Franciscan Order has always been the question of poverty. The Order had come a long way from the primitive observance of poverty as envisaged by the early brothers, to a more developed theology of poverty in which the friars were allowed to make an *usus pauper*, or poor use, of the means necessary for their ministry. Ever since the papal interpretations of the Franciscan Rule, particularly Gregory IX's *Quo elongati* (28 September 1230) and Innocent IV's *Ordinem vestrum* (14 November 1245), the Franciscans had developed a new understanding of the concept of poverty, which was the basis of the future divisions within the Order.¹¹



Among the issues at stake, study was the source of heated debate. The great houses of studies of the Order seemed to be in striking contrast to evangelical poverty. The friars had accumulated whole libraries, as they did in the case of their Oxford house of studies, where they had inherited the library of Robert Grossateste, who lectured the Franciscans. Bonaventure addresses the problem of books by showing that books are necessary for study, in order to form good preachers.

“The Rule expressly imposes upon the friars the authority and office of preaching. I believe that one cannot find such a clause in any other Rule. Therefore, if the friars are not to preach fairy-tales, but the divine word; if they cannot learn the divine word, lest they read; if they cannot read, lest they have commentaries: thus it is most clear that the perfection of the Rule asks them to have books in order to be able to preach. Just as it is not against the poverty of the Order to have the Missals in order to sing Mass and the Breviaries in order to pray the Hours; in the same way it is not prohibited to have books and Bibles in order to preach the divine word. Therefore it is permissible for the friars to have books.”¹²

Study in the Order was necessary for apostolic ministry. “For Saint Bonaventure, a useful friar would be one who is capable of carrying out the purpose of the Order – an Order founded by God for the principal, though not exclusive, purpose of building up the Church through the hearing of confessions and preaching.”¹³ By the mid-13th century, the Franciscans became aware that their role in the Church resembled that of the twin Order of Preachers. The Dominicans were definitely called to be clerics and preachers, whereas the Franciscans had originally been a mixed Order of layman and clerics, whose duty was that of giving evangelical witness in simple exhortations more than in official dogmatic preaching. However, the Rule of 1223 does devote a chapter to the preachers, and the criteria of discernment for choosing preachers are left to the responsibility of the Ministers.¹⁴ Thus, the office of preaching forms part and parcel of the Franciscan calling.

¹¹ M. LAMBERT, *Franciscan Poverty. The Doctrine of the Absolute Poverty of Christ and the Apostles in the Franciscan Order 1210-1323*, The Franciscan Institute, St. Bonaventure University, St. Bonaventure, NY, 1988, 73-107.

¹² S. BONAVENTURE, *Epistola de Tribus Quaestionibus ad Magistrum Innominatum*, 6, S. *Bonaventurae Opera Omnia*, VIII,333a.

¹³ L. LANDINI, *The Causes of the Clericalization of the Order of Friars Minor*, 143.

¹⁴ LR, chapter 9, “Preachers”: FAED I, 104-105.

Bonaventure was aware of this, and devoted a whole treatise to the issue of preaching and hearing confessions in the Order.¹⁵

Bonaventure writes that Christ entrusted his flock to the pastors of the Church. These have the prime responsibility of teaching, sanctifying and governing the Christian faithful. However, there is also need of active collaborators in their ministry. Bonaventure lists the duties of the pastors, who are called to teach the faithful through preaching, to absolve sinners through confession, to celebrate the divine mysteries, to intercede before God in prayer for the faithful, to administer the sacraments, to officiate in funerals and other sacramentals, to assist the poor in the parishes, to give a good example to all through their honest life as clerics. The faithful, on their part, have the duty to collaborate with their pastors when they carry out these duties.¹⁶

Bonaventure bases his reasoning on what the Church had established in the Fourth Lateran Council (1215).¹⁷ The ministers who have the right to administer the sacraments to the faithful are the Pope, the diocesan bishop, the pastor, and the priest who acts in the name of the pastor. It follows that the greatest authority for the administration of the sacraments is that of the Pope. Therefore, those clerics who fall directly under papal jurisdiction, have the full rights and duties of administering sacraments to the faithful, in virtue of the privilege of exemption from the authority of the diocesan bishop, whenever they are asked to do so by papal privilege.

It is in this principle that one proves the rightful place of religious clerics in the office of preaching and confessing the faithful. Bonaventure explains how this right originated in the Church.

“The Apostolic See has provided to remedy the dangers (heresy and the lack of sufficient pastors) by instituting Religious Orders, in order to provide a remedy and a help for those souls who otherwise would perish. Through the office of preaching and hearing confessions entrusted to them, the Religious enter to help (*subveniant*) the poverty of the faithful and the insufficient number of clerics and fight against the evil of heretics. They accomplish this duty in order to help and enlighten the burden (*in solatium et sublevamen oneris*) of clerics, and not to check or judge them.”¹⁸

Bonaventure defends the Franciscan clerics by saying that, in their pastoral ministry, they do not expect to acquire for themselves the tithes and offerings which the faithful give to their pastors, nor do they incite the faithful not to obey or respect their pastors. He also gives an interesting example of the need of collaboration between diocesan and religious clerics in pastoral ministry, by quoting the Gospel text of Luke 5,4-6.

¹⁵ “*Quare Fratres Minores praedicent et confessiones audiant*”, *S. Bonaventurae Opera Omnia*, VIII,338b-339a.

¹⁶ S. BONAVENTURE, *Quare Fratres Minores praedicent et confessiones audiant*, 5-6, *S. Bonaventurae Opera Omnia*, VIII,376a.

¹⁷ Fourth Lateran Council, Canon 21: “All the faithful of both sexes, after they have reached the age of discerning, shall faithfully confess all their sins to their own priest at least once a year and perform the penance imposed to the best of their abilities, receiving reverently at least at Easter the sacrament of the Eucharist.” English translation from FAED I,77, footnote b.

¹⁸ S. BONAVENTURE, *Quare Fratres Minores praedicent et confessiones audiant*, 9, *S. Bonaventurae Opera Omnia*, VIII,377a.



“In order to show how Religious are called to save the faithful in the Church, we refer to Luke’s Gospel, where the Lord tells Peter: ‘Put out into deep water (*Duc in altum*) and lower your nets for a catch’. When they had done this, they caught a great number of fish and their nets were tearing. They signalled to their partners in the other boat to come to help them. The deep water is the world, Peter’s boat is the Church of the faithful people, and the nets are the doctrine of the Gospel ... Just as Peter and the apostles could not drag the nets to the shore unless they called their partners to help them, so the prelates of the Church with their clerics cannot be sufficient to drag the multitude of faithful to the shore of eternal life, without admitting Religious as their collaborators.”¹⁹

Bonaventure insists that the pastoral ministry of the Franciscan clerics has a double aim, namely to assist the faithful and to be a supplement to the shortcomings of the clerics.²⁰ These shortcomings are listed by Bonaventure, and give a rather bleak picture of the moral state of the clergy in the medieval Church. Bonaventure speaks about clerics who give bad example to lay people with their immoral life, about unprepared clerics who were ignorant of dogmatic truths and were unable to teach or preach, clerics who fell in simony and broke the sacramental seal of confession, and also of clerics who were excommunicated or suspended from ministry. The friars were therefore sent by the Holy See in order to fill this gap in the urgent need for pastoral ministry among the Christian faithful.

The friars were well aware of the need to respect the authority of the local pastors and to remind the faithful of their commitment to have recourse to them for their annual confession.²¹ At the same time they defended their right to administer confessions to all those who spontaneously came to them, particularly in the case of faithful who, for some reason or other, could not go to their own pastors, or who were on a pilgrimage, or who found themselves in any extreme necessity.

Regarding the preaching ministry, Bonaventure was aware of the right acquired by the Friars Minor in the *Breve* of Gregory IX, *Si ordinis* (1 February 1230), in which the friars acquired permission to preach in the parish churches of the diocesan clergy, on the condition that they would not pretend to acquire the tithes and offerings of the faithful destined for the pastoral ministry of the diocesan clergy.

The vocation of the Franciscan clerics is that of being faithful to their vow of poverty. Bonaventure offers the example of Deuteronomy 24,19-21: “When you reap

¹⁹ S. BONAVENTURE, *Quare Fratres Minores praedicent et confessiones audiant*, 11, S. *Bonaventurae Opera Omnia*, VIII,377b-378a.

²⁰ S. BONAVENTURE, *Quare Fratres Minores*, 12: “Ista duo Fratribus commissa sunt, ut in his subveniant fidelibus et suppleant defectum clericorum.” S. *Bonaventurae Opera Omnia*, VIII,378a.

²¹ S. BONAVENTURE, *Quare Fratres Minores*, 18: “Quaeritur autem, si illi qui nobis confessi sunt, teneantur plebanis suis iterum confiteri? ... Cum ergo poenitens confitetur nobis, et absolvimus eum auctoritate domini Papae vel episcopi, non tenetur iterum a plebano suo de eisdem absolvi, cum sit absolutus. Sed propter statutum Ecclesiae, quo quisque semel ad minus in anno iubetur confiteri omnia peccata sua proprio sacerdoti, quod plerique referunt ad plebanos specialiter, debet ei, si velit, iterum confiteri.” S. *Bonaventurae Opera Omnia*, VIII, 380ab.

the harvest in your field and overlook a sheaf there, you shall not go back to get it; let it be for the alien, the orphan or the widow, that the Lord, your God, may bless you in all your undertakings. When you knock down the fruit of your olive trees, you shall not go over the branches a second time; let what remains be for the alien, the orphan and the widow. When you pick your grapes, you shall not go over the vineyard a second time; let what remains be for the alien, the orphan, and the widow.” Thus, the Franciscan clerics give a witness to their poverty when they do not pretend to take over the rights and privileges of the secular clergy, but are content with gleaning the left-overs of pastoral ministry, namely, those Christian faithful who would otherwise be left without the necessary spiritual food for salvation. In this way, they would give a witness of poverty if they supply an alternative for the lack of pastoral care on the part of those to whom it is given by right. The mendicants also acquire their clerical rights in virtue of their vow of poverty and direct obedience to the Pope.

In the same *Determinationes Quaestionum circa Regulam Fratrum Minorum*, Bonaventure deals with a thorny subject, which he describes as “the reason why clerics hate you (Friars Minor) most and persecute you as if you were unlettered and simple people of the world”.²²

Bonaventure starts off by stating that not all clerics hated the friars. Then he attempts an analysis of the reasons why members of the secular clergy hated the mendicant friars. He says that clerics were afraid of the friars, who were aware of their excesses and defects. Clerics were jealous of the friars, since they were more popular with the common people (*quod simus hominibus gratiores*). They did not like the fact that the faithful preferred the friars for confessions. They also thought that the friars were taking for themselves the offerings which the faithful would otherwise have given to the secular clergy.

On the other hand, those clerics who reasoned with wisdom, loved the friars and cherished them as their helpers and cooperators in the pastoral ministry.

This question deals with an embarrassing situation which was common in Bonaventure’s time, particularly if we see it against the background of the controversy between seculars and mendicants in the Paris university. The problem, however, had also been dealt with in official Church documents sent to the Order. It is important for us to have a rapid glance at these papal documents in order to understand what brought about this controversy and why Bonaventure so vehemently defended the friars in their clerical rights.

Papal documents and the clerical rights of the Franciscans

Our aim in this section is that of providing a rapid historical excursus of the papal interventions in favour of the mendicants, regarding their clerical rights.²³ The pontificates which cover the period from 1216 to 1261 are those of Honorius III, Gregory IX, Innocent IV, and Alexander IV.²⁴

²² S. BONAVENTURE, *Determinationes Quaestionum circa Regulam Fratrum Minorum*, pars. I, quaestio 27: “Quaeritur, quae sit ratio, quod clerici magis oderunt vos et persequuntur quam laici et simplices saeculares”, *S. Bonaventurae Opera Omnia*, VIII,355b-356b.

²³ L. LANDINI, *The Causes of the Clericalization of the Order of Friars Minor*, 56-76.

²⁴ These Popes were all intimately linked with the Franciscan movement, and many of them had been Cardinal Protectors of the Friars Minor and Poor Ladies of San Damiano. According to Landini no less than 1553 papal bulls were directed to the Franciscan family between 1218 and 1260. They fill the first two volumes of the *Bullarium Franciscanum*.

The first bull which introduced the friars to the bishops, indicating them as truly Catholics, is the *Cum dilecti filii* of Honorius III (11 June 1219).²⁵ The bull, however, did not achieve its desired result, particularly in France, where the bishops continued to refuse permission to the friars to establish houses and preach penance. That is why Honorius III addressed the bull *Pro dilectis* to the bishops of France (29 May 1220).²⁶



Regarding the liturgical life of the friars, Honorius III granted them the right to recite divine office and celebrate Mass during times of general interdict.²⁷ In the bull *Quia populares tumultus* (3 December 1224), he granted them the right to have portable altars and singing solemn Mass and the divine office, in their “places and oratories ... without prejudice to the rights of the parochial clergy.”²⁸

In order to protect the Franciscans from accusations of lack of organization, Honorius III obliged them to introduce the year of the novitiate, by the bull *Cum secundum consilium* (22 September 1220).²⁹

An important bull which shows that the clerical element in the Order was getting stronger, even while Francis himself was still alive, is the *Vineae Domini custodes* of Honorius III (7 October 1225), regarding the ministry which the friars could exercise in the lands of the Saracens. The words of the Pope are a proof that, among the missionaries, there were various clerics who had the right to exercise their pastoral ministry.

“So that you might exercise this ministry with greater confidence, we concede to you all that we can, so that in the aforementioned region you will have our authority to preach, to baptize the Saracens who have just come over to the faith, to reconcile apostates, to impose penances, and to absolve those who are excommunicated and who cannot travel easily to the Apostolic See. You are also permitted to pronounce a sentence of excommunication in that land on all those who pass over into heresy.”³⁰

Gregory IX was the first pope to give an official interpretation to the Franciscan Rule, in the bull *Quo elongati* (28 September 1230). Although Francis, in his Testament, had commanded the brothers “not to dare to ask any letter from the Roman Curia”,³¹ Gregory IX regarded his personal friendship with Francis when he was Cardinal Protector as a valid occasion for interpreting the wishes of the holy founder to the brothers.

²⁵ English text in FAED I,558.

²⁶ English text in FAED I,559-560. The Pope defends the Franciscans with these words: “Therefore, we want all of you to take note that we hold their Order [to be] among those approved by us, and that we regard the brothers of this Order as truly Catholic and devout men.”

²⁷ Bull *Devotionis vestrae precibus* (29 March 1222), *Bullarium Franciscanum* I,9, no. 10.

²⁸ English text in FAED I,562-563.

²⁹ English text in FAED I,560-561. Jacques de Vitry, in his Letter written from Damietta in 1220, complains regarding the danger faced by the new Franciscan Order: “The Order is multiplying rapidly throughout the world, because it expressly imitates the pattern of the primitive Church and the life of the apostles in everything. But to our way of thinking, this Order is quite risky, because it sends out two by two throughout the world, not only formed religious, but also immature young men who should first be tested and subjected to conventual discipline for a time.” Text in FAED I,580-581.

³⁰ FAED I,563-564.

³¹ Test 25: FAED I,126.

“He [Francis] added that the brothers are in no way to seek any letter from the Apostolic See. He also included several other directives that are impossible to observe without considerable difficulty ... For as a result of the long-standing friendship between the holy confessor and ourselves, we know his mind more fully. Furthermore, while we held a lesser rank, we stood by him both as he composed the aforesaid Rule and obtained its confirmation by the Apostolic See.”³²

Besides confirming the privileges already given to the Friars Minor by his predecessor, Gregory IX added other interesting rights. In the bull *Ita nobis* (26 July 1227), he gave the friars the right to bury their own dead and have their own cemeteries.³³ This bull forms the basis of the *ius funerandi*, or right of celebrating funerals, with all the privileges connected to it, which the friars enjoy in their conventual churches. The same rights later on began to apply not only to the friars but also to their dependents, benefactors and members of the Order of Penance, or Third Order. The Order started receiving churches in the towns, which became the conventual churches of the friars. An example is the church of Santa Croce in Florence, given to the Order in 1228. The Pope, however, is very clear in stating that the *cura animarum*, as a right of the clerical friars, should not infringe upon the rights of the parochial clergy.

Gregory IX defended the mendicant Orders of the Preachers and Minors against the secular clergy who were hindering them in their pastoral ministry. He directed the bull *Nimis iniqua* (21 August 1231) to all the prelates of the Church, and particularly to the Archbishop of Cologne.³⁴

On 1 February 1230 the Pope had written the Bull *Si Ordinis Fratrum Minorum* to the Patriarchs of Antioch and Jerusalem, commanding them to receive the friars in their territories and permit them to have oratories for the celebration of the liturgy and to preach in their parish churches.³⁵

In the *Quo elongati* the Pope had again insisted on the observance of chapter 9 of the Later Rule, which states that the preachers have to be examined and approved by their Minister. However, he soon gave permission to clerics who were theologians and had received university training in the art of preaching, to be exempt from this clause. Even so, he had to intervene many a time because of bishops who would not accept learned Franciscans and Dominicans as preachers in their dioceses.

In the bull *Quoniam abundavit iniquitas* (6 April 1237), Gregory IX states that the Lord had called the Friars Minor to preach the Gospel of Christ against heresy.³⁶ Thus, the pope is stating that the Minors had the same clerical vocation as the Friars Preachers in order to be prepared for dogmatic preaching against heresy.

³² FAED I,571.

³³ Bull *Ita vobis* (26 July 1227), *Bullarium Franciscanum* I,31, no. 8. The text in Latin: “Gregorius, etc. Dilectis filiis Ministro, et Fratribus Ordinis Minorum Salutem, etc. Apostolicam Benedictione. Ita vobis, etc. Ordini vestro deferre volentes, ut non detrahantur iustitiis aliorum, [in the margin there is the note: ‘limitata concessio’] devotionis vestrae precibus inclinati auctoritate vobis praesentium indulgemus, ut in locis, in quibus degitis, ad opus Fratrum vestrorum dumtaxat habeatis liberam sepulturam. Nulli ergo omnino hominum liceat, hanc paginam nostrae concessionis infringere, vel etc. [note: clausula inhibitionis cum poenali sanctione] Si quis autem etc. Datum Anagninae VII. Kalendas Augusti Pontificatus Nostri Anno Primo.” The Minister General at the time was John Parenti, who had just been elected during the Pentecost chapter. The same privilege was given to the Dominicans on 30 November in the bull *Cum a nobis petitur*. Gregory IX renewed the same privilege to the Franciscans on 9 March 1233, and Innocent IV again confirmed it on 10 June 1244.

³⁴ Bull *Nimis iniqua* (21 August 1231), *Bullarium Franciscanum* I,74-75, no. 63 and 65.

³⁵ Bull *Si Ordinis Fratrum Minorum* (1 February 1230), *Bullarium Franciscanum* I,58f., no. 46.

³⁶ Bull *Quoniam abundavit iniquitas* (6 April 1237), *Bullarium Franciscanum* I,214f., no. 224.

The papal declarations of Gregory IX clearly gave the Franciscan Order a new direction. Coupled with the events linked to the downfall of brother Elias from Minister General in 1239, and the election of Albert of Pisa, the first clerical Minister General in the Order, the Franciscans definitely embarked upon clericalizing the Order.³⁷ This happened to the detriment of lay friars, so much so, that the idea of “useful” friars began to be applied predominantly to the clerical brothers who could preach and hear confessions, whereas the lay brothers were relegated to manual work and their number was severely limited.

Landini sums up Gregory IX’s pontificate regarding the Friars Minor: “Gregory IX not only found the Friars Minor to be a salutary answer to the spiritual problems of the Church, but he also employed the Order’s priests and learned men as apostolic visitators, mediators in disputes, preachers or crusades, legates and inquisitors. This new role which some men of the Order were playing in the life of the Church gives us further insight into what the pope meant by receiving only useful (*utiles*) men into its ranks.”³⁸



The pontificate of Innocent IV is marked particularly by the bull *Ordinem vestrum* (14 November 1245), which is the second official interpretation of the Franciscan Rule.³⁹ In this document the pope dealt with the reception of candidates in the Order. Besides giving the Minister provincial the power of delegating other friars to receive candidates, Innocent IV continues along the lines already traced by his predecessor, in insisting that candidates for clerical orders should be favoured.

“Moreover, it is lawful for the provincial ministers, with the advice of some of the more discreet brothers, to entrust the reception of those entering the Order to their vicars as well as to other circumspect brothers for their provinces. However, they should not receive indiscriminately all who present themselves, but only those candidates whose learning and other praiseworthy qualities recommend them, and who thus can be of benefit to the Order.”⁴⁰

The same document also repeats the provision of *Quo elongati*, whereby Ministers provincial could approve the preachers, but that no approval was to be sought in the case of friars who had studied theology in the schools. From 1243 onwards lay brothers were explicitly forbidden to engage in any kind of official preaching.

³⁷ According to the Chronicle of Thomas of Eccleston, collatio 13, when Albert of Pisa was elected Minister General, he celebrated Mass for the capitulars. “Igitur celebrata missa a ministro generali, dixit idem fratribus, qui non erant de capitulo: ‘Iam audistis primam missam, quae unquam celebrata fuit in ordine isto a ministro generali. Eatis nunc cum benedictione Jesu Christi ad loca vestra’”: FRATRIS THOMAE VULGU DICTI DE ECCLESTON, *Tractatus de Adventu Fratrum Minorum in Angliam*, ed. A.G. Little, Manchester University Press, Manchester 1951.

³⁸ L. LANDINI, *The Causes of the Clericalization of the Order of Friars Minor*, 67.

³⁹ Bull *Ordinem vestri* (14 November 1245). English text in FAED II, 774-779.

⁴⁰ FAED II, 775.

In the bull *Cum tanquam veri* (5 April 1250), Innocent IV granted the title “conventual” to the large churches of the Order in the towns, giving them all the rights and privileges of canonical churches, including that of burial and cemeteries.

Not only did the Order continue to build large conventual churches, but a good number of friars began to be elevated to the dignity of ecclesiastical offices. Francis had been against this, and had replied to Cardinal Ugolino who made this suggestion to him and to Saint Dominic: “My Lord, my brothers are called ‘minors’ precisely so they will not presume to become ‘greater’ ... If you want them to bear fruit in the Church of God, keep them in the status in which they were called and hold them to it ... Never allow them to rise to become prelates, otherwise they will just be prouder because they’re poorer, and treat the others arrogantly.”⁴¹ The first friar to be promoted to episcopal dignity in the Order was brother Leo, archbishop of Milan from 1244 to 1263. Innocent IV asked the friars to accept ecclesiastical offices only with the consent of their superiors.

The Church had defended the mendicants all through the initial stages of their journey, entrusting them with great responsibilities in pastoral ministry, in preaching, in the battle against heresy, and giving them the same privileges of secular clergy. This inevitably led to tension with the local bishops and clergy, who saw the mendicants as a threat to the diocesan framework of pastoral ministry, protected as they were by papal privilege. The problem was further complicated by the establishment of the houses of studies of the Franciscans and Dominicans in Paris, which were competing with the schools of the secular masters of the university. All this led Innocent IV to issue a bull which was meant to deal a blow to the clerical rights of the mendicants, particularly of the Dominicans, but also of the Franciscans. This was the bull *Etsi animarum* (21 November 1254).⁴²

According to Lawrence Landini, the document had in mind the curb the abuses of the mendicants, who were stepping outside the bounds of their privileges to the detriment of the diocesan clergy. These abuses included the opening of the churches of the mendicants to the parishioners, who would abandon their proper parishes in favour of the conventual churches of the friars; absolution of the faithful against the will of the local pastors; preaching in the conventual churches at the same time when the bishop was preaching in the cathedral church; preaching at the same time of the parochial Mass; depriving the local pastors of the donations of the faithful who deserted their parishes.

The pope therefore commanded the friars not to admit parishioners into their churches for divine services; not to absolve any faithful without the permission of the local pastor; not to preach before solemn Mass and on the same day when the bishop preached; not to preach in parish churches unless they have been invited to do so; not to keep for themselves the canonical tithes linked with burial rights, but to hand them over to the local pastors.⁴³

Etsi animarum was definitely meant to put a stop to the ever-growing popularity of the mendicants to the detriment of the local diocesan clergy. Bonaventure himself seems to have defended the friars from these accusations, which were only partly true, in the treatises we have mentioned above. Fortunately for the

⁴¹ 2C 148: FAED II,343. We do not prefer to use the English term “lesser” brothers, but rather “minors” when speaking about the Friars Minor. The latin term *minor/minoritas* has many shades of meaning which cannot be adequately explained except by using an equivalent term.

⁴² Bull *Etsi animarum* (21 November 1254), *Bullarii Franciscani Epitome*, 259-261, no. 28.

⁴³ L. LANDINI, *The Causes of the Clericalization of the Order of Friars Minor*, 72.

Dominicans and Franciscans, the prescriptions of this papal document were only to last for a short while.

Pope Alexander IV, Rainaldo di Jenne, who had been Cardinal Protector of the Franciscans before he was elected on 12 December 1254, immediately reversed the provisions of his predecessor with the bull *Nec insolitum* (22 December 1254).⁴⁴ The bull simply annulled all the provisions of *Etsi animarum*. The reason was clear. It seemed that Innocent IV had issued *Etsi animarum* because of intense pressure from the part of the secular masters of the Paris university, in their controversy against the rights of the mendicants. The pope particularly answered William of St. Amour's libellus *De periculis novissimorum temporis*.

In the bull *Patris aeterni* (9 April 1255),⁴⁵ "Alexander IV actively promoted the friars' participation in the *cura animarum*. He presented both the Minors and the Preachers as men of great learning and honesty to the prelates of the Church ... The pope also protected the friars in individual instances and in general by the renewal of their many privileges."⁴⁶

In another bull, the *Virtute conspicuos sacri* (22 August 1258), the pope lists the clerical rights which the mendicants had acquired, and adds new privileges, namely, that the Minister general and provincials had the right to present candidates for ordination to any bishop without a prior examination of the candidates by the same bishop, as well as the right to approve the lectors (professors) of theology for the schools of the Order.

Thus, by the time that Bonaventure became Minister General of the Friars Minor (2 February 1257), the Franciscan Order had definitely assumed the characteristics of a clerical Order, in imitation of the Order of Preachers. The rights and privileges acquired by the Franciscans and Dominicans had the aim of rendering these two mendicant families ready to be of service to the universal Church, under the direction of the papacy. Their exemption from the authority of local bishops was to create problems, sometimes also due to abuses by the same friars of their acquired rights, but it was certainly beneficial for the masses of Christian faithful and for the defence of orthodoxy in western Christendom.

Was Bonaventure faithful to Francis in promoting a clerical Order?

Before answering this question, it is important to point out that Bonaventure was not directly responsible for the clerical direction which the Order had taken when he became Minister General. Two factors had already contributed to this process of clericalization, or even, as some scholars would say, "sacerdotalization" of the Order, namely, the direction given to the Order after downfall of Elias in 1239, and the papal declarations approving such a direction.

Bonaventure had entered the Order in Paris, at a time when the government of the Order was promoting the clerical rights of the Franciscans. The Ministers Haymo of Faversham, responsible for liturgical reform within the Order, and Crescentius of Iesi, who favoured the insertion of the friars within the clerical establishment, had accepted the new framework of the Order and even encouraged it, following the example of the Order of Preachers. The legacy of Elias, who had promoted incompetent lay brothers to governing posts in the Order, had left the friars with a

⁴⁴ Bull *Nec insolitum* (22 December 1254), *Bullarium Franciscanum* II, 3f., no. 2.

⁴⁵ Bull *Patris aeterni* (9 April 1255), *Bullarium Franciscanum* II, 29f., no. 39.

⁴⁶ L. LANDINI, *The Causes of the Clericalization of the Order of Friars Minor*, 75.

strong decision to see to it that their future superiors would be well-prepared for the responsibilities of their offices, and thus would be clerics.

A look at the Sources for the Life of Saint Francis, which were written during these crucial years (1241-1260), is also of help in understanding why Bonaventure defends the clerical rights of the Franciscans, in face of the dangers they were facing from diocesan clergy.

In *The Remembrance of the Desire of a Soul* by Thomas of Celano, we find a curious text in which Francis is made to comment upon the clerical vocation of the friars in their pastoral ministry, in comparison to the vocation of diocesan priests in their parishes.

“Although he wanted his sons to keep peace with all, and to behave as little ones toward everyone, he taught them to be particularly humble toward clerics by his word and showed them by his example. He used to say: ‘We have been sent to help clerics for the salvation of souls so that we may make up whatever may be lacking in them. Each shall receive a reward, not on account of authority, but because of the work done. Know then, brothers, that the good of souls is what pleases God most, and this is more easily obtained through peace with the clergy than fighting with them. If they should stand in the way of the people’s salvation, revenge is for God, and he will repay them in due time. So, be subject to prelates so that as much as possible on your part no jealousy arises. If you are children of peace, you will win over both clergy and people for the Lord, and the Lord will judge that more acceptable than only winning over the people while scandalizing the clergy. Cover up their failings, make up for their many defects, and when you have done this, be even more humble.’”⁴⁷

It is highly unlikely that Francis would have spoken in this way to the brothers when he was alive. The criticism of the way of life of clerics which is evident in this text refers to the situation prevailing in the Order in the mid-13th century (1246-47) when Thomas of Celano was writing his *Memoriale in Desiderio Animae*. On the one hand, we find Francis speaking boldly about the defects of the clergy to his brothers, while on the other hand, Francis admonishes the brothers not to quarrel with diocesan priests, because this would entail separating the faithful from their pastors.

During this heated debate it was normal for the biographers of Saint Francis to present the saint as a pacifier and conciliator. The saint himself often spoke about the respect which the friars ought to show towards clerics of the Holy Roman Church. But by the mid-13 century the Franciscan Order had come a long way from being a predominantly lay penitential movement, subject to the authority of local priests regarding the ministry of preaching, and was recognized as a major clerical Order which had the approval of the highest authority of the Church. All this inevitably led to the tensions with the secular clergy regarding the rights which the mendicants had acquired in their pastoral ministry.⁴⁸

One can question the faithfulness of Bonaventure and the Franciscans of the mid-13th century to the ideals proposed by Francis to his friars in the initial years of the Order. At a first glance, it seems that the friars had overturned the genuine intentions of their founder, who would never have dreamt of any competition with the

⁴⁷ 2C 146: FAED II,341. Parallel text AC 19: FAED II,133.

⁴⁸ For a study regarding Francis and clerics in the Order of Friars Minor, cfr. R. RUSCONI, “*Clerici secundum alios clericos: Francesco d’Assisi e l’istituzione ecclesiastica*”, *Frate Francesco d’Assisi*, Atti del XXI Convegno della Società Internazionale di Studi Francescani (Assisi, 14-16 ottobre 1993), Spoleto 1994, 71-100. For the relations between Franciscans and the diocesan clergy, cfr. L. PELLEGRINI, “Mendicanti e parroci: coesistenza e conflitti di due strutture organizzative della *cura animarum*”, *Francescanesimo e vita religiosa dei laici nel ‘200*, Atti della Società Internazionale di Studi Francescani (Assisi, 16-18 ottobre 1980), Assisi 1981, 129-167. For the office of preaching, cfr. *La Predicazione dei Frati dalla metà del ‘200 alla fine del ‘300*, Atti del XXII Convegno della Società Internazionale di Studi Francescani (Assisi, 13-15 ottobre 1994), Spoleto 1995.

secular clergy regarding rights and privileges in pastoral ministry. However, such a view is very simplistic, because it fails to understand the transformation which the Order had gone through, and which was largely the result of the trust which the Church itself had placed upon the new mendicant Orders, particularly the Dominicans and Franciscans.

Bonaventure was writing and living in a moment when the structure of the Order had definitely been built upon conventual-monastic lines. This is not to say, however, that the Order had betrayed its charism of evangelical poverty. The friars were still itinerants, even in the large conventual churches and houses of studies. They accepted the papal interpretations of the Rule regarding poverty, but only to the point of making a “poor use” of the means at their disposal, without pretending to lay hold of them by right. The same principle was applied in the case of pastoral ministry, and particularly preaching. Bonaventure himself explained this process in one of his famous texts regarding the validity of the mendicant life of the brothers.

“Do not be surprised that, at the very beginning, the Friars were simple and illiterate. This fact should rather confirm your faith in the Order. I tell you before God, that what has made me love most the life of blessed Francis is that fact that its beginnings and perfection resemble those of the Church, which began with a group of simple fishermen and progressed to the point of continuing with the most competent and expert doctors of theology. In the same way you can see happening in the Religion of blessed Francis, so that God will show that this was not instituted by human prudence, but by Christ.”⁴⁹

In fact, this was the secret of the great success of the mendicant Orders in the 13th century. The Church itself was well aware of this, and that is why the popes granted extensive privileges to the mendicants for the benefit of the *cura animarum*. This inevitably led to tension with the bishops and diocesan clergy. The mendicants were a mobile force in the Church, and thus had to be exempted from the stringent controls of the local bishops if they were to embark upon the mission entrusted to them by the Church. Experience had shown that the diocesan framework in which pastoral ministry was organized was not always working as it should have been.



The mendicants were a welcome alternative. Their call was not that of taking the place of the local clergy, but of filling its many gaps. They had shown that they had an important role in the Church, and the approval of their form of life had guaranteed their future, making them develop from a penitential movement to a universal ecclesiastic institution.

⁴⁹ S. BONAVENTURE, *Epistola de tribus quaestionibus ad magistrum innominatum*, 13, *S. Bonaventurae Opera Omnia*, VIII,336ab: “Nec te moveat, quod Fratres fuerunt in principio simplices et illitterati, immo magis debet hoc in te fidem Ordinis confirmare. Fateor coram Deo, quod hoc est, quod me fecit vitam beati Francisci maxime diligere, quia similis est initio et perfectioni Ecclesiae, quae primo incepit a piscatoribus simplicibus et postmodum profecit ad doctores clarissimos et peritissimos; sic videbis in Religione beati Francisci, ut ostendat Deus, quod non fuit per hominum prudentiam inventa, sed per Christum.”

Conclusion

The clerical rights of the Franciscan Order, characterized by the privilege of exemption, are to this day recognized by the Church in her legislation. The Code of Canon Law explains the real meaning of the term “privilege”, which is confirmed in cases of centenary or immemorial possession, such as is the case of the privilege of exemption of the mendicant Orders, including the Franciscans.⁵⁰

Although “the Order of Friars Minor is made up of clerical friars and lay friars,” who, “by their profession are completely equal in their religious rights and obligations except for those that arise from Sacred Orders,” to this very day, “the Order of Friars Minor is included by the Church amongst the clerical institutes.”⁵¹

At this point in time, it is correct to discuss the specific charism of the Order at the moment of its foundation from the historical and theological point of view.⁵² From the juridical viewpoint, however, the Church still has not come up with any new definition of the role of the Friars Minor. In effect, the majority of the friars remain clerics, and therefore it is important to understand the historical background of what we have called clerical rights of the Franciscans, in order to work effectively in the Church as an institute of pontifical right, in a spirit of obedience to the pope, and at the same time to collaborate with the local bishops and pastors in the organization of pastoral ministry.⁵³

The Franciscan witness of obedience to the Church of Rome and of active collaboration with its pastors is nowadays lived according to the spirit of Vatican Council II. The Church and the Franciscan ministers are well aware of the importance of being faithful, on the one hand, to the genuine tradition of the privilege of exemption given to the Order in the exercise of its internal government and in its

⁵⁰ *Codex Iuris Canonici*, Can. 76 §1. “A privilege is a favor given through a particular act to the benefit of certain physical or juridic persons; it can be granted by the legislator as well as by an executive authority to whom the legislator has granted this power.” §2. “Centenary or immemorial possession induces the presumption that a privilege has been granted.”

Can. 78 §1. “A privilege is presumed to be perpetual unless the contrary is proved.”

⁵¹ *General Constitutions of the Order of Friars Minor*, article 3, General Curia OFM, Rome 2004, 65. *Codex Iuris Canonici*, Can. 588 §1. “By its very nature, the state of consecrated life is neither clerical nor lay.” §2. “That institute is called clerical which, by reason of the purpose or design intended by the founder or by virtue of legitimate tradition, is under the direction of clerics, assumes the exercise of sacred orders, and is recognized as such by the authority of the Church.”

⁵² CONFERENCE OF THE MINISTERS GENERAL OFM AND TOR, “The Identity of the Franciscan Order at the Moment of Its Foundation”, *Acta Ordinis Fratrum Minorum*, An. CXIX, fasc. 2 (Maii-Augusti 1999), Curia Generalis OFM, Rome 1999.

⁵³ *Codex Iuris Canonici*, Can. 589 “An institute of consecrated life is said to be of pontifical right if the Apostolic See has erected it or approved it through a formal decree. It is said to be of diocesan right, however, if it has been erected by a diocesan bishop but has not obtained a decree of approval from the Apostolic See.”

Can. 590 §1. “Inasmuch as institutes of consecrated life are dedicated in a special way to the service of God and of the whole Church, they are subject to the supreme authority of the Church in a special way.” §2. “Individual members are also bound to obey the Supreme Pontiff as their highest superior by reason of the sacred bond of obedience.”

Can. 591 “In order to provide better for the good of institutes and the needs of the apostolate, the Supreme Pontiff, by reason of his primacy in the universal Church and with a view to common advantage, can exempt institutes of consecrated life from the governance of local ordinaries and subject them to himself alone or to another ecclesiastical authority.”

Can. 678 §1. “Religious are subject to the power of bishops whom they are bound to follow with devoted submission and reverence in those matters which regard the care of souls, the public exercise of divine worship, and other works of the apostolate.”

pastoral ministry, and on the other hand, to the need of collaborating with the bishops in the effective carrying out of the clerical duties on the part of the friars, both in parishes belonging to the Franciscan Order, as well as in the other conventual churches of the Order.⁵⁴

The knowledge of our history and of our legitimate rights and duties as Franciscan clerics is not only a thing which regards our past and has no impact upon our present-day ministry in the Church. It would be a mistake to ignore our legitimate rights and privileges, which have the sole aim of being beneficial to God's people. It would also be a mistake and a scandal on our part not to collaborate with the local bishops and clergy in the pastoral plan of the local Churches in which we live. Our Franciscan theologians, particularly Saint Bonaventure, can teach us many things regarding our specific charism and our faithfulness to it, in the humble service to the Church which Francis our founder taught the brothers, "so that, being always submissive and subject at the feet of the same Holy Church and steadfast in the Catholic faith, we may observe poverty, humility, and the Holy Gospel of our Lord Jesus Christ as we have firmly promised."⁵⁵

⁵⁴ Cfr. BENEDICT XVI, "Litterae Apostolicae *Motu proprio* datae de Basilicis Sancti Francisci et Sanctae Mariae Angelorum novae normae decernuntur" (9 November 2005), *Acta Ordinis Fratrum Minorum*, An. CXXIV, fasc. 3 (Sept-Dec 2005), Curia Generalis OFM, Roma, 299-300; J.R. CARBALLO OFM, Min. Gen., "Lettera a Benedetto XVI" (25 November 2005), *Acta Ordinis OFM*, 301-302.

⁵⁵ LR, c. 12,4: FAED I,106.