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## **Friars, universities and ... footwear. The exegesis of the Franciscan Rule between theology and law in the 13<sup>th</sup> century**

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The article gives an insight into the importance of the thirteenth-century exegesis of the Franciscan Rule for the history of late medieval culture. After explaining how and why the friars commented on their Rule and the implications of interpreting a text that Francis of Assisi asserted to have written by divine inspiration, and simultaneously forbade glossing, the contribution delves into the relationship that the Minors established with the contemporary theological and juridical culture. By analysing the exegesis on the footwear that the friars were supposed to wear, the article shows how contemporary juridical and theological reflections on the limits and value of the law were originally grafted into the discourse on the Franciscan Rule.

L'articolo offre un saggio dell'importanza dell'esegesi duecentesca della Regola minoritica per la storia della cultura tardomedievale. Dopo aver mostrato come e perché i frati commentarono la loro Regola e quale fu la posta in gioco nell'interpretare un testo che Francesco d'Assisi affermò di aver scritto per ispirazione divina e che, allo stesso tempo, proibì di glossare, il contributo si concentra sul rapporto che i Minori instaurarono con la cultura teologica e giuridica coeva. Ripercorrendo l'esegesi sulle calzature che i frati avrebbero dovuto indossare, l'articolo mostra in che modo le riflessioni giuridiche e teologiche coeve sui limiti e sul valore e della legge si innestarono originalmente nel discorso sulla Regola minoritica.

Middle Ages, 13<sup>th</sup> century, Francis of Assisi, Franciscans, Rule, Commentary, University, Law, Theology, Footwear.

Medioevo, secolo XIII, Francesco d'Assisi, frati Minori, Regola, commento, università, diritto, teologia, calzature.

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With these words Giovanni Boccaccio in his *Expositions on Dante's Comedy* vividly portrays the arduous and fervent intellectual work of a commentator of poetic texts who tries to unravel the allegorical meaning hidden behind the 'literal bark [*cortecchia litterale*]:

The second reason could be this: it is normal for something acquired with difficulty to be more pleasing and better protected than what is found through little or no effort. [...] Because pulling hidden truth out from under fabulous speech is without any doubt an arduous task, the studious man who realizes that he has found it must surely experience incomparable pleasure. He then not only forgets all the trouble he went to, but also enjoys a sweetness of mind that, almost with an indissoluble bond, fixes in his memory the truth that he has found.<sup>1</sup>

In that 'sweetness of mind' that follows the unravelling of the innermost senses of a text, one perceives an intellectual sentiment that could have been shared by any medieval commentator. Indeed, one does not exaggerate in this generalisation: any exegete who, at different levels, found himself explaining a text was aiming at that difficult and arduous goal. A goal that was far from being static, that is, far from simply slavishly reproducing the meaning and teachings of a work, elevated to *auctoritas*. Rather, the commentary was, in the Middle Ages, the main device of an intellectual progress that could not disregard the study of the tradition of the past. It was a literary *genre*, in fact, that made it possible to innovate a patrimony of past knowledge conceived as authoritative: not only did it preserve the entirety of the text's *auctoritas*, often reproducing it *verbatim*, but it also enabled its appropriation, allowing for its adaptation to the contemporary context in which it was being read. The annotated text was thus transformed from a passive container of a past science into a potential repository of further knowledge.<sup>2</sup>

All branches of medieval knowledge – according to techniques and methods that matured over the centuries and that found a turning point from the 12<sup>th</sup> century onwards with the birth and development of universities – pro-

<sup>1</sup> Boccaccio's *Expositions*, 81. The original text is as follows: *Suole quello, che con difficultà s'acquista, piacer più e guardarsi meglio che quello che senza alcuna fatica o poca si truova: e questo le grandi eredità rimase a' nostri giovani cittadini hanno mostrato. Non essendo adunque senza alcun dubbio esser molta malagevoleza il trarre la nascosa verità di sotto al fabuloso parlare, dee seguire essere incomparabile diletto a colui che, per suo studio, vede averla saputa trovare; laonde non solamente ogni affanno avutone se ne dimentica, ma ne rimane una dolcezza nell'animo, la quale quasi con legame indissolubile ferma, nella memoria di colui che ritrovata l'ha, la verità ritrovata: dove quella che senza alcuna difficultà s'acquista, come leggermente venne, così leggermente si parte. Di che seguita che dell'averne faticato s'acquista, dove del non avere studiato l'uomo si ritrova di scienza vòto* (Boccaccio, *Esposizioni sopra la Comedia*, 55). On medieval commentaries on Dante's *Comedy*, see the three volumes of *Censimento dei commenti danteschi*. Since 2001, the commentaries on the *Commedia* have been the subject of a major publishing project entitled 'Edizione nazionale dei commenti danteschi' (National Edition of Dante's Commentaries) chaired by Enrico Malato: < <https://www.centropi-orajna.it/attivita-culturali/edizione-nazionale-dei-commenti-danteschi/> >.

<sup>2</sup> On commentary on the text in general see Segre, "Per una definizione del commento;" Holtz, "Glosse e commenti;" Copeland, "Gloss and Commentary;" *Commenter au Moyen Âge*; Minnis, *Medieval theory of authorship*.

gressed and appropriated knowledge from the past through commentary: theology, law, medicine, and all disciplines of the *trivium* (grammar, rhetoric, and dialectic) and the *quadrivium* (arithmetic, geometry, music, and astronomy).<sup>3</sup> Consider, for instance, the field of law and the profound significance for civil and canon law science of the glosses and commentaries on the *Corpus iuris civilis* by Accursius and his school, as well as those on the canons of the past by Gratian. These works, undoubtedly emblematic of a much wider intellectual climate, not only facilitated the transmission of the collections of civil and canon laws, but also served a dual purpose. On one hand, they sought to elucidate and deliberate upon apparent conflicts within these bodies of law. On the other hand, by endeavouring to apply these laws to contemporary cases, they laid the groundwork for contemplating the principles underpinning a new legal system.<sup>4</sup>

Closely aligned with this form of commentary, particularly due to the evident normative character of the interpreted text, is the category of commentaries on religious Rules. Although the practice of interpreting the Rule likely emerged around the same time as the creation of the Rules themselves and was initially transmitted orally, written commentaries have only survived from the 9<sup>th</sup> century onwards.<sup>5</sup> From that period until the emergence of the mendicant Orders, numerous commentaries on the Rules of Benedict and Augustine were penned.<sup>6</sup> However, it was primarily from the 13<sup>th</sup> century onwards that the Friars Minor, with their new Rule sanctioned in 1223 in

<sup>3</sup> Universities undoubtedly represented a turning point in the history of the exegesis of authoritative texts. Following the period of their institutionalisation, the forms, modes, and structures of commenting on a text were more or less rigidly defined. On intellectual work in universities in general, see: Maierù, *University training*; Verger, *Men of Learning*; Riché, Verger, *Des nains sur des épaules de géants*; Boureau, *L'empire du livre*. For a comprehensive look at the history of the university, see also Frova, "Scuole e università" and Frova, *Istruzione e educazione nel Medioevo*. On the evolution of exegetical techniques, with a focus on Bible study: Smalley, *The study of the Bible in the Middle Ages*; Smalley, *The Gospels in the Schools*; Dahan, *L'exégèse chrétienne de la Bible*. On the evolution of teaching vocabulary during the Middle Ages: Weijers, *Terminologie de la vie intellectuelle au moyen âge*; Weijers, *Vocabulaire des écoles*; Weijers, *Vocabulary of Teaching*.

<sup>4</sup> On the practice of commentary in the legal sphere, see the pages dedicated to the subject in Galasso, *Medio Evo del diritto*; Cortese, *Il diritto nella storia medievale*; Grossi, *L'ordine giuridico medievale*; Bellomo, *Medioevo edito e inedito* particularly the first volume; Ascheri, *I diritti del Medioevo italiano*; Padoa-Schioppa, *Storia del diritto in Europa*; Conte, *Diritto comune*; Menzinger, "Riflessioni sul rapporto tra autore e testo."

<sup>5</sup> The first commentary we know dates to 816 and is attributed to Smaragdus, abbot of the monastery of Saint Mihiel, in the diocese of Verdun (Spannagel, Engelbert, *Smaragdi abbatris expositio in regulam s. Benedicti*).

<sup>6</sup> Commentaries predating the emergence of mendicant Orders include Hildemar of Corbie's interpretation of the Rule of Benedict, the Cistercian *Sermones in Regulam*, and the expositions on the Rule of Augustine by Hugh of St. Victor. Hildemar's commentary can be read in three different editions, one of which is attributed to Paul the Deacon. References to editions and the relevant bibliography of Hildemar's commentary can be found on the official website of a research project dedicated to the commentary: [www.hildemar.org](http://www.hildemar.org). The edition of *Sermones* was published by Jörg Sonntag: *Sermones in Regulam*. The reference to the last quoted commentary is Hugo de S. Victore, "Expositio in Regulam beati Augustini."

derogation from the decrees of the Fourth Lateran Council, brought about a substantial transformation in this distinct domain of exegetical history.<sup>7</sup> Indeed, focusing solely on the late medieval era, spanning from the 13<sup>th</sup> to the early 16<sup>th</sup> century, it can be confidently asserted that the commentaries on the Franciscan Rule exhibited a notable disparity in quantity when compared to earlier and contemporary works: the Friars Minor demonstrated a significantly heightened level of engagement in interpreting the Rule in comparison to other Orders.

The analysis presented here intersects various historiographical perspectives. Firstly, it seeks to leverage the insights provided by previous studies that have regarded the commentaries as valuable texts for understanding the development of specific themes within the Franciscan Order's history.<sup>8</sup> Secondly, it ties to grasp the historical-juridical reflections of various scholars who, sometimes with very different approaches, have analysed the commentaries elucidating their relations with other 'normative sources' of religious Orders such as statutes, constitutions and papal declarations on the Rule.<sup>9</sup>

<sup>7</sup> The first Dominican commentary on the Rule of Saint Augustine (and the only one which can be placed in 13<sup>th</sup> century) is Humbertus de Romanis, "Expositio Regulae sancti Augustini." On this text see Creytens, "Les commentateurs dominicains." On medieval commentaries on the Franciscan Rule and related bibliography: Carta, *Interpretare Francesco*. For modern commentaries on the same Rule: Camaioni, "I commenti dei primi cappuccini;" Iozzelli, "La Regola." Part of the studies on expositions to the Franciscan Rule will be taken up in the following notes. The reference to the Fourth Lateran Council is to canon 13 *Ne nimia religionum diversitas (Conciliorum oecumenicorum decreta, 242)* which required new religious formations to enter an already approved *religio* by adopting its Rule. The Dominicans observed this provision by adopting the Rule of Augustine. On these provisions and the process of approval of the Franciscan Rule see Alberzoni, "I nuovi Ordini;" Alberzoni, "Il concilio dopo il concilio;" Melville, "... regulam et institutionem accipiat de religionibus approbatis," 275-88 and Rusconi, "La formulazione delle regole minoritiche."

<sup>8</sup> See the contributions by Dolso, *Et sint minores* on the Order's recruitment; Parisoli, "La disciplina alimentare e la 'Altissima paupertas'" on poverty and food; Maranesi, *Nescientes Litteras* on the question of studies; Dalarun, *Francis of Assisi and Power* on the Order's government; Roest, *A History of Franciscan Education* and Roest, *Franciscan Learning*.

<sup>9</sup> At least two distinct strands can be mentioned. On the one hand, scholars from the Italian area or strongly indebted to Italian historiography such as Etzi, *Juridica franciscana*; Maranesi, *Nescientes Litteras*; Bertazzo, "Les Constitutions de Narbonne;" Dalarun, "La Règle et les constitutions jusqu'à Bonaventure;" *Fonti Normative Francescane* in which commentaries, constitutions, and papal declarations on the Rule are brought together in a single volume, under a single umbrella of normativity. On the other hand, the work and the school built up around Gert Melville. This school, meditating on certain Weberian concepts such as 'charismatic power', 'routinisation of charisma', and 'bureaucratic power' and taking the cue from Karl-Siegbert Rehg's sociological analysis of institutions as symbolic orders, places the commentaries within a set of sources that can be used to study the 'institutional forms' of medieval religious life. See, for instance, Cygler, Melville, "Nouvelles approches historiographiques des ordres religieux," 316: "it is not only a question of studying the organisation, structure and legal status of orders, but also their guiding ideas, their system of values and norms, as well as their functions within society" (translation by the author). In this regard: Melville, *The World of Medieval Monasticism*; Andenna, Melville, *Regulae-Consuetudines-Statuta*, which offers individual insights into the different religious Orders and two in-depth studies on the Franciscan Order by Rusconi, *La formulazione delle regole minoritiche* and Röjrkasten, *Franciscan legislation*. In 2015, as part of the project "Monasteries in the High Middle Ages as engines of innovation for European forms of life" promoted by FOVOG Dresden, Jörg Sonntag launched the idea of creating

Thirdly, it dialogues with the methodological framework that originated primarily from the insights of Ovidio Capitani and Giacomo Todeschini. This approach assigns importance to commentaries, among other sources, to explore the significance of Franciscan reflections in the formulation and advancement of themes related to economic ethics, economics, and politics, including their linguistic aspects.<sup>10</sup>

In comparison with this works, the novelty of this contribution is its specific focus on the commentaries on the Rule as a distinct literary *genre*. It is an approach that can help in accomplishing two main objectives. The first is to offer a comprehensive interpretation of the phenomenon of Franciscan comments, elucidating the dynamics and underlying reasons that led the friars to engage in a ‘special’ and ‘problematic’ activity. It was ‘special’ because the Rule they commented on was inherently ‘special’, believed by them to be divinely inspired by God to Francis and more perfect than other religious Rules; ‘problematic’ because, as we shall see, Francis explicitly prohibited this interpretative activity. The second objective is that of revive a sometimes-undervalued element within the cultural history of the Middle Ages, allowing the commentaries on the Rule to be finally recognized – after the significant acquisitions, particularly from the school of Capitani and Todeschini – as highly valuable sources for reconstructing some of the most captivating intellectual debates that unfolded during the late medieval period.

We will first focus on the birth of the friars’ interpretative activity, then we will see how commentaries on Franciscan Rule are constructed in relation

a ‘compendium’ of the commentaries to the Rule of religious Orders in the Middle Ages. The initiative was announced in Sonntag, “Les commentaires des règles monastiques et religieuses médiévales.” Regarding the normative sources of religious Orders, I also recommend the volume: *A Companion to Medieval Rules and Customaries*. A single contribution is dedicated to the Franciscan Rule: Grieco, “The Rule of Saint Francis.”

<sup>10</sup> Some lines of investigation were already foreshadowed in Capitani, “Recensione a John T. Noonan, The Scholastic Analysis of Usury.” The essay of Capitani, “Ipotesi sociali del francescanesimo medioevale,” acquired almost a founding value for this type of historiography. That essay took its starting point by the insights already gained by Grossi, *Usus facti*. Of Giacomo Todeschini we only mention here, within a vast historiographical production, *Oeconomica franciscana. Proposte di una nuova lettura; Oeconomica franciscana II. Pietro di Giovanni Olivi come fonte; Il prezzo della salvezza and Franciscan Wealth*. On the historiographical novelty of Capitani and Todeschini see: Lambertini, “Economia franciscana: momenti del percorso di un concetto storiografico.” On the importance of Capitani and the ‘Social Hypotheses’, see the analysis by Lambertini, “Ovidio Capitani e le ‘ipotesi sociali’ degli Ordini mendicanti.” Following in the two masters’ footsteps is Paolo Evangelisti. See: *Per uno studio della testualità politica franciscana*; “Martirio volontario ed ideologia della Crociata;” *Il pensiero economico nel Medioevo*; and “*Vide igitur, quid sentire debeas de receptione pecuniae*.” Roberto Lambertini and Andrea Tabarroni can also be counted within this historiographical school, but with a recognisable influence from the *magisterium* of Carlo Dolcini. Of whom see: Tabarroni, *Paupertas Christi et Apostolorum*; Lambertini, *Apologia e crescita dell’identità franciscana*; Tabarroni, *La povertà pensata*.

to the ones on contemporary university texts. Next, we will specifically analyse two issues discussed in them: the limits and the value of the law. Finally, before the conclusions, we will explore how these topics are introduced in the seemingly marginal debate on the friars' footwear.

### 1. *The Birth of Franciscan Rule Exegesis*

Paradoxically, the interpretation of the Franciscan Rule arose from the prohibition against it that Francis of Assisi clearly expressed in his Testament:

And I strictly command all my cleric and lay brothers, through obedience, not to place any gloss upon the Rule or upon these words saying: "They should be understood in this way." But as the Lord has given me to speak and write the Rule and these words simply and purely, may you understand them simply and without gloss and observe them with a holy activity until the end.<sup>11</sup>

These words need to be understood within the context of a period characterized by significant tensions within the Franciscan community. During this time, the community experienced a profound transformation in its identity, particularly in terms of its clerical and priestly roles. This transformation was prompted by the remarkable growth in the number of its members, the increasing responsibilities entrusted to them in tending to the spiritual needs of others, and the inclusion of learned friars whose backgrounds and profiles differed greatly from those of the initial community established around Francis.<sup>12</sup>

After relinquishing his position as the superior of the Order as early as 1220, he remained actively involved in the affairs of his community in the years leading up to his death in 1226. During this time, he played a significant role in the formulation of a new Rule distinct from those of Augustine and Benedict. Through preaching, writing, and composing various texts, he made other enduring contributions. He composed or dictated letters, prayers, exhortations, and the Canticle of Creatures. Finally, he penned his Testament,

<sup>11</sup> *Et omnibus fratribus meis clericis et laicis precipio firmiter per obedientiam, ut non mittant glossas in regula neque in istis verbis dicendo: 'Ita volunt intelligi'; sed sicut dedit michi Dominus simpliciter et pure dicere et scribere Regulam et ista verba, ita simpliciter et sine glossa intelligatis et cum sancta operatione observetis usque in finem* (Francesco d'Assisi, "Testamentum," 38-9). The reference edition for Francis' writings has been edited by Carlo Paolazzi: Francesco d'Assisi, *Scritti*. For a general overview of the writings cited in this chapter, see *The Writings of Saint Francis: Letters and Prayers* and *The Writings of Saint Francis: Rules, Testament and Admonitions*. English translations, unless expressly indicated, are taken from *Francis of Assisi: Early documents*, vol. 1. On the interpretation of the prohibition of Francis in the Testament: Maranesi, *L'eredità di frate Francesco* then taken up and deepened in Maranesi, "Scribere, intelligere et observare regulam" and Dalarun, "François d'Assise et la Règle sine glossa."

<sup>12</sup> On this and other phases of the history of the Franciscan Order in the Middle Ages, the essential reference point is Merlo, *In the Name of Saint Francis*.

wherein he traced the origins and foundations of his own conversion experience. In doing so, he did not hesitate to refine or rectify certain behaviours of his fellow friars that, in his view, deviated from the Rule that God had inspired him with.<sup>13</sup>

His special relationship with God, emphasized as the source of ‘gifts’, is repeatedly affirmed in the text. It was God who initiated his experience, provided him with companions, and ultimately “commissioned” him to write the Rule and the Testament *simpliciter et pure*.<sup>14</sup> This is the aspect that lends prescriptive authority to his final testament, exhortations, and norms. From this perspective, the only appropriate way to comment on the Rule, as revealed to him by God, is to do so “simply and without gloss” – and by reading Francis’ Testament beside it.<sup>15</sup>

The friars, especially the scholars and ministers in provinces far from Italy, quickly realized that this prohibition clashed with the natural necessity of a burgeoning community like theirs: to establish norms and adapt the Rule to new circumstances. The Rule, approved in 1223 after a painstaking process of compromise between Francis, his friars, and the papal Curia, aimed to modify the text that had been deemed unsuitable by Honorius III just twenty-four months earlier. However, the Rule alone could no longer regulate an Order that had already undergone significant changes in just a few years and had expanded across Europe, requiring adaptations to different realities beyond Italy. Not only was there a need to clarify ambiguous passages in the Rule to devise new norms during the general chapters, but also practical issues needed to be resolved. For instance, how could the acceptance of monetary donations from an ever-growing number of faithful be reconciled with chapter IV, which prohibited the friars from receiving any money? Whose ownership did the books, utensils, lands, and friaries belong to, when chapter VI forbade the friars from possessing anything? Furthermore, how could new preaching brothers be appointed swiftly to meet the growing demands of the Roman

<sup>13</sup> To contextualise this phase of Francis’ life within his biographical itinerary, see the most recent synthesis (with abundant bibliography): Marini, *Francesco d’Assisi. Il mercante del regno*. However, we would like to point out some important works that, by attempting to provide a general interpretation of the figure of Assisi, may allow us to reflect on the foundations of his Christian experience: Miccoli, *La proposta cristiana di Francesco d’Assisi*; Vauchez, *Francis of Assisi: The Life and Afterlife*; Merlo, *Frate Francesco*. To grasp the most recent historiographical directions, also consult *Frater Franciscus. Storia e attualità*. For understanding the figure of Francis within the context of the *societas christiana* of the time, see: *Frater Francesco d’Assisi* and Alberzoni, et al., *Francesco d’Assisi e il primo secolo di storia francescana*. Interesting insights into the attitude of Francis as writer in Michetti, “Le lettere di Francesco d’Assisi.” On Francis’ Testament, see: Merlo, *Ego, frater Franciscus* and Maranesi, *L’eredità di frate Francesco*.

<sup>14</sup> Francesco d’Assisi, “Testamentum,” 1-6; 14; 39.

<sup>15</sup> The Rule and the Testament are linked by Francis in two norms that immediately precede the prohibition of glosses (see footnote 11): *Et semper hoc scriptum habeant secum iuxta Regulam. Et in omnibus capitulis que faciunt, quando legunt Regulam, legant et ista verba* (Francesco d’Assisi, “Testamentum,” 36-7).



Curia when the Rule dictated that their approval had to be sanctioned by the general minister after examination?

Faced with these pressing challenges, particularly for an Order that was poised to become an indispensable collaborator of the Holy See alongside the Dominicans, his governance sought assistance from Pope Gregory IX, who had previously served as the cardinal protector of the Order. Just four years after Francis' death and two years after his canonization, at the request of the Order's leadership, the pope officially interpreted certain ambiguous passages of the Rule. He declared that the Testament, the very text that contained the exhortation not to provide commentary, would not be binding on the friars. With the issuance of the Gregorian letter, the possibility of commenting on the Rule was opened.

The friars only began to grasp this opportunity after the generalate of brother Elias, which ended in conflict in 1239, roughly a decade after the pronouncement by Pope Gregory IX. It is highly likely that Francis' *socius*, who was a steadfast guardian of the founder's intentions, thwarted any attempts in that direction. However, it must be acknowledged that the provisions of the Testament could not be easily disregarded and continued to serve as a point of reference for the life of the Franciscan community.<sup>16</sup> The manuscripts that preserve the Rule often contain copies of the Testament as well, in accordance with Francis' instructions in that text.<sup>17</sup> When the friars finally seized the opportunity to comment on the Rule, they were careful to approach it in a manner consistent with the founder's wishes. This demonstrates the need for caution in not overly rigid alignments when recounting these events. It is erroneous to portray a stark dichotomy between Francis and his initial companions, who were mostly lay friars, and the pope, learned friars, and ministers of the provinces. Such a simplified opposition, which emerged shortly after these events and relied on the recollections of the early companions who had been excluded from governing the Order, requires a more nuanced perspective.<sup>18</sup> Regardless of the outcome, it is probable that the learned friars were never motivated by a desire to betray Franciscan ideals (which, moreover, must always be understood within the historical context of Francis' life

<sup>16</sup> On Elias: *Elia di Cortona tra realtà e mito*. I also point out two less recent articles: Barone, "Frate Elia" and Barone, "Frate Elia: suggestioni da una rilettura."

<sup>17</sup> See footnote 15. On the manuscript tradition of the Rule see Esser, Oliger, *La tradition manuscrite des opuscles de saint François d'Assise* and Ciceri, "I codici degli Opuscula sancti Francisci," 383-426. On the Italian manuscript tradition see now: Cursi, Dejure, "I volgarizzamenti italiani della Regula bullata."

<sup>18</sup> The relations between Francis, the friars and Hugh of Ostia have been interpreted differently by specialist historiography. One can reconstruct the – often conflicting – positions of scholars on the issue thanks to the recent "Ipse altissimus revelavit michi... Recenti contributi." These are the proceedings of a round table discussion in Milan in which Gert Melville, Raimondo Michetti and Maria Teresa Dolso discussed, with their respective authors, three books (Marini, *Francesco d'Assisi*; Alberzoni, *Santa povertà* and Accrocca, *Francesco d'Assisi*). To them, one should at least add Dalarun, *Francis of Assisi and Power* and Michetti, "Gli studi su Francesco d'Assisi."

and the evolving friar community). Their actions were driven by practical and concrete needs, which the pope understood and supported, as they grappled with the challenge of ensuring the survival of their community and the unique Christian way exemplified by Francis in the face of rapid changes during that time.

From the late 1230s onward, the friars embarked on an intensive activity of commentary on the Rule, which accompanied the Order's legislative reflection conducted through the general chapters and the constitutions<sup>19</sup>. At the same time, they did not hesitate to seek the pope's authoritative and definitive opinion whenever they encountered questions arising from their study of the founding text.<sup>20</sup>

## 2. *Techniques and Structures of University Commentaries in Rule Interpretation*

How did Franciscans comment on the Rule?

The friars' approach to interpreting the Rule was greatly influenced by the exegetical structure and methodology employed at the universities during that period. By the 1230s, a significant encounter had already taken place between the friars and the university, marked by the noteworthy event of Alexander of Hales, a renowned Parisian theology master, joining the Order.<sup>21</sup> This act held immense symbolic value, not only because of Alexander's stature as

<sup>19</sup> As known, the process of drafting constitutions was not neither organic nor precisely regulated. In 1260 the General Chapter of Narbonne, led by General Bonaventure of Bagnoregio, endorsed the initial comprehensive set of constitutions, simultaneously mandating the obliteration of preceding ones. Our knowledge of earlier norms is derived from the writings of Cesare Cenci, notably: Cenci, "De Fratrum Minorum Constitutionibus Praenarbonensibus;" Cenci, "Fragmenta priscarum Constitutionum praenarbonensium;" Cenci, "Vestigia constitutionum praenarbonensium." These constitutions were edited together with those of Narbonne and later ones from the 13<sup>th</sup> century in *Constitutiones Generales Ordinis Fratrum Minorum. I. Saeculum XIII*. On Constitutions see at least: Bertazzo, "Les Constitutions de Narbonne;" Dalarun, "La Règle et les constitutions jusqu'à Bonaventure;" Maranesi, "La Regola e le costituzioni del primo secolo francescano."

<sup>20</sup> While all three types of texts were interconnected – constitutions could be based on reflections prepared by the pope or the friars, papal declarations were often grounded in the friars' reflections, and commentaries either revitalized or debated the pope's interpretation or the norms of the constitutions – the timing and causes leading to the production of these texts varied depending on the specific situations the friars lived. Furthermore, commentaries and constitutions were not as rigidly defined as textual types might suggest. During certain periods, for instance, the friars experimented with constitutions that included exegetical analysis of the Rule or commentaries that appeared to establish new norms. Finally, the friars conceived papal declarations interpreting the Rule as a collection of distinct papal letters, separate from privileges, for instance. However, this collection was not precisely defined and could differ from one author to another. For concrete examples I refer to Carta, *Interpretare Francesco, ad indicem*.

<sup>21</sup> On the relationship between the friars and the university see Pellegrini, *L'incontro tra due invenzioni medievali*. On Alexander of Hales see Delmas, "Alexandre de Halès" and Weber, "Alexander of Hales's Theology" to which we refer for more comprehensive bibliographical references.

a *magister* but also because his conversion to the Franciscan Order allowed one of the theology professorships to be passed on to the Friars Minor. From the 1240s onwards, it was the educated *élite* within the Order, including figures like Alexander, who took the lead in commenting on the Rule. In their efforts to explain the text, the friars naturally embraced the commentary techniques used in *lectio*, a method in which they themselves often participated as listeners, readers, or teachers. Throughout the 13<sup>th</sup> century, the friars composed commentaries that drew inspiration from various sources, such as the Gospel, the Old Testament, juridical books, patristic texts and even works by Latin literature (such as Cicero, Valerio Massimo, Seneca) and Aristotle. They skilfully adapted these techniques to suit the specific audience they were addressing. As the audience became more sophisticated, the complexity of the commentaries' structure also increased.<sup>22</sup>

A structural comparison is highly illustrative in this regard. Examining the edition of the commentary traditionally attributed to Bonaventure of Bagnoregio, but now believed to be the work of an unknown friar referred to as Pseudo-Pecham, clearly demonstrates how the author employs a meticulous example of a commentary in the format of complex *quaestiones*.<sup>23</sup> These *quaestiones* are organized by presenting the argument of the debate, providing an exposition of the opposing viewpoints along with their supporting arguments and counterarguments, engaging in a comprehensive discussion, and concluding with a final resolution. Pseudo-Pecham addresses two distinct audiences. On one hand, he responds to secular teachers who, based on contrasting notions of Christian life perfection, ecclesiology, and participation in university life, attacked the mendicant friars deeming their lifestyle within the Church as illegitimate. On the other hand, he engages with fellow friars involved in the debate to refine their apologetic arguments.<sup>24</sup> In contrast, when David of Augsburg faced the task of addressing novices a decade earlier, who were receiving initial teachings on the Rule through commentary for a year, he did not employ the same structural approach.<sup>25</sup> Instead, his

<sup>22</sup> By 'commentary' I mean here what Copeland, reasoning on the *mise-en-page* of these texts, calls freestanding lemmatic commentaries, i.e. commentaries which are "connected to the commented text by *lemmata* (*lemma*, the word or group of words from the original text that is quoted to refer back to the passage under consideration)", and not commentaries that are "on the page of the manuscript with the author's text" (Copeland, "Gloss and Commentary," 3).

<sup>23</sup> The commentary can be read in the eighth volume of Bonaventure's *Opera omnia* published by the Friars Editors of Quaracchi: Pseudo-Pecham, "Expositio super Regulam." The commentary was translated into English, with a useful introduction by Flood in *Early Commentaries on the Rule. II*, 97-171, but note that Flood attributes it to John Pecham. On the debated question of its authorship, see Carta, *Interpretare Francesco*, 110-4.

<sup>24</sup> Indispensable reference points for the reconstruction of the dispute are: Lambertini, *Apolo-gia e crescita*; Lambertini, *La povertà pensata*, 27-108 e Lambertini, *Momenti della formazione*. See also Lambertini and Tabarroni, *Dopo Francesco*, 51-75.

<sup>25</sup> The *Expositio* is edited in David Flood, "Die Regelerklärung." Informations on David of Augsburg are rather scarce and mainly concern his production of works related to spirituality. See Block, "Davide di Augusta: Elementi Basilari della vita spirituale." You may also consult, as a useful introduction to the reading of the commentary, David Flood's presentation to the

commentary adopts a more basic reading of the text, focusing on explaining difficult terms, providing paraphrases of concepts, and offering limited notes to clarify the immediate meaning of sentences, without delving into complex *quaestiones*.<sup>26</sup> This type of reading was suitable for schools at a lower level than the academic setting, yet it remained an indispensable part of text explanation even in universities. Most of the surviving commentaries lie between these two contrasting models of Pseudo-Pecham and David of Augsburg.

The fact that the friars embraced the structures and techniques of commentary employed at the universities of the time should not undermine the specific cultural significance of this undertaking. It is important to recognize that the friars applied exegetical methods prevalent in the academic setting to a text that was not originally part of that environment and was not necessarily the subject of scholastic instruction. This highlights the broader cultural impact of commentaries on the Franciscan Rule, as well as religious Rules in general, as evidence of the widespread influence of scholastic and university techniques beyond their original contexts. Moreover, the integration of these techniques into an existing tradition of commentary on religious Rules further emphasizes the cultural significance of scholastic and university tools as vehicles of knowledge.

### 3. *Reflections on the limits and value of the law*

The adoption of exegetical techniques employed in the universities of the period enabled the Friars Minor to engage in a reflective dialogue on the Rule, which intersected with contemporary theological and legal discourses during the Middle Ages. The Rule itself had a dual identity: it served as a means of salvation, because it led to evangelical perfection, while also encompassing a set of legal norms that professed members were bound to through their vows.<sup>27</sup> The precise nature of this relationship requires further investigation,

English translation of the *Expositio: Early commentaries on the Rule. I*, 161-5 [translation: 166-212]. For a contextualisation of the *Expositio* within the Franciscan literature on novices see also Breitenstein, *Das Noviziat*, 417-600. David talks about his audience when he describes his working method: *Quia fratribus nostris illiteratis et novitiis Regulam legere et exponere saepius a superioribus meis iussus sum ut magis haberem in promptu quae dicerem ne oblivio tolleret simpliciter propter me notavi ista* (Flood, "Die Regelerklärung," 239).

<sup>26</sup> See for example the comment on the passage of chapter III of the Rule: They should fast from the feast of all saints until Christmas (in regular font in the text below): *Et ieiunent fratres tam laici quam clerici a festo Omnium sanctorum proximo die post incipientes usque ad nativitatem Domini secundum constitutiones in cibo quadragesimali communiter* (Flood, "Die Regelerklärung," 210).

<sup>27</sup> The link between the Rule and the Gospel is established at the very beginning of the Rule itself: *Regula et vita Minorum Fratrum hec est, scilicet Domini nostri Jesu Christi sanctum Evangelium observare, vivendo in obedientia, sine proprio et in castitate* (Francesco d'Assisi, "Regula non bullata," I, 1). The idea that the Rule leads to evangelical perfection through this connection is already articulated in Hugh of Digne's *Elucidatio: Secundum scilicet observantia commendatur cum dicitur: sanctum evangelium observare. Hanc ergo perfectissimam atque*

but it explains why Friars Minor, prompted by their founding text, made original contributions to numerous topics that were typically addressed in contemporary commentaries on biblical or legal texts.

Two important themes that emerged in commentaries on the Rule were the limits of law applicability and the varying degrees of obligation associated with its norms. These reflections involved exploring the concept of *necessitas* (necessity) as an abstract principle used to derogate from the rule, a concept that had already been discussed in Gratian's *Decretum* and gradually legitimized through papal documentation to justify exceptional interventions.<sup>28</sup> Additionally, commentaries on the Rule delved into the distinction between Rule indications categorized as precepts and those considered advices, determining the more or less obligatory nature of these norms for the professed.

As evidenced by the widespread adage *necessitas non habet legem* (necessity knows no law), the reflection on the concept of necessity extended beyond canon law to other fields of knowledge during the 13<sup>th</sup> century.<sup>29</sup> Particularly from the late 12<sup>th</sup> century, this adage found its way into religious contexts, including the Rule of Grandmont, in which it allows the breaking of silence.<sup>30</sup> It appears then in the first Franciscan Rule, not approved by the Holy See, linked to the observance of poverty.<sup>31</sup> The definitive Rule, confirmed by Honorius III in 1223, does not mention the exact phrase but often uses the same concept. Certain provisions within the founding text of the Franciscan Order, in fact, were constructed to allow for derogations in cases of necessity. For instance, *necessitas* permits the derogation from the prohibition of wearing shoes, as

*sanctissimam et ob hoc etiam excellentem, suis professoribus salutarem, evangelice quam continet perfectionis sublimitas, ut de singularibus aliis taceatur, irrefragabili defensione [Franciscus] confirmat* (Ruiz, *La vie et l'oeuvre de Hugues de Digne*, 356).

<sup>28</sup> The references to *Decretum* are: De cons. D.1 c.11 and C.1 q.1 d.p.c. 39. *Necessitas*, together with *utilitas publica*, was identified by Innocent III and Honorius III, for example, as one of the devices to justify the crusades they promoted and all the exceptional interventions connected to them, such as the attribution of special powers to the preachers of the *negotium crucis* or the imposition of ecclesiastical title in favour of the fourth crusade. On this point see Grasso, "La delega papale alla predicazione crociata." From the 12<sup>th</sup> century onwards, the notion of *necessitas* was also used by theologians to reflect on the relationship between *regnum* and *sacerdotium*, i.e. between royal power and priestly power, as well as on the origins and prerogatives – such as those relating to taxation and the use of ecclesiastical property – of the king. Military *necessitas*, in particular, is invoked as a prerequisite for the sovereign to acquire exceptional powers (Buc, *L'ambiguité du livre*, 258 ss). The use of the *dira et dura necessitas* of the kingdom, repeated from year to year and destined to become permanent, was the origin of a regular tax by the state and the *de facto* right to exercise it (Kantorowicz, *The King's Two Bodies*, in particular 284-91: *perpetua necessitas*).

<sup>29</sup> Roumy, "L'origine et la diffusion de l'adage canonique *Necessitas non habet legem*."

<sup>30</sup> *Silentium secundum loca et tempora constituta custodiatur. In his autem locis, hoc est in ecclesia, in claustro, in refectorio, in dormitorio, nec non in his temporibus, id est a completo-rio usque mane finite capitulo, continuum silentium fratres observant, nisi magna necessitas quae legem non habet quandoque coegerit* ("Regula venerabilis Stephani Muretensis," 47) cit. in Roumy, "L'origine et la diffusion," 312, footnote 52.

<sup>31</sup> *Similiter etiam tempore manifeste necessitates faciant omnes fratres de eorum necessariis sicut eis Dominus gratiam largietur quia necessitas non habet legem* (Francesco d'Assisi, "Regula non bullata," IX, 16).

expressed in the second chapter of the Rule.<sup>32</sup> It also overrides the fasting and prohibition of riding prescribed in the third chapter.<sup>33</sup> Moreover, in the fourth chapter, necessity permits the acceptance of money and material possessions to support the needs of the sick and provide clothing for the friars.<sup>34</sup>

The inclusion of the derogation mechanism can also be seen as evidence of the foresight of the legislator who incorporated a certain level of flexibility into specific norms, allowing for adaptation in different situations. Subsequent reflection by the Franciscans delved deeper into this derogation mechanism, particularly focusing on defining the specific *necessitates* that were either ambiguous in the founding text or required further clarification. For example, which specific necessities justified the wearing of footwear (*calceamenta*)? Which ones exempted the friars from fasting or allowed them to ride horses? What did it exactly mean for the ministers and custodians to provide for the needs of the sick friars while the Rule forbids the use of coins and *pecunia*?<sup>35</sup>

These questions were particularly sensitive as they compelled the friars to reflect on the fundamental characteristics of their Christian proposal, namely *mendicitas*, humility, and poverty understood as the absence of any power [*dominium*] over people and things.<sup>36</sup> Through reflecting on these issues and examining the extension and limitations of the dispensation mechanism outlined in the Rule, the friars had the opportunity to strengthen or relax certain precepts of Franciscan life. The commentaries on refraining from wearing footwear, riding horses, and possessing money and *pecunia* were occasions for significant deliberations on these matters. Furthermore, the reflection on *necessitas* often played a crucial role in defining the boundaries and limitations of Franciscan poverty, granting the friars an unprecedented role in late medieval society as experts in assessing and discerning the value of material possessions, as Paolo Evangelisti underlined in a recent study.<sup>37</sup> In short, the friars utilized the reflection on *necessitas* to shape, blur, and modify the fundamental characteristics of a new Franciscan identity.

<sup>32</sup> Francesco d'Assisi, II, 15.

<sup>33</sup> Francesco d'Assisi, III, 9 and 12.

<sup>34</sup> Francesco d'Assisi, IV, 2.

<sup>35</sup> On contemporary reflection in the Dominican sphere see: Fieback, "Necessitas non est legi subiecta, maxime positivae."

<sup>36</sup> The main reference is to Miccoli, *La proposta cristiana*, paragraph 4: *Obbedienza e povertà come connotati essenziali della "sequela Christi"*. See also for a discussion of these aspects Vauchez, *Francis of Assisi*; Merlo, *Frate Francesco*.

<sup>37</sup> Paolo Evangelisti makes clear that the value identified by the friars did not coincide with the market value: *Nell'analisi economica del mondo proposta dai Minori il fatto del prezzo, la determinazione monetizzata di una cosa è solo il punto di approdo, quasi insignificante, di una navigazione ben più interessante perché ben più impegnativa. [...] La competenza dei Minori viene mobilitata ed utilizzata per identificare e misurare le componenti costitutive del significato sociale ed economico di una res, del valore che la communitas le attribuisce e, sulla base del quale, procede alla taxatio* (Evangelisti, "Vide igitur, quid sentire debeas de receptione pecuniae," 287). See also Evangelisti, "Vilitas attenditur in pretio partier et colore."

It is important to emphasize that the commentaries, which aimed to revive, delve deeper into, and better define the potentialities and limitations of the derogation mechanism in the Rule, were situated within an intellectual climate that was actively reflecting on these very issues during those years. However, it does not appear that the Franciscan intellectuals had found authoritative references to definitively determine the derogatory *necessitates* of the specific norms in their Rule. Therefore, the work of the early commentators is characterized by a noteworthy level of creativity.

To understand why the friars specifically emphasized this issue, one must highlight the significant role that the derogatory mechanism played in the ongoing process of constructing a constantly evolving Franciscan identity that inevitably engaged with the Rule. When the friars commented on the Rule and developed new constitutional norms, they recognized the importance of *necessitas* and *utilitas* – another concept closely related to the former in its derogatory power and interlinked with it – as valuable instruments for ensuring the necessary normative flexibility. This flexibility was crucial in preserving the ultimate purpose of any religious regulation: to guide and lead individuals towards salvation, which was the primary goal for those who made a commitment to follow the Rule. This ideal aligns with one of the principles on which canon law, not coincidentally, is founded: the purpose of the norm is not merely to regulate an experience of community life, as it may be in positive law, but rather the salvation of every believer's soul. Hence, the law does not possess absolute value – except in its divine foundations, referred to as *ius divinum* in canon law – and it is amenable to moderation, relaxation, and, most importantly, derogation when it is deemed that deviating from it, either partially or entirely, would bring greater soteriological benefit.<sup>38</sup>

The same concern for salvation, causing the discussion to navigate constantly between theology and law, underlies the other reflection mentioned earlier. This pertains to the obligatory nature of norms and the distinction between precepts and counsels. This reflection originated in the theological realm in 12<sup>th</sup> century and unfolded with all its implications throughout the following century. In this period, it found a nearly definitive formulation in the contrasting perspectives of Bonaventure and Thomas Aquinas who actively engaged in defending the Mendicant way of life amidst the dispute between mendicant and secular scholars at the University of Paris.<sup>39</sup>

<sup>38</sup> The principle at the base of this reflection is known as *aequitas*. Poignant pages in this regard in Grossi, *L'ordine giuridico medievale*, 116-23, 203-22. On derogation see also Cantarella, "Sondaggio sulla 'dispensatio'." On *aequitas* Landau, "Aequitas' in the Corpus iuris canonici." For a brief overview of the characteristics of canon law, I will simply point out Padoa-Schioppa, "Réflexions sur le modèle du droit canonique médiévale;" Landau, "The Spirit of Canon Law."

<sup>39</sup> On advice and precepts in general, see: Hruschka, "Supererogation and Meritorious Duties;" Casagrande, Crisciani, Vecchio, *Consilium: teorie e pratiche del consigliare nella cultura medievale*, in particular Vecchio, "Precetti e consigli nella teologia del XIII secolo" which perfectly reconstructs the intertwining of theological and juridical reflections around this issue between the 12<sup>th</sup> and 13<sup>th</sup> centuries. See also Coccia, "La legge della salvezza."

The issue originated from the relationship between the Old and New Testaments, specifically regarding the Mosaic Decalogue and the Gospel Law. The problem revolved around the observance of Jesus' teachings, such as abandoning everything to follow him, turning the other cheek, loving one another, enemies included. How did these prescriptions relate with the fundamental laws given by God to Moses? Although each commentator provided different answers to these questions, it seemed clear that Jesus' instructions carried a different sphere of obligation compared to the Old Testament precepts. The latter were to be strictly observed as inviolable commandments, while the counsels could be followed or not. However, it was understood that adhering to them would lead to a swifter but more challenging path towards greater perfection and, ultimately, salvation. This understanding guided the thinking of many religious innovators during the 12<sup>th</sup> and 13<sup>th</sup> centuries, known as the period of evangelical revival. Figures such as Stephen of Muret, Valdo of Lyon, and Francis of Assisi recognized that the key to renewing religious life lay in a simple following of the Gospel. In the cases of Francis of Assisi and the Friars Minor, this was explicitly translated into the obligatory observance of the evangelical counsels.<sup>40</sup> The juridical mechanism used to transform the counsels into precepts was the vow. Therefore, when a Friar Minor vowed to observe the Rule (which began with the words, "The Rule and life of the Friars Minor is this: that is, to observe the holy Gospel of our Lord Jesus Christ, living in obedience, without anything of his own and in chastity"), it was evident that the counsels of obedience, poverty, and chastity were transformed into obligatory guidelines, or precepts, for him.

At this point, another question immediately arose: whether, due to this connection, the Gospel is, for the friars, entirely matter of precept. In 1230, the friars brought this question to the attention of Gregory IX, who, through the *Quo elongati*, decreed that the Minors would only be obliged to observe as precepts the evangelical counsels explicitly mentioned in the Rule, such as poverty, chastity, and obedience.<sup>41</sup> Following the pronouncement by Gregory

<sup>40</sup> In 1076 Stephen of Muret merely stated in front of his disciples: *Non est alia regula nisi evangelium Christi (Liber de doctrina, 3, 60)*. With these words Stephen placed himself outside of any existing religious status – monastic, hermitical or canonical. On Stephen of Muret see Melville, *Von der Regula regularum zur Stephansregel*. The reference to the evangelical counsels of Valdo of Lyons can be read in the so-called profession of faith: *Consilia quoque evangelica velut precepta servare proposuimus* (Selge, *Die ersten Waldenser mit Edition des Liber antiheresis*, 5). On the experience of Valdo see Merlo, *Valdo. L'eretico di Lione*. In the *Regula non bullata* Francis of Assisi refers to the evangelical counsels of poverty, chastity and obedience committing himself to follow the doctrine and example of Jesus: *Regula et vita istorum fratrum hec est, scilicet vivere in obedientia, in castitate et sine proprio et Domini nostri Ihesu Christi doctrinam et vestigia sequi* (Francesco d'Assisi, "Regula non bullata," I). It is very likely that this was the core of the *forma vitae* presented to Innocent III in 1209 and somehow orally approved by him. On this meeting see Caciotti, Melli, *Francesco a Roma dal signor papa*.  
<sup>41</sup> *Ad hec sicut per predictos nuntios intelleximus, dubitatur ab aliquibus fratrum vestrorum, ne tam ad consilia quam ad precepta evangelii teneantur, tum quia in regule vestre habetur principio: Regula et vita Minorum fratrum hec est, scilicet domini nostri Jesu Christi sanctum evangelium observare vivendo in obedientia, scilicet domini nostri Jesu Christi sanctum*



IX, the issue of the obligatory value of all the other indications in the Rule came to the forefront. This aligns perfectly with the conclusions reached by Alexander of Hales and John of La Rochelle, two friars who commented on the Rule in the 1240s, regarding this very subject.<sup>42</sup> It became clear that not everything regulated in the founding text could hold the value of a precept. During the 13<sup>th</sup> century, commentators took it upon themselves to define how the obligatory nature of individual indications in the Rule could be identified, primarily relying on the different value of the verb used to introduce each norm. Additionally, they proposed different categories, such as instructions and admonitions, to move beyond the simple dichotomy between precept and counsel. Some commentators went further by associating each category with a different type of transgression. For instance, the Provençal friar Hugh of Digne stated that transgression of counsels implied no guilt, transgression of admonitions incurred non-mortal guilt, and transgression of precepts carried mortal guilt.<sup>43</sup>

It is evident how this reflection delved into themes of broader theological and juridical significance, such as the obligatory nature of normative prescriptions, the consequences of transgression, the definition of different degrees of Christian perfection, and the value of the vow. The distinction between precepts and counsels also played a crucial role in resolving contentious disputes. For instance, it settled the debate surrounding the compulsory nature of manual labor, as prescribed in Chapter V of the Franciscan Rule, which was a point of contention between secular masters and mendicants during the Parisian dispute.<sup>44</sup> Given the importance of these matters, it is unsurprising that the papacy was frequently called upon to provide rulings on the question of the Rule's precepts and counsels. One notable example is the issuance of the *Exivi de paradiso* by Clement V in 1312. In this letter, the pontiff established the category of equivalents to precepts, referring to indications that, although not introduced by a preceptive verb, carried the weight of inviolable prescriptions. This marked a significant innovation, which found its way into the col-

evangelium observare vivendo in obedientia, sine proprio et in castitate, *tum quia in fine ipsius Regule continentur hec verba: Paupertatem et humilitatem et sanctum evangelium domini nostri Jesu Christi, quod firmiter promisimus, observemus. Unde scire desiderant, an ad alia evangelii teneantur consilia quam ad ea, que in ipsa regula preceptorie vel inhibitorie sunt expressa, presertim cum ipsi ad alia non se obligare intenderint et vix vel numquam omnia possint ad litteram observari* (Grundmann, "Die Bulle 'Quo elongati,'" 21).

<sup>42</sup> On the reflections of the two masters see Vecchio, "La riflessione sulla legge". I tried to follow the development of this theme in the commentaries on the Franciscan Rule between the 13<sup>th</sup> and 14<sup>th</sup> centuries in Carta, "«Preceptum est»." On their commentary see below footnote 47.

<sup>43</sup> *Transgressio consilii Regule vel prelati potest esse sine omni culpa; transgressio moniti sine culpa mortali; transgressio precepti maxime si cum deliberatione sit, semper est cum mortali* (Ruiz, *La vie et l'oeuvre de Hugues de Digne*, 367). The *Elucidatio* was translated and commented on in English by Flood in: *Early Commentaries on the Rule. I*, 31-160.

<sup>44</sup> Lambertini, *La povertà pensata*, 61-4; Vecchio, "Precetti e consigli," 49-50.

lections of decretals promoted by John XXII, known as the *Clementinae*, thus becoming an integral part of canon law.<sup>45</sup>

#### 4. *The question of footwear*

We can observe a concrete example of how reflections of theological and juridical significance were integrated into the exegesis of the Rule, contributing to the development of an ever-evolving identity of the Order. This can be exemplified by examining specific comments and annotations on a particular topic. The subject of footwear and the symbolism of the habit, which is discussed in the second chapter of the Rule, serves as a fitting illustration. The Rule states: “And those who are compelled by necessity may wear footwear. Let all the brothers wear poor clothes and they may mend them with pieces of sackcloth or other material with the blessing of God”.<sup>46</sup>

The first known interpretation of these words, which can be considered perhaps the most significant, was developed in 1241-42 by four prominent friars from the Parisian *studium* – Alexander of Hales, John of La Rochelle, Eudes Rigaud, and Robert of Bascia – as well as by a certain Gaufredus, the guardian of the Parisian convent. This interpretation was formulated in response to a request from the general chapter, which aimed to address doubts regarding the Rule from all the provinces. The commentary, known as the *Expositio ‘Quatuor Magistrorum’* (Commentary of the ‘Four Masters’), takes the form of a *consilium*, where questions are followed by the reasoned opinions of the friars.<sup>47</sup> The text quickly gained a reputation and served as a model for subsequent commentaries, with many quoting certain reflections from it

<sup>45</sup> Clem. 5. 11. 1.

<sup>46</sup> *Et qui necessitate coguntur possint portare calciamenta. Et fratres omnes vestimentis vilibus induantur et possint ea reperiare de saccis et aliis petiis cum benedictione Dei* (Francesco d’Assisi, “Regula bullata,” II, 15-6). *Francis of Assisi: Early documents*, vol. 1, translates *calceamenta* with ‘shoes’ but I prefer to translate with the more generic term ‘footwear’. The text of the Minorite Rule marked the culmination of a significant discussion on cloth and footwear. This debate involved the Curia of Innocent III and pauperistic-evangelical movements, situated on the border between heresy and heterodoxy. Examples of such movements included various groups that emerged after the preaching of Valdo of Lyon. These groups were distinguished from the Catholic clergy by their humble clothes and, notably, the use of sandals on their feet. The decision of the Friars Preachers and Friars Minor to go barefoot and adopt simple clothing was contextualized within this atmosphere and served as an orthodox response to pauperistic choices that veered toward heresy. A comprehensive exploration of these events in Rusconi, “«Forma apostolorum».”

<sup>47</sup> *Expositio Quatuor Magistrorum*. Olinger’s long introduction (3-120) is still the essential reference point to refer to when approaching the text. The *Expositio* was translated and commented on in English by Flood in: *Early commentaries on the Rule. I*, 1-29. Flood prefers to title the text “The 1242 Commentary on the Franciscan Rule” because just Alexander of Hales and John of La Rochelle were masters of theology at the time (Eudes Rigaud was *magister artium* and student of theology, maybe with Robert of Bascia, of which we know very little except that he became *custos* in Arras). See most recently Lambertini, “*L’Expositio dei ‘Quattro Maestri’*” who prefers to use inverted commas in the title. I will also adopt this solution during the text.

in full. The commentary's acclaim can be attributed to the fact that the Parisian friars approached the questions posed by the Rule by delving into the meaning of its individual words. They demonstrated a strong preference for a literal analysis, which holds a twofold importance for our discussion. Firstly, it aligns perfectly with the exegetical tendencies of theological science at the beginning of the 13<sup>th</sup> century.<sup>48</sup> Secondly, it is deemed by the 'Four Masters' as the only type of exegesis possible for the friars, considering Francis' prohibition in the Testament. The passage, even well-known, is worth quoting:

We have not glossed the Rule or explained it in a new way [...]. Rather, we have simply and honestly [*simpliciter et pure*] drawn out the meaning of the Rule to the best of our ability, not as we see it [*non ex nostro sensu*] but as the words have it [*sed ex ipsa littera*], according to the obedience laid upon us.<sup>49</sup>

For them the choice of employing a literal exegesis aimed to uncover the *intentio* of the text without the commentator's intellect intervening. The principle of not altering or distorting the meaning that arises from the literal text was a foundational concept within scholastic literal exegesis itself. The Parisian friars revived this principle, undoubtedly motivated by the challenge of commenting on a text deemed unmodifiable, with utmost rigor. This rigor, in my view, could be considered extreme.<sup>50</sup> In the dictation of the 'Four Masters', nuances are absent: the commentator almost vanishes, their intellect remains silent, and their activity reduces to a mechanical extraction *simpliciter et pure* of the meaning from the text. Confronted with what appears as an impossible hermeneutic procedure (because even in this mechanical extraction of meanings the commentator is interpreting the text), one might question whether, even for the erudite Parisian friars, these statements concealed a sort of intellectual 'fiction': did they not recognize that each commentator would extract a 'unique' literal sense distinct from others? Regardless, the selection of such an extremely literal exegesis proved to be both successful for two reasons. Firstly, because their authoritative opinions served as the foundation for future commentators to explore individual themes in greater detail. Secondly,

<sup>48</sup> On the literal exegesis of the Bible in the 13<sup>th</sup> century, see Smalley, *The study of the Bible*, 264-355 ('The friars'). On the methods of literal exegesis, the result of reflection dating back to the Victorian school in the previous century, see Dahan, *L'exégèse chrétienne de la Bible*, 239-97 ('Les méthodes de l'exégèse littérale. Littera, sensus, sententia').

<sup>49</sup> *Early commentaries on the Rule. I*, 10. *Novam autem expositionem vel glosaturam contra regulam non astruimus sicut a quibusdam intentionis purae damnatoribus et zelum suum in animarum suarum periculum et fratrum scandalum pervertentibus praedicatur. Immo simpliciter et pure intellectum ipsius regulae, quae omnes nos ligat, et eius ignorantia nullum excusat, non ex nostro sensu, sed ex ipsa littera, ut potuimus, extrahentes, secundum iniunctam nobis obedientiam, arbitrio vestro dirigimus indicandum, vestrae sententiae plusquam nostro sensui in hiis et in aliis inmitentes, interpretationem, si alicubi necessaria, sedi apostolicae reservantes* (*Expositio Quatuor Magistrorum*, 124). The English translation, here and below, is by the author.

<sup>50</sup> To state this with certainty, however, it would be necessary to analyse all occurrences of the terms 'intentio', 'intellectus' and 'interpretatio' in the works of Alexander of Hales, John of La Rochelle and other contemporary authors.

because, by skilfully interpreting the words of Francis' Testament through the distinction between *glossa*, *expositio* and *interpretatio*, they established an orthodox method of commentary for the friars.<sup>51</sup>

In their commentary on the topic of *calceamenta*, the 'Four Masters' begin by raising questions derived from the individual words within the text. They inquire about the meaning of "may [wear footwear]", "necessity", and "footwear". Subsequently, they pose further questions: Do sandals [*soleae*] and stockings that only cover the shins [*caligae cooperientes tibias tantum*] qualify as footwear? Can it be asserted that wearing footwear is prohibited by the Rule?<sup>52</sup>

In response to the first question, the friars clarify that "may [wear footwear]" signifies "to be allowed to wear". In other words, the Rule establishes the right to wear footwear. The 'masters' further explain that the brothers can only engage in activities that are permissible according to their rights. With these few words, they explicitly highlight the fundamental alignment between the Rule and the way of life, emphasizing the correlation between legal regulations and all aspects of the professed individuals' existence. This convergence between the Rule and life, which distinguishes the law of religious Orders from civil and canon law, takes on unique nuances within Franciscan reflection due to the practice of 'highest poverty' and the renunciation of all material possessions.<sup>53</sup>

The discussion then delves into the interpretation of the term "footwear". The 'Four Masters' present two possible viewpoints. Some argue that "footwear" refers to anything that completely covers the feet, excluding open stockings (*caligae truncatae*) and sandals (*soleae*).<sup>54</sup> Others contend that

<sup>51</sup> The reflection of the 'Four Masters' is based on the translation into exegetical terms of the prohibition of Francis made by Gregory IX in the *Quo elongati: Sed sancte memorie beatus confessor Christi Franciscus nolens regulam suam per alicuius fratris interpretationes exponi, mandavit circa ultimum vite sue, cuius mandatum ipsius dicitur testamentum, ut verba ipsius regule non glosentur [...] (Grundmann, "Die Bulle 'Quo elongati,'" 20).*

<sup>52</sup> *Solent quaerere, quid dicatur posse, quid dicatur necessitas, quid calciamenta, utrum soleae et caligae cooperientes tibias tantum, dicantur calciamenta; et an calciari sit prohibitio regulae (Expositio Quatuor Magistrorum, 134-5).*

<sup>53</sup> In fact, through a juridical device such as the Rule, the Friars Minor elaborated *una vita che si arroga il diritto di non avere alcun diritto sulle cose* ["a life that claims no right to things"] in the words of Coccia, "Regula et vita," 44 which enhances in this respect the reflection of Hugh of Digne: *Hoc autem est fratrum minorum proprium: nihil sub coelo proprium habere possidere. Hoc ius: nullum in his quae transeunt ius habere* (Damien Ruiz, *La vie et l'oeuvre de Hugues de Digne*, 422). See also in this point Agamben, *Altissima povertà*, in particular 109-75. On the peculiarity of religious Rules in relation to canon and civil law, see also Coccia, "Regula et vita," 9-10: *La peculiarità di questi testi risiede innanzitutto nell'oggetto che essi provano a descrivere e a costituire in termini giuridici. Perché in essi, forse per la prima volta in Occidente, una norma prende ad oggetto la vita nella sua stessa relazione alla propria forma ed al suo genere. L'opposizione, dunque, è innanzitutto tra una 'forma di legge' che ha per oggetto una vita nella sua relazione a sé ed alla propria forma, ed un diritto (in questo caso il diritto canonico e civile, ma il discorso varrebbe per tutto il diritto sorto dall'esperienza giuridica romana), che sfiora una vita ed è capace di pensarla, solo nei termini di un centro artificiale di imputazione.*

<sup>54</sup> *Calciamentum autem proprie dici non potest, nisi quod operit pedes, nec caligae truncatae vel soleae inter calciamenta deputari videntur (Expositio Quatuor Magistrorum, 135).*

“footwear” encompasses anything worn on the foot, including sandals.<sup>55</sup> There is a significant distinction between these two interpretations, considering that clothing, including footwear, symbolically represented the religious interpretation of Christianity and served as a social manifestation.<sup>56</sup> Based on the structure of their argument, the Parisian friars lean towards the less strict first interpretation. They affirm that the dispensation in the Rule applies to closed shoes, not sandals and open stockings, implying that friars could always wear the latter.<sup>57</sup> Evidently, the question of sandals had completely lost, at least in this context, the subversive charge that it had assumed for the Waldensians, whose *magistri* were called *sandalitati*.<sup>58</sup> This dispensa-

<sup>55</sup> In the latter case, the Masters specify, the dispensation would be different depending on the footwear used: it would be less in the case of sandals [*soleae*], more in the case of sandals and socks [*caligae*]; maximum in the case of closed shoes [*sotulares*] and socks [*caligae*]: *Videtur tamen aliis quod omne, quod ad calciamenta pertinent, dispensationis est, aut minoris ut in soleis, aut maioris, ut in soleis et in caligis, aut maximae, ut in sotularibus et caligis (Expositio Quatuor Magistrorum, 135-6)*. The terms used in the text to designate the different types of footwear are not very clear. I support here the interpretation of *Fonti Normative Francescane*, 214 footnote 13 proposed by Luca Marcelli. Nonetheless, I note that this phrase could be well understood if we agree with the text of *Sanctitas vestra*, attributed to Ubertino of Casale, in which the ‘Four Master’s text (in regular format) is glossed in this way: [...] *quod omne, quod ad calciamenta pertinent, dispensacionis est, aut minoris ut in soleis; aut maioris ut in soleis et caligis truncatis, que non cooperiunt aliquid de pede; aut maxime ut in caligis completis et sotularibus (Zur Vorgeschichte, 56)*. The text introduces some useful clarifications on the term *caligae*: the dispensation would be less in the case of sandals, more in the case of sandals and open stockings; maximum in the case of closed shoes and ‘complete’ stockings. Flood, on the other hand, believes that *caligae truncatae* means a type of open boots and translates as ‘open shoes’ (*Early commentaries on the Rule. I, 15-6*) but this interpretation does not explain why the ‘Four Masters’ use first *caligae truncatae* and then only *caligae*. The two terms are not synonymous as Flood interprets but identify two different types of socks: one that does not cover the foot and the other does. On the confusion of terms for stockings and shoes in the 13<sup>th</sup> century see *Storia del costume in Italia. I, 299-305*. Almost the same terms are used in *De vita et actibus* referring to the Waldesian hierarchy (See Schneider, *Europäisches Waldensertum*, 44 note 72, quoted in Rusconi, “«Forma apostolorum»,” 523-4) and in some Dominican sources (*La sostanza dell’effimero*, 306, 308) that, by the way, do not solve all the problems of interpretation.

<sup>56</sup> On religious habit, see Augé, *Labito religioso* which briefly reconstructs the change in religious dress from the origins of Christianity to the 16<sup>th</sup> century, also offering an essay (in the last part) on the psychology and sociology of dress. On minoritic dress and its variations from family to family over the centuries (up to the 16<sup>th</sup> century) see Gieben, “Per la storia dell’abito francescano” and *La sostanza dell’effimero*, in particular 97-101; 319-54. On the clothes Francis wore during the various stages of his life before and after his conversion read Roberto, *Nei panni di Francesco* with substantial iconographic support, and Rossetti, *Labito francescano* considering for both the popular slant and the confessional approach. On the colour of Franciscan clothes and on Franciscan habit in general see Rouchon Mouilleron, “Quelle couleur pour les frères?” On footwear in the Middle Ages in general: Zallot, *Con i piedi nel Medioevo*.

<sup>57</sup> The ‘Four Masters’ agree with the dictates of the 1239 Constitutions, which stated: *Item, qui calceamentis indigent, non portent stivales sed calceos corrigiatis et antefixos* (“Constitutio-nium praenarbonensium particulae,” 42). The norm will also be taken up in later Constitutions, in particular those of Narbonne in 1260 (“Constitutiones narbonenses,” II, 9). Note that with the term *calcei* the constitutions probably indicated a somewhat closed type of leather footwear (at least in front), not sandals that, implicitly, are always permitted.

<sup>58</sup> It is a consideration that Rusconi, “«Forma apostolorum»,” 538 proposes when commenting on Salimbene’s account of Gherardo Segarelli’s choice of clothes (mid 13<sup>th</sup> century).

tion of wearing closed shoes is granted to the brothers out of necessity, which, according to the ‘Four Masters’, can be established in various ways:

Sometimes it is determined by the state of a person, who is weak or sick; sometimes by the weather, which is extremely cold; sometimes by the place, where one cannot pass barefooted [*nudis pedibus*] without harm; sometimes by the journey or mission imposed, which cannot be duly satisfied without harm to the person or to the purpose for which it was imposed.<sup>59</sup>

Through their interpretations of dispensation and footwear, the ‘Four Masters’ adapted the Rule to the ever-changing reality they faced. Their understanding of necessity encompassed the urgent needs of an Order that had grown, spread across Europe, Anatolia and Middle East and faced diverse climates, unlike the monks who were confined to the stability of the monastery. The friars were now engaged in various roles, such as preachers, inquisitors, legates, and advisors to the pope and European governments. These demanding responsibilities necessitated practical adjustments to accommodate the changing circumstances. The broad definition of necessity, emphasized by the ‘Four Masters’ throughout their *Expositio*, reflected the pressing requirements of the expanding Order.<sup>60</sup>

It is worth noting that the Parisian friars use a significant expression in their definition of dispensation: “Wearing shoes is a dispensation from the Rule when necessary, whereas not to wear shoes is the way of life”.<sup>61</sup> By “way of life” the Parisian friars refer to the essence of the Rule, the authentic core of the norm, which represents the *intentio* of the text. As we have already seen above this exegetical principle serves as a guiding force for the ‘Four Masters’ in interpreting the norm. One can recognize in this conception a comprehensive juridical reflection on the *intentio legis* and *ratio legis*, sometimes accompanied by another hermeneutical principle, the *intentio auctoris*, or Francis’ *intentio*. The term *intentio* becomes evident in the subsequent lines of the commentary:

There follows: *And let all the brothers wear poor clothes*. Brothers ask what does ‘poor clothes’ mean. By poor the Rule means [*secundum intentionem regulae*] both price and appearance as people have it there where the brothers are living.<sup>62</sup>

<sup>59</sup> *Early commentaries on the Rule. I*, 15-6. *Aliquando enim determinatur secundum statum personae, ut quia debilis est, vel infirma; aliquando secundum tempus, ut quia vehemens frigus; aliquando secundum locum, quia nudis pedibus non potest sine detrimento transiri; aliquando secundum iter vel officium iniunctum, quod non potest sine detrimento personae vel causae, propter quam iniunctum est, perfici (Expositio Quatuor Magistrorum, 135).*

<sup>60</sup> I have attempted to enhance the element of itinerancy in the constitutions of Friars Minor and Friars Preacher in Carta, “La regolamentazione dei frati ‘itinerantes’.”

<sup>61</sup> *Early commentaries on the Rule. I*, 16. *Calciari vero dispensationis est regulae in necessitate, non calciari est forma vitae (Expositio Quatuor Magistrorum, 135).*

<sup>62</sup> *Early commentaries on the Rule. I*, 16. *Sequitur: Et fratres omnes vestimentis vilibus induantur. Quaeritur qui dicatur vestimentum vile. Et, secundum intentionem regulae, vilitas attenditur in pretio pariter et colore secundum aestimationem hominum regionis, in qua fratres commorantur (Expositio Quatuor Magistrorum, 136).*

The Parisian friars once again clarify the meaning of “poor clothes”, a term that evidently allows for multiple interpretations. Here, too, the friars recognize the necessity to adapt the Rule to diverse contexts, and they explicitly state that the exact meaning of “poor clothes” cannot be the same everywhere. The perception of what is vile for a friar depends on the specific regional understanding of value, wealth, and opulence. What may be considered valuable clothing in one place may not necessarily hold the same value in another.

As mentioned earlier, the reflections of the ‘Four Masters’ were adopted by subsequent commentators, including Hugh of Digne, a well-known Provençal friar and a prominent figure in the Joachimite movement according to the friar chronicler Salimbene de Adam. Hugh was highly esteemed during his time and even had the honor of preaching before Louis IX upon the king’s return from the crusade in Egypt in 1254, as reported by the chronicler Joinville.<sup>63</sup> For Hugh, the incorporation of the Parisian friars’ insights provides an opportunity to elucidate and expand upon certain aspects of the Rule. His commentary also reveals his unique exegetical sensibilities and his attention to economic matters. In response to the Parisian friars’ definition of necessities that would exempt the friars from the prohibition of wearing footwear, Hugh cautions against abusing the dispensation mechanism. He emphasizes that “a necessity, though minor, excuses a dispensation in minor matters” and poses a rhetorical question to the reader: “Who however will excuse you if you make use of indulgence here and there or, let us say, if you do not know how to cross the threshold without shoes, or stay outside a short time in the heat?”<sup>64</sup> Hugh regards “the honesty of clothing and footwear” less important than “the honesty of the poverty and the humility” that a Friar Minor must embody, following the example of Christ, who was naked and poor.<sup>65</sup>

However, what defines the measure of poverty? Paolo Evangelisti’s research has shed light on Hugh’s original reflection on the ‘Four Masters’ work, particularly in relation to this question.<sup>66</sup> It is within the final part of chapter II that the Provençal friar explores the significance of a Friar Minor dressing in humble clothing. In line with his economic reflections, which he develops based on his earlier writings, the *Libellus de finibus paupertatis*, Hugh evokes the concept of “honesty” mentioned earlier in the context of footwear,

<sup>63</sup> On Hugh of Digne see Ruiz, *La vie et l’oeuvre de Hugues de Digne*. The episode of the meeting with Louis IX is reported in Jean de Joinville, *Vie de saint Louis*, 326-9 (657-60). On this meeting, see Paul, *Hugues de Digne*.

<sup>64</sup> *Early commentaries on the Rule. I*, 64. *Necessitas licet minor in minoribus dispensatione excusat. Quis autem excuset si usum passim de indulgentia facias aut verbi gratia si limen absque soleis vel in estu ad modicum egredi nescias?* (Ruiz, *La vie et l’oeuvre de Hugues de Digne*, 374).

<sup>65</sup> *Early commentaries on the Rule. I*, 65 which translates *calceamenta* with “shoes of whatever sort”. *Paupertatis et humilitatis honestas qua perfectissime in frigore et nuditate nudo ac pauperi Christo servitur quarumlibet vestium et calciamentorum honestati prefertur* (Ruiz, *La vie et l’oeuvre de Hugues de Digne*, 375).

<sup>66</sup> Evangelisti, “*Vide igitur, quid sentire debeas de receptione pecuniae*,” 128-49.

especially in chapters IV, V, and VI that address the refusal of receiving money, engaging in work, and possessing goods. He states:

Often more attention is to be given to the quality of the cloth than to its price, for, in the variety of the market, the price may happen to be found higher for bad stuff and less for better stuff. The brothers let their honour cost them.<sup>67</sup>

With these words, Hugh separates the price and value of material possessions, establishing the groundwork for Franciscan economic analysis aimed at determining what the friars can rightfully use when they are unable to possess goods. The honesty of poverty, therefore, is not determined by market prices but rather by the judgment of the Friar Minor responsible for the convent:

Some think the Rule cannot determine *vilitas* in complete detail. Yet a certain degree of *vilitas* is required of the (good and necessary) cloth of mediocre cost and quality (according to people's judgement at that time) in the clothing which the Rule imposes. They think a brother cannot wear good clothing easily, though provided by the superior, that goes beyond what is customary to people of the area.<sup>68</sup>

Through this reflection, which remained internal to the Order, the foundations were laid for asserting Franciscan expertise in evaluating the value of material possessions. This would lead the Friars Minor to act as knowledgeable individuals in the drafting of economic treaties and to participate, alongside other religious figures, in practical matters such as buying and selling, exchanges, and loans within the mercantile society of the late Middle Ages.<sup>69</sup>

Hugh of Digne's commentary highlights how texts of this nature can accommodate reflections on seemingly distant areas, such as economics, which may not initially appear to be of direct interest to the friars. The *Expositio* attributed to Pseudo-Pecham further supports this notion and, through its scholarly approach, demonstrates the strong connection between Franciscan exegesis of the Rule and theological reflection. This commentary, composed in a Parisian setting after the significant constitutions of 1260, by an author heavily influenced by the thinking of John Pecham, readily lends itself, as we have observed, to showcase the complete alignment of the commentaries on

<sup>67</sup> *Early commentaries on the Rule*. I, 65. *Plus sepe curanda est panni honestas quam pretium quod pro fori varietate magnum in malo panno minus in meliori vel pro fratribus vel in honesto inveniri contingit* (Ruiz, *La vie et l'oeuvre de Hugues de Digne*, 375). *Il Libellus de finibus paupertatis* is edited in Ruiz, *La vie et l'oeuvre de Hugues de Digne*, 314-41.

<sup>68</sup> *Early commentaries on the Rule*. I, 65. *Quidam putant non omnem ex Regula sed in pannis necessariis et honestis quandam mediocris pretii vel qualitatis iuxta hominum reputationem pro tempore in ea quam Regula imponit veste necessariam vilitatem nec posse comode rebus pretereuntibus uti quam superior providet et eorum inter quos vivitur mores se habent* (Ruiz, *La vie et l'oeuvre de Hugues de Digne*, 375).

<sup>69</sup> See most recently Evangelisti, "*Vide igitur, quid sentire debeas de receptione pecuniae*" to which reference is made for further bibliography on the subject.



the Franciscan Rule with the prevalent form of commentary in the latter half of the 13<sup>th</sup> century: the commentary in the format of *quaestiones*.<sup>70</sup>

Let us briefly examine Pseudo-Pecham's reflections on footwear, as they are helpful in highlighting the influence of theological reflection within the exegesis of the Rule. The author, writing in the context of the dispute between mendicant theologians and secular masters at the University of Paris, places the issue of footwear on a different level compared to earlier commentators. It was a part of a controversy centred around the broader issue of Christian perfection, wherein the Friars Minor were accused of asserting their possession of it to a greater extent than other ecclesiastical statuses. This claim of superiority was based on the link between the Rule and the Gospel, as explicitly stated in the founding text. While, as we shall see, the accusation was refuted, the Order defended the notion of special link between the Rule and the Gospel. Actually, for Pseudo-Pecham the Franciscan Rule is not new but renewed because it is the same that Christ gave to the apostles.<sup>71</sup> It is noteworthy that in his commentary he consistently uses examples from the Gospel to explain the Rule, as the behaviour of Christ and the apostles in their lives serves as the model for the Friars Minor, who believe themselves to be their heirs. Consequently, the dispute encompassed not only the interpretation of the Franciscan Rule but also a broader hermeneutical question related to the correct exegesis of the Gospel model and the definition of more or less perfect ways to follow it throughout history. The explanation of the passage concerning footwear, therefore, relies heavily on the exegesis of scriptural passages regarding the walking habits of Christ and the apostolic community. Following the author's argumentation allows us to better grasp the distinctive features of this commentary.

The author begins with a somewhat unexpected belief: the Rule implicitly prohibits the use of *calceamenta* except in cases of genuine necessity.<sup>72</sup> However, it is immediately clarified that going wearing sandals is not forbidden. This reasoning is based on the example of Christ and the apostles. The author

<sup>70</sup> The Narbonne constitutions of 1260 echoed the earlier constitutions regarding the prohibition of wearing closed shoes and boots (see footnote 57) and regarding the punishment for excesses ("Constitutionum praenarbonensium particulae," 39; "Constitutiones narbonenses," II, 12). They also added further specifications regarding the fact that the brothers must wear shoes to celebrate Mass ("Constitutiones narbonenses," II, 9), the punishments to be inflicted on transgressors (seven penitential psalms for each time a transgression is committed plus numerous lashes) and on those caught being repeat offenders (seven penitential psalms already provided for plus the humiliation of eating on the ground during meals), and a specification as to whether the need should be evident to all or legitimised before the brothers by the guardian ("Constitutiones narbonenses," II, 8). It was later added that for all aspects of dress, including footwear, "always shine, in imitation of the fathers, austerity, humility and poverty" ("Constitutiones narbonenses," II, 12).

<sup>71</sup> *Non est ergo haec Regula aut vita nova res, sed procul dubio renovata, magnaue est huiusmodi Regulae professoribus materia solatii, qui soli in hoc mundo vitam illam ad litteram profitentur, quam Apostolis ad praedicandum missis Dominus commendavit* (Pseudo-Pecham, "Expositio super Regulam," 393b).

<sup>72</sup> *calceamentorum deportationem ipsa Regula indirecte interdicit* (Pseudo-Pecham, 402a).

starts his argument proposing a precise exegesis of Matthew 10:9-10, in which Christ says to the apostles: “Do not get [...] no [...] extra shirt or *calceamenta*”. Although it may seem like a prohibition of all types of footwear, the author argues that this passage must be supplemented with what is mentioned in Mark’s Gospel in which the sandals are allowed (Mark 6:8-9: “These were his instructions: ‘Take nothing for the journey except a staff – no bread, no bag, no money in your belts. Wear sandals but not an extra shirt’”).<sup>73</sup> To demonstrate better that sandals are not forbidden by Christ, the author also compares three renowned scholastic authorities: Bede, Papias, and the *Glossa interlinearis*. Additionally, he points to ancient iconographic representations of the apostles as evidence. Ancient pictures and sculptures thus acquire an exegetical value: a process worth noting at least for its rarity.<sup>74</sup>

Pseudo-Pecham then proceeds to present a lengthy argument, following the structure of a university *quaestio*, to support the claim that, as Christ prohibited, the apostles did not use other type of footwear (“*alia calceamenta*”) than sandals.<sup>75</sup> This argument relies on the authority of Jerome, Eusebius, and Gregory of Nazianzus, who are put in agreement with previous authorities. In the subsequent part of his argument, the author addresses various objections. Firstly, he acknowledges the viewpoint of those who argue that wearing (closed) shoes would facilitate preaching more effectively than going *nudis pedibus* – an expression that, for the author, means both ‘with sandals but without socks or stockings’ both ‘barefoot’. Then he presents objections based on Augustine’s reflections. The author’s responses to these objections reveal his theological acumen and shed light on the intellectual context in which he was operating. He first says that as the apostles spread the Gospel not wearing (closed) shoes and *in frigore et nuditate* walked *gaudentes* so the friars – who, in any case, have the possibility of wearing shoes *in necessitate*

<sup>73</sup> *Et quia verbum illud sumitur de Evangelio Matthaei decimo, ubi dicitur in regula Apostolorum: Neque calceamenta; patet, hic usum sandaliorum minime prohiberi, quoniam, sicut dicitur Matthaei decimo: Neque calceamenta, evangelico more hanc complens sententiam Marcus sexto capitulo: Praecepit eis, ne quid tollerent, sed calceatos sandaliis etc.* (Pseudo-Pecham, 402b).

<sup>74</sup> [...] *antiquae sculpturae pariter et picturae monstrant, Apostolos calceatos sandaliis incessisse* (Pseudo-Pecham, 402b). Sadly, the author does not specify what sculptures and pictures he is referring to. According to the account of Salimbene de Adam’s *Chronica*, the ancient images of the apostles were used by Gheraldo Segarelli when he chose what to dress to be adherent to apostles’ model (Salimbene de Adam, *Chronica*, 369; 426; Cfr. Rusconi, “«Forma apostolorum»,” 537-40). At the end of the 13<sup>th</sup> century, Thomas Sutton, in his *Determinacio*, defended the Friars Preacher against criticism from the Minors concerning their non-adherence to the apostolic model. The first argument concerned the question of *calceamenta* (worn by the former and rejected by the latter). One of the central arguments of the apologia precisely concerned the correct interpretation of the images of the apostles in the churches whose direct adherence is rejected (Pelster, “Eine Kontroverse,” 77; cfr. Rusconi, “«Forma apostolorum»,” 541-2). Note that when Sutton says that in all the churches the apostles are represented “*sine calciamentis*” he could mean ‘without closed shoes’ because the Dominicans wear them, not sandals. On their habit in 13<sup>th</sup> century see *La sostanza dell’effimero*, 303-10.

<sup>75</sup> *Quod autem Christus alia calceamenta Apostolis inhiuerit, patet...* (Pseudo-Pecham, “Expositio super Regulam,” 402b).

– will not be hindered in preaching by going *nudis pedibus*.<sup>76</sup> Then he refutes the accusation made by some who considered the Friars Minor to be aligned with heretics condemned by Augustine, who justified going *nudis pedibus* based on words spoken by God to Moses and to Isaiah.<sup>77</sup> The author rejects this accusation, drawing on the thinking of Augustine, and explains that the error of those heretics does not lay in not wearing shoes but in their misunderstanding of God's words. Indeed, God did not want to give a norm to all believers, like the heretics thought, but to address Moyses and Isaiah alone to foreshadow future mysteries of the Church.<sup>78</sup> Through this explication Pseudo-Pecham can thus underline that the basis for the behaviour of the Friars Minor is different from that of heretics: the friars walk without *calciamenta* solely as an imitation of Christ and the apostles.<sup>79</sup>

Later, the author also dismisses another argument, based on another passage from Augustine, put forward to justify the use of shoes.<sup>80</sup> According to this line of reasoning, it is claimed that Christ forbade the preoccupation with having *calceamenta* for fear of being without them, rather than forbidding their use in general. Pseudo-Pecham skillfully refutes this nuanced interpretation and proposes a different one. He compares the two instructions: not to carry *calceamenta* and not to wear two tunics, both mentioned in Matthew 10:10. The author highlights that if the second prohibition, in relation to the number of garments, can be understood in that way, it is evident that the first prohibition also pertains to the general use of *calceamenta*. Otherwise, Christ would have said not to carry two pairs of shoes with him.<sup>81</sup>

<sup>76</sup> Pseudo-Pecham, 403ab.

<sup>77</sup> The *obiectio* is formulated like this: *Dicit Augustinus in libro de Haeresibus sexagesimo octavo capitulo: 'Est haeresis nudis pedibus ambulantium, pro eo quod dixerit Dominus ad Moysen: Solve calceamentum de pedibus tuis; et quod propheta Isaias nudis pedibus legatur ambulasse. Ideo ergo haeresis est, non quia propter corporis afflictionem sic ambulant, sed quia divina testimonia taliter intelligunt'. Haec Augustinus. Ergo haereticum videtur pro divinis testimoniis nudis pedibus ambulare* (Pseudo-Pecham, 403b). Cfr. Augustinus, *De haeresibus*, cap. 68.

<sup>78</sup> [...] *illi haeretici turpiter erraverunt, putantes pro lege communi dictum fuisse Exodi tertio Moysi [...] et Isaiae vigesimo [...] quasi haec eis ita dicerentur, ut etiam ab aliis litteratorie servarentur. Hoc enim falsum est, quia verba illa secundum litteram ad illas duas personas tantum pertinebant, ut futura Ecclesiae mysteria figurarentur* (Pseudo-Pecham, 403b).

<sup>79</sup> *Fratres autem Minores absit ne pro verbis illis careant calceamentis, sed in hoc ipsum Dominum imitantur et Apostolos suos, quia hoc docet Evangelium manifeste* (Pseudo-Pecham, 403b-4a).

<sup>80</sup> *Item, idem libro de Consensu Evangelistarum exponens illud verbum Matthaei decimo [Augustinus] dicit: 'Calceamenta cum dicit Matthaeus non esse portanda, curam prohibet, qua ideo putantur portanda, ne desint. Hoc etiam de duabus tunicis intelligendum est'* (Pseudo-Pecham, 403b). Cfr. Augustinus, *De consensu evangelistarum*, libr. II, cap. 30, par. 75.

<sup>81</sup> *Ad secundum dicendum, quod Dominus dicendo neque calceamenta curam prohibet, sed non tantum solam curam, sed actum etiam deferendi; unde dicit consequenter in praedicto verbo Lucae (Lc 22, 35) se misisse eos sine calceamentis simpliciter. Sicut enim dicendo neque duas tunicas prohibet et curam superfluum vestimentorum et actum etiam superflua deferendi, sic dicendo neque calceamenta curam prohibet non tantum superfluum, sed etiam penitus ne ferantur. Quodsi tantum superflua calceamenta inhibuisset, sicut et tunicas inhibuit*

Since we cannot cover the entirety of Pseudo-Pecham's lengthy and intricate reflection here, we can focus on three final elements worth noting. In the *exergo* of this last *responsio*, the author includes a *notandum*, a small aside on a particularly important subject, affirming that Jesus' intention to go *nudis pedibus* was not imposed on everyone, but only on the apostles and those *qui in hoc eos sponte elegerint imitari*.<sup>82</sup> The author, on one hand, reiterates that the Friars Minor adopt this practice because they are imitators of Christ and the apostles, thereby restating the main apologetic argument of the Franciscan side in the Parisian dispute. On the other hand, he exercises caution in extending this practice to the entire Church. Any such extension would have likely created problems, as the Order was committed, as mentioned earlier, to avoiding the accusation of considering itself more perfect than other members of the Church.<sup>83</sup>

The other two noteworthy elements coincide with the arguments the author presents in response to the final *obiectio*, which claims that Augustine believed that Christ actually wore *calceamenta*. The author responds through a brief essay on 'patristic exegesis'. Firstly, he states that it is dishonest to attribute thoughts to Augustine that he did not express, as the cited work by the objectors, namely the *De Diversis Quaestionibus LXXXIII*, does not contain such a statement. Secondly, the author argues that while expressing personal considerations, he would prefer the opinions of other doctors over his own. According to the author, Augustine demonstrates this approach in many of his commentaries on biblical books.<sup>84</sup> Finally, he asserts that there is no doubt that Augustine may be preferred to Jerome in *elucidatione problematum*, but when it comes to the exegesis of Scripture, the opposite holds true. Jerome, in fact, "learned the meaning [*intellectum*] of Scripture by reading it in several languages, surpassing all the doctors in this".<sup>85</sup>

*superfluas; sicut dixit neque duas tunicas, dixisset etiam neque duo paria calceamentorum et non simpliciter neque calceamenta* (Pseudo-Pecham, 404 a).

<sup>82</sup> Pseudo-Pecham, 404a.

<sup>83</sup> Both Bonaventure in the *Apologia pauperum* and Pecham in the *Questiones de perfectione evangelica* expressed the idea that Franciscan perfection was not absolute but *compossibile e compatibile con l'esistenza di altre perfezioni al massimo grado* (Lambertini, "Momenti della formazione," 162). On this topic, see also Lambertini, *Apologia e crescita*, 79-122.

<sup>84</sup> *Sed dicunt quidam, se legisse in libro Octoginta trium Quaestionum, Augustinum ibi dixisse, Christum usum fuisse calceamentis, quod satis est ridiculosum, cum idem Augustinus primo Retractationum capitulo penultimo ponat nomina et numerum et ordinem quaestionum illarum, in quarum nulla tale aliquid continetur. Turpe est autem Sancto falsum imponere et pro defensione mendacii in apocryphis gloriari, quamquam, si sanctus Augustinus penitus hoc sensisset, quod absit, plus staretur sententiae omnium aliorum doctorum Graecorum et Latinorum quam suo sensui adversanti; sicut etiam, sententia sua dimissa de altari thymatis, quae habetur Exodi trigesimo in Glossa, aliorum sententiae adhaeret Ecclesia ponens, ipsum fuisse extra sancta sanctorum [...]* (Pseudo-Pecham, "Expositio super Regulam," 404b). Cfr. Augustinus, *Retractationum libri duo*, cap. 26) and Glossa ad Exodum 30, 35 (= Augustinus, *Quaestionum in heptateuchum libri septem*, lib. II, quaest. Exodi, quaest. 136). Like the author, I could not find any reference to footwear in "De diversis quaestionibus octoginta tribus" either.

<sup>85</sup> *Amplius, quamvis in elucidatione problematum plus stetur Augustino quam Hieronymo, in expositione tamen textus prae ceteris statur sententiae Hieronymi translatoris, qui in diversis*

In addition to the commentaries discussed, other explanations on the Franciscan Rule were written during the 13<sup>th</sup> century. These commentaries often differed from one another in various aspects. They presented divergent interpretations regarding poverty *sine proprio* and manual labor, the role of studies within the life of the friars, and the position of the Order within the history of the Church and the world at large.<sup>86</sup> However, the reflection on footwear remained largely unchanged and did not undergo significant variations among these commentaries.<sup>87</sup> For new interpretations we must wait the beginning of 14<sup>th</sup> century.<sup>88</sup>

*linguis intellectum prae ceteris etiam doctoribus didicit Scripturarum. Ipsius autem de calceamentis supra patet sententia* (Pseudo-Pecham, "Expositio super Regulam," 405a).

<sup>86</sup> See in particular the *expositiones* of David of Augsburg (Flood, "Die Regelerklärung"), John Pecham (Johannes Pecham, "Tractatus pauperis," cap. X), John of Wales (Flood, "John of Wales' Commentary") and Peter John Olivi (Flood, *Peter Olivi's Rule Commentary*). On these commentaries in general: Carta, *Interpretare Francesco, ad indicem* which can also give useful indications for the history of the interpretation of the Rule after the 13<sup>th</sup> century (up to the mid-16<sup>th</sup> century).

<sup>87</sup> David of Augsburg urges that the brothers be guided in their assessment of necessity by rationality and not be guided by *levitas* and *carnalitas*. He also affirms a guiding principle: if walking without footwear causes harm that forces one to forgo a more useful activity than going barefoot, it is better to wear footwear (Flood, "Die Regelerklärung," 209). John Pecham, merely points out that sandals are not forbidden, which had already been granted by Jesus to the Apostles (Johannes Pecham, "Tractatus pauperis," 49). John of Wales specifies that footwear is permitted in the case of illness, of great and obvious necessity for the health of souls and for the activities of the Order, and not for simply carrying out one's own activities, for comfort or, in general, for trivial reasons (Flood, "John of Wales' Commentary," 107). Olivi espouses the idea that the brothers may wear sandals; he specifies that the necessity must be compelling; he emphasises that the Rule implies that the footwear permitted by the dispensation must be in keeping with the humility, poverty and honesty of the Rule (Flood, *Peter Olivi's Rule Commentary*, 131). On these commentaries see Carta, *Interpretare Francesco, ad indicem*. The *Sermo super Regulam* attributed to Bonaventure of Bagnoregio (but the authorship is doubtful) quotes the norm on footwear but is not interested in giving an interpretation (Bonaventure of Bagnoregio (attr.), "Sermo super Regulam," 444a). On this text see most recently: Evangelisti, "Vide igitur, quid sentire debeas de receptione pecuniae", 149-54 which attributes surely the text to Bonaventure.

<sup>88</sup> In *Rotulus iste* Ubertino of Casale, member of the Spirituals during the debate at Clement V Avignonese Curia (1310-1312), accused *quasi omnes* friars of the 'Communitas Ordinis' to wear *centones et caligas, nisi quod, quando domum exeunt, calciones deponunt* (*Zur Vorgeschichte*, 101) i.e. stockings with reinforcement cloths sewn together to protect against the cold. The *calciones* were a kind of undergarment that covered up to the thighs. This accusation is linked to the interpretation of the passage of the Rule on the *calciamenta* in the *Sanctitas vestra* (see note 55) in which the reflection of the 'Four Masters' is only partially quoted in order to say that the friars must go barefooted: everything they wear is a dispensation, even sandals (*Zur Vorgeschichte*, 56; but see also 57: *et qui volunt [...] ire sine soleis, sicut ibant primi patres nostri et beatus Franciscus, de quo numquam dicitur, quod soleas haberit, reputantur superstitiosi*). Angelo Clareno in his commentary on the Rule proposes a similar interpretation. He does not quote Olivi – like he does everywhere in his text – and uses for the first time Francis like a model to say that the friars must walk barefooted: *Licet enim sanctus Franciscus ad exemplum, quasi semper fuerit infirmus, tamen nudis pedibus et una tantum vetusta et vili tunica reperpetiata de sacco indutus incessit usque ad mortem, ut operibus ostenderet quod docebat* (Angelo Clareno, *Expositio super Regulam*, II 169). The *Brevis Expositio Regulae*, a commentary written by the Spirituals between 1311 and 1312, considers the norm on footwear a precept, but *contrario sensu*: actually, the Rule does not permit the use of footwear in cases of necessity but prohibits its use except in cases of necessity (Oxford, Bodleian Library, *Canon. Misc.* 525, 245r). The *Trac-*

## 5. Commenting on an evangelical and divinely inspired Rule

Reviewing the reflection on footwear, we have encountered two fundamental mechanisms of commentary that arise from the application of scholastic *expositio* techniques, particularly at the university level, to a specific text like the Rule. They involve referring to the example in the Gospels and considering the *intentio* of the text itself.

These two mechanisms shared a common element, as we have seen: they evoked the distinctiveness of the Franciscan Rule, which served as the catalyst for this significant intellectual movement of commentary and caused continuous divisions within the Order. This distinctiveness stemmed from the friars' perception of what we could describe as the 'sacrality' of the founding text. It arises from the combination of two factors: the affirmation of its strong link with the Gospel (though interpreted with varying nuances by commentators) and the assertion of its divine origin. One of the authors who most explicitly emphasized the link of the Rule with the Gospel, speaking of identity of the two, was the learned provençal friar Peter John Olivi, who states with clarity: "it is evident that Francis wanted the Rule to be the same as [*idem esse*] the Gospel of Christ; by the one word he wanted the rest to be meant and understood".<sup>89</sup> The belief in the divine origin of the Rule traces back to Francis' Testament, in which he declares, as we have mentioned before, that God 'gave' him to write those words with simplicity and purity.<sup>90</sup> According to Francis' testimony, God himself also revealed to him at the beginning of his *fraternitas* that he should live *secundum formam sancti Evangelii*: "And after the Lord gave me some brothers, no one showed me what I had to do, but the Most High Himself revealed to me that I should live according to the pattern of the Holy Gospel".<sup>91</sup>

Subsequent accounts of Francis' life, although varied in their approach and objectives, strongly emphasized the divine inspiration of the Rule. One only needs to read Bonaventure of Bagnoregio's *Legenda maior*, which became the official hagiography of the Franciscans from the 1260s onwards, to

*tatatus de praeceptis Regulae* of Gonzalo de Balboa does not give an explanation of the norm on footwear and lists it as a norm with the same value of a precept (Elizondo, "El 'Tractatus de praeceptis,'" 196). On these commentaries see Carta, *Interpretare Francesco, ad indicem*.

<sup>89</sup> *Early commentaries on the Rule. II*, 13: *patet quod istam regulam in tantum voluit esse idem quod evangelium Christi, quod per nomen unius vult reliquum intelligi et significare* (Flood, *Peter Olivi's Rule Commentary*, 120). Other texts use different nuances. Four decades earlier, Hugh of Digne speaks of the Rule as *summa* of evangelical perfection: *Quid enim est Regula nisi quedam perfectionis evangelice summa?* (Ruiz, *La vie et l'oeuvre de Hugues de Digne*, 358) and the *Sermo super Regulam* talks about a Rule *fundata super vitam evangelicam* (Bonaventure of Bagnoregio (attr.), "Sermo super Regulam," 441b).

<sup>90</sup> *sicut dedit mihi Dominus simpliciter et pure dicere et scribere regulam* (Francesco d'Assisi, "Testamentum," 39).

<sup>91</sup> *Et postquam Dominus dedit michi de fratribus, nemo ostendebat michi quid deberem facere, sed ipse Altissimus revelavit michi quod deberem vivere secundum formam sancti Evangelii* (Francesco d'Assisi, "Testamentum," 14).

see how this element is prominently portrayed. According to Bonaventure, after the initial approval of the Rule by Innocent III and the significant expansion of the Order throughout Europe, Francis felt compelled by a divine revelation to seek confirmation of the Rule from the new Pope, Honorius III. In accordance with God's instructions, Francis purportedly decided to revise it based on an earlier version "that had been taken from a more widespread collection of Gospel passages".<sup>92</sup> This text is likely what we now know as *Regula non bullata*, as it was not formally approved with a papal bull by the pope. Bonaventure chooses not to address this lack of approval directly, which may have caused some discomfort, and instead reconstructs in his own way a process of Rule revision that indeed took place at the Roman Curia:

He went up to a certain mountain led by the Holy Spirit, with two of his companions, to condense it into a shorter form as the vision had dictated. There he fasted, content with only *bread* and *water*, and dictated the rule as the Holy Spirit suggested to him while he was praying. When he came down from the mountain, he gave the rule to his vicar to keep. After a few days had elapsed, the vicar claimed that it had been lost through carelessness. The holy man went off again to the place of solitude and rewrote it just as before, as if he were taking the words from the mouth of God.<sup>93</sup>

After presenting the revised Rule to Honorius III, Francis successfully obtained its confirmation. Bonaventure concludes the episode by conveying a symbolic anecdote: "fervently exhorting the brothers to observe this rule, Francis used to say that nothing of what he had placed there came from his own efforts but that he dictated everything just as it had been revealed by God".<sup>94</sup>

Later hagiographies continued to underscore the divine origin of the Rule.<sup>95</sup> According to these narratives, Francis acted in a manner akin to a biblical prophet, although he did not personally transcribe what was revealed to him; instead, he dictated it.<sup>96</sup> Spiritual writings such as Ubertino of Ca-

<sup>92</sup> *Francis of Assisi: Early documents*, vol. 2, 558; *ex verborum Evangelii aggregatione profusius traditam* (Bonaventure of Bagnoregio, "Legenda Maior," 11, 7).

<sup>93</sup> *Francis of Assisi: Early documents*, vol. 2, 558. *Volens igitur confirmandam Regulam ex verborum Evangelii aggregatione profusius traditam ad compendiosiore formam, iuxta quod dictabat visio monstrata, redigere, in montem quemdam cum duobus sociis, Spiritu sancto ducente, conscendit, ubi pane tantum contentus et aqua, ieiunans, conscribi eam fecit, secundum quod oranti sibi divinus Spiritus suggererat. Quam cum, de monte descendens, servandam, suo vicario commisisset, et ille, paucis elapsis diebus, assereret per incuriam perditam, iterato sanctus vir ad locum solitudinis rediit eamque instar prioris, ac si ex ore Dei verba susciperet, illico reparavit* (Bonaventure of Bagnoregio, "Legenda Maior," 11, 7-8).

<sup>94</sup> *Francis of Assisi: Early documents*, vol. 2, 558; *Ad cuius observantiam fratres ferventer inducens, dicebat, se nihil ibi posuisse secundum industriam propriam, sed omnia sic scribi fecisse, sicut sibi fuerant divinitus revelata* (Bonaventure of Bagnoregio, "Legenda Maior," 11, 9).

<sup>95</sup> See, for example, the passage in *Compilatio Assisiensis* 17, 11 taken from *Speculum perfectionis* (*Francis of Assisi: Early documents*, vol. 3, 254; Anonimo della Porziuncola, *Speculum perfectionis*, I, 1, 3-4) in which Christ claims authorship of the Rule by stating: *Francisce, nichil est in Regula de tuo, sed totum est meum quicquid est ibi*.

<sup>96</sup> The construction of the episode suggests an association between Francis and Moses. However, to my knowledge, this connection is explicitly made only in a late text, the *Verba fratris Conradi* (Sabatier, "Verba," p. 375). In this text, the two are not linked for their legislative activ-

sale's *Arbor vitae* and Giacomo Oddi's *Franceschina* would attribute the role of transcribing under dictation to brother Leo.<sup>97</sup>

The 'sacrality' of the Rule, stemming from the affirmation of its divine origin and its identity with the Gospel, provides a clear explanation for why the Franciscan Order produced a significantly larger number of commentaries compared to other religious Orders. The friars saw the Rule as central to the Order's development. They recognized the importance of interpreting such a significant text accurately and adapting it to the changing times in which they lived. Additionally, they believed they had a special salvific mission entrusted to them by God, originally given to Francis himself: to spread the Gospel message derived from the Rule throughout all of Christendom through their exemplary lives and preaching. Despite the corrections against the theory of salvific exclusivism, the Rule was still regarded by friars as one of the most powerful tools available to every Christian for attaining salvation.

If these profound convictions triggered the outbreak and development of the hermeneutic history on the Franciscan Rule, the spark was generated by the equally strong awareness that the Rule was a text written in a certain period and in a certain context. This 'historical reasoning' led to a relativization of the norms contained in the text, allowing for the possibility of adding new provisions. It is often present in the resolution of individual problems related to the interpretation of certain passages of the Rule (for example, when analysing the role - judged too rigid and limiting - of the provincial ministers alone in receiving friars to the Order). It is, also, particularly evident when the friars had to interpret and in fact overcome Francis' prohibition to comment on the Rule.<sup>98</sup> However, the friars always perceived that new provisions

ity but for the gift of prophesying the future. During the second half of 13<sup>th</sup> century Francis was primarily associated, starting with Bonaventure of Bagnoregio, mainly with Elijah (Bonaventure of Bagnoregio, "Legenda Maior," *Prologus*, 1, 5-6). For more insights into Francis and his prophetic role, I refer to Messa, *Francesco profeta*, from which I also derive these examples.

<sup>97</sup> The *Arbor vitae* episode is in *Francis of Assisi: Early documents*, vol. 3, 195-201 [Ubertino of Casale, *Arbor Vitae*, 443-7]; *La Franceschina*, 30 (Secondo Prologo), 28. On Brother Leo's account of the so-called *rotuli* see Pásztor, "Il manoscritto isidoriano 1/73 e gli scritti leonini." Could the relationship between Francis and Leo evoke in the medieval readers the one between Jeremiah and his scribe Baruch?

<sup>98</sup> This 'historical reasoning' is very clear in two very important and known texts: the *Epistola de tribus quaestionibus* of Bonaventure of Bagnoregio and the *Determinationes super Regulam* (see for these texts and for previous bibliography: Carta, *Interpretare Francesco*, 87-92). A later and lesser-known text, however, through its simplicity, can best exemplify the brothers' level of reasoning: the commentary of David of Augsburg dating back to the 1260s. In these lines David addresses directly Francis' prohibition of commenting on the Rule: "We know that the blessed Francis, in his Testament, forbids glosses on the Rule. He wanted it taken simply, just as God revealed it to him. But this does not apply to every explanation [*expositio*]. If Francis himself were alive and were asked by those who did not understand to explain the Rule to them, he would have to explain it by using other words and by casting light on what was obscure and so make it clear and intelligible. He forbade rather those glosses which, through subtle considerations, turn the meaning of the letter way from its purity and away from the intention of Saint Francis and even from God's meaning [*sensus Dei*]. For God inspired Francis with the word and sense of the Rule [*ex ipsa littera*]. We see that in the Rule's details. Hardly any word placed there lacks



should adhere to the principles and spirit of the Rule, which remained binding for the friars, exactly as Francis prescribed. As I've already noted in a previous contribution, the entire activity of commenting on the Rule, forbidden in the Testament, can paradoxically be read not simply as a betrayal of the true sense of this text, but as an attempt to preserve the originality of that evangelical *propositum vitae* 'revealed' to Francis.<sup>99</sup> Thus, the *intentio Regulae* was considered the guiding principle for commentators and future legislators when proposing new regulations that applied the Rule to different contexts while seeking to preserve its core message. This mechanism can be likened, in a certain sense, to the way legislators today draft new laws based on the fundamental principles outlined in their respective nations' 'sacred' texts, such as constitutions.

Faced with the daunting challenge of balancing fidelity to the Rule and the necessity for change, certain knowledgeable friars, often occupying leadership positions within the Franciscan community, penned commentaries aimed at delineating the fundamental aspects of a renewed Franciscan identity. In this endeavour, they employed the language, techniques, and structures commonly found in scholastic commentaries, particularly those prevalent in universities. Through their reflections on topics like *necessitas* or the Rule's precepts, their influence reverberated across various realms of medieval culture. By adopting this form of discourse, the friars followed the path of other contemporary intellectuals who, through their commentaries, made significant contributions in diverse spheres. To illustrate this point within the scope of historical political interests, although recognizing that the discussion extends to numerous other areas, one can consider theological musings on the origins of power and the relationships among secular authorities, the Church, and the people.<sup>100</sup> Additionally, the contributions of legal scholarship to the understanding of distinct forms of citizenship and the regulation of communal life mechanisms, such as taxation, the role of rulers, and the exercise of authority, come to mind.<sup>101</sup>

In the end, the commentaries on the Rule, which stand out in comparison to those written on other religious Orders, can be appreciated on two levels of interpretation. Firstly, they serve as internal testimonies to the exegetical activity of an Order striving to comprehend and regulate its way of life to fulfil its salvific mission. Secondly, they are texts that reflect the cultural *milieu* of

weight, while everything abounds with the teachings of spiritual wisdom" (*Early commentaries on the Rule. I*, 168; Flood, "Die Regelerklärung," 206).

<sup>99</sup> Carta, *Interpretare Francesco*, in particular 335-71.

<sup>100</sup> See Buc, *L'ambiguité du livre*, which shows the potential of exegesis to the books of the Bible for the development of these themes.

<sup>101</sup> See for example Menzinger, *Cittadinanze medievali*, especially the essays of Menzinger, "Mura e identità civica;" Lauwers, "Decima, appartenenza alla comunità" and Todeschini, "Intentio e dominium," which particularly emphasise legal reflections, both canonical and civilistic, on taxation (the first two) and the value of *intentio* as a prerequisite for citizenship (the second).

the period. Behind their composition, one can discern erudite friars, often prominent figures in contemporary education system, who used their exegetical knowledge to write these texts. They engage in novel and daring reflections, spurred by the innovation of the Rule, and participate in some of the most challenging intellectual debates of the late Middle Ages. Beside shedding light on the internal dynamic (and tensions) of the Franciscan Order in dealing with the challenge to remain faithful to Francis' Rule while adapting it to new circumstances and needs, studying these works, in essence, presents an opportunity to gain a deeper understanding of a fragment of medieval cultural history, potentially unveiling unexplored perspectives on the history of universities, intellectuals, theology, law, and, finally, the interpretation of authoritative texts in general.

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